

LAW SUMMARY
DEPENDENT EXEMPTION CREDIT
APPLICABLE TO THE 2005 TAX YEAR AND THEREAFTER

A. REQUIREMENTS

1. For a taxpayer to be entitled to a dependent exemption credit for a qualifying person, the person must meet the requirements to be the taxpayer's Qualifying Child¹ or Qualifying Relative² and must also meet all of the following three tests³ (see paragraphs 2, 3, and 4 below). If the person does not meet all of the requirements to be the taxpayer's Qualifying Child, the person may still meet the requirements to be the taxpayer's Qualifying Relative. (See section B, Qualifying Child, and section C, Qualifying Relative.)

2. Dependent of Another Taxpayer Test

The taxpayer is not entitled to an exemption for a dependent if the taxpayer can be claimed as a dependent by another taxpayer.⁴

3. Joint Return Test

A taxpayer is not allowed an exemption credit for a dependent if the dependent filed a joint federal return with his or her spouse unless both of the following apply:⁵

- a. Neither the taxpayer's dependent nor the dependent's spouse would have a federal tax liability if they filed separate federal returns, and
- b. The taxpayer's dependent and the dependent's spouse only filed a joint federal return to obtain a refund of tax withheld.

4. Citizenship Test

For some part of the tax year, the taxpayer's qualifying person must be a citizen or national of the United States, or a resident of the United States, Canada, or Mexico.⁶

B. QUALIFYING CHILD

1. Relationship Test⁷

The person must be the taxpayer's birth child, stepchild, grandchild, adopted child, foster child, brother, sister, half-brother, half-sister, stepbrother, stepsister, nephew or niece who was:

- a. Single on the last day of the tax year, or
- b. Married on the last day of the tax year,⁸ and

- (1) Was a citizen or national of the United States, or a resident of the United States, Canada, or Mexico, and
- (2) Did not file a joint return with his or her spouse.

2. Age Test

The person must be under 19 years of age or a full-time student under 24 years of age.⁹ The age test is satisfied if the person is permanently and totally disabled at any time during the calendar year.¹⁰ If the person does not meet the age test to be a Qualifying Child, he or she may still meet the requirements to be a Qualifying Relative (see section C, paragraph 1).

A full-time student¹¹ is a person who during some part of each of five calendar months during the calendar year either:

- a. Attended a school that had a regular teaching staff, course of study, and regularly enrolled body of students in attendance, and was enrolled for the number of hours or courses considered by the school as full-time attendance, or
- b. Was enrolled in and attended a full-time, on-farm training course given either by a school described in a. above, or by a state, county, or local government.

3. Residency Test

The person must live with the taxpayer for more than half the year.¹²

4. Support Test

The person must not have provided more than half of his or her own support.¹³

5. Special Rule for Two or More Claiming a Qualifying Child¹⁴

- a. If two or more taxpayers including a parent claim the same child as a Qualifying Child for a particular tax year, the child shall be treated as the Qualifying Child of the taxpayer who is:
 - (1) A parent of the child, or
 - (2) If none of the taxpayers is a parent, the taxpayer with the highest adjusted gross income for the taxable year.

- b. If the parents both claim the same child, the child shall be the qualifying child of:
- (1) The parent with whom the child resided for the longest period of time during the taxable year, or
 - (2) If the child resides with both parents for the same amount of time during the taxable year, the parent with the highest adjusted gross income.

C. QUALIFYING RELATIVE

1. Not a Qualifying Child Test

To be a Qualifying Relative, the taxpayer's qualifying person must not meet the requirements to be the taxpayer's Qualifying Child or the Qualifying Child of anyone else.¹⁵

Note: If the person does not meet the age test or residency test to be a Qualifying Child, he or she may still meet the requirements to be a Qualifying Relative and qualify the taxpayer for a dependent exemption credit. However, if the person does not meet the support test to be a Qualifying Child, he or she cannot qualify the taxpayer for a dependent exemption credit.

2. Member of the Household or Relationship Test¹⁶

For the taxpayer to meet this test, one of the following must apply:

- a. Member of the Household
The person must live with the taxpayer for the entire tax year as a member of the taxpayer's household, or
- b. Relationship
The person must be one of the following relatives of the taxpayer:

Birth Child	Stepchild
Grandchild	Adopted child
Foster child	
Parent	Grandparent
Brother	Sister
Half-brother	Half-sister
Stepbrother	Stepsister
Stepfather	Stepmother
Son-in-law	Daughter-in-law
Brother-in-law	Sister-in-law
Father-in-law	Mother-in-law
Uncle	Aunt
Nephew	Niece

NOTE: An uncle or aunt must be the brother or sister of the taxpayer's father or mother.¹⁷ A nephew or niece must be the son or daughter of the taxpayer's brother or sister.¹⁸

3. Gross Income Test

For a taxpayer to be entitled to an exemption for a dependent, the dependent's gross income must be less than the allowable federal dependent exemption amount for the particular tax year.¹⁹ For the allowable federal dependent exemption amount, see the federal instruction booklet for the particular tax year. If the dependent is married, his or her community interest in the spouse's income must be considered in applying the gross income test.

4. Support Test

Generally, a taxpayer must provide more than half the cost of a person's total support during the tax year to meet the support test.²⁰ To determine whether the taxpayer provided more than half the cost of a person's total support, the taxpayer must compare the amount the taxpayer contributed for the person's support to the entire amount of support the person received from all other sources. Total support includes tax-exempt income such as social security benefits and welfare benefits, and the person's own funds used for support. A taxpayer's contribution may not include any part of the person's support that was paid by the person with the person's own wages, even if the taxpayer paid the wages. The person's own funds are not support unless they are actually spent for support.

D. SPECIAL RULE FOR DIVORCED OR LEGALLY SEPARATED PARENTS²¹

1. When a child lives with both parents who are divorced or legally separated, the custodial parent is the parent in whose home the child lived for the greater part of the year. The other parent is the noncustodial parent.²² A child is treated as the Qualifying Child or Qualifying Relative of the noncustodial parent if all of the following conditions are met:²³
 - a. The parents are divorced, legally separated, or lived apart at all times during the last six months of the year. (Parents who have never married each other must live apart at all times during the last six months of the year.)
 - b. The child was in the custody of one or both of the child's parents for more than half of the year.
 - c. The child received more than half of his or her support during the calendar year from his or her parents.
 - d. As provided in a decree of divorce or legal separation or written separation agreement that applies to the tax year at issue:

- (1) the noncustodial parent is entitled to the dependent exemption credit for the child, or
- (2) The custodial parent signed a written statement that he or she will not claim the dependent exemption credit for the child. (The custodial parent may sign federal Form 8332, Release of Claim to Exemption for Child of Divorced or Separated Parents, or a similar statement.) The noncustodial parent must attach a copy of the statement to his or her income tax return.

2. The noncustodial parent qualifies for the dependent exemption credit for a child who is treated as his or her Qualifying Child or Qualifying Relative under the conditions set forth above.

For additional information regarding the dependent exemption credit, see IRS Publication 17, *Your Federal Income Tax*, and IRS Publication 501, *Exemptions, Standard Deduction, and Filing Information*.

E. TEMPORARY ABSENCE

1. A temporary absence is an absence from the taxpayer's home that is due to special circumstances. During a temporary absence, the taxpayer or the qualifying person is still considered to occupy the household.²⁴
2. Special circumstances include absences due to illness, education, business, vacation, military service, incarceration, or a custody agreement under which a child or stepchild is absent for less than six months. An absence will only be considered temporary if it is reasonable to assume that the person will return to the household after the temporary absence, and the taxpayer continues to maintain a household in anticipation of such return.²⁵

F. FOSTER CHILD

1. A child is the taxpayer's foster child and is treated as the taxpayer's child by blood only if the child was placed in the taxpayer's home by an authorized placement agency or by a court.²⁶

and (c).
¹² IRC section 152(c)(1)(B).
¹³ IRC section 152(c)(1)(D).
¹⁴ IRC section 152(c)(4).
¹⁵ IRC section 152(d)(1)(D).
¹⁶ IRC section 152(d)(2).
¹⁷ IRC section 152(d)(2)(F).
¹⁸ IRC section 152(d)(2)(E).
¹⁹ IRC section 152(d)(1)(B).
²⁰ IRC section 152(d)(1)(C); Treas. Reg. section 1.152-1(a).
²¹ IRC section 152(e).
²² IRC section 152(e)(3).
²³ IRC section 152(e)(1) and (2).
²⁴ Treas. Reg. sections 1.2-2(c)(1) and (2), 1.152-1(b), and 1.7703-1(b)(3) and (5).
²⁵ Treas. Reg. sections 1.2-2(c)(1) and (2), 1.152-1(b), and 1.7703-1(b)(3) and (5). *Appeal of Richard Byrd*, 84-SBE-167, December 13, 1984.
²⁶ IRC section 152(f)(1)(C).

¹ IRC section 152(c).
² IRC section 152(d).
³ IRC section 152(b).
⁴ IRC section 152(b)(1).
⁵ IRC section 152(b)(2); Rev. Rul. 65-34, 1965-1 C.B. 86; Rev. Rul. 54-567, 1954-2 C.B. 108.
⁶ IRC section 152(b)(3).
⁷ IRC section 152(c)(2).
⁸ IRC section 2(b)(1)(A)(i)(I) and (II).
⁹ IRC section 152(c)(3).
¹⁰ IRC section 152(c)(3)(B).
¹¹ IRC section 152(f)(2); Treas. Reg. section 1.151-3(b)