

Filing Status, Dependents, & Qualifying Relatives

Presenters:
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Today's Topics

- Determining Filing Status
 - Injured Spouse
- Rules for Claiming a Dependent
- Qualifying Relative Dependent

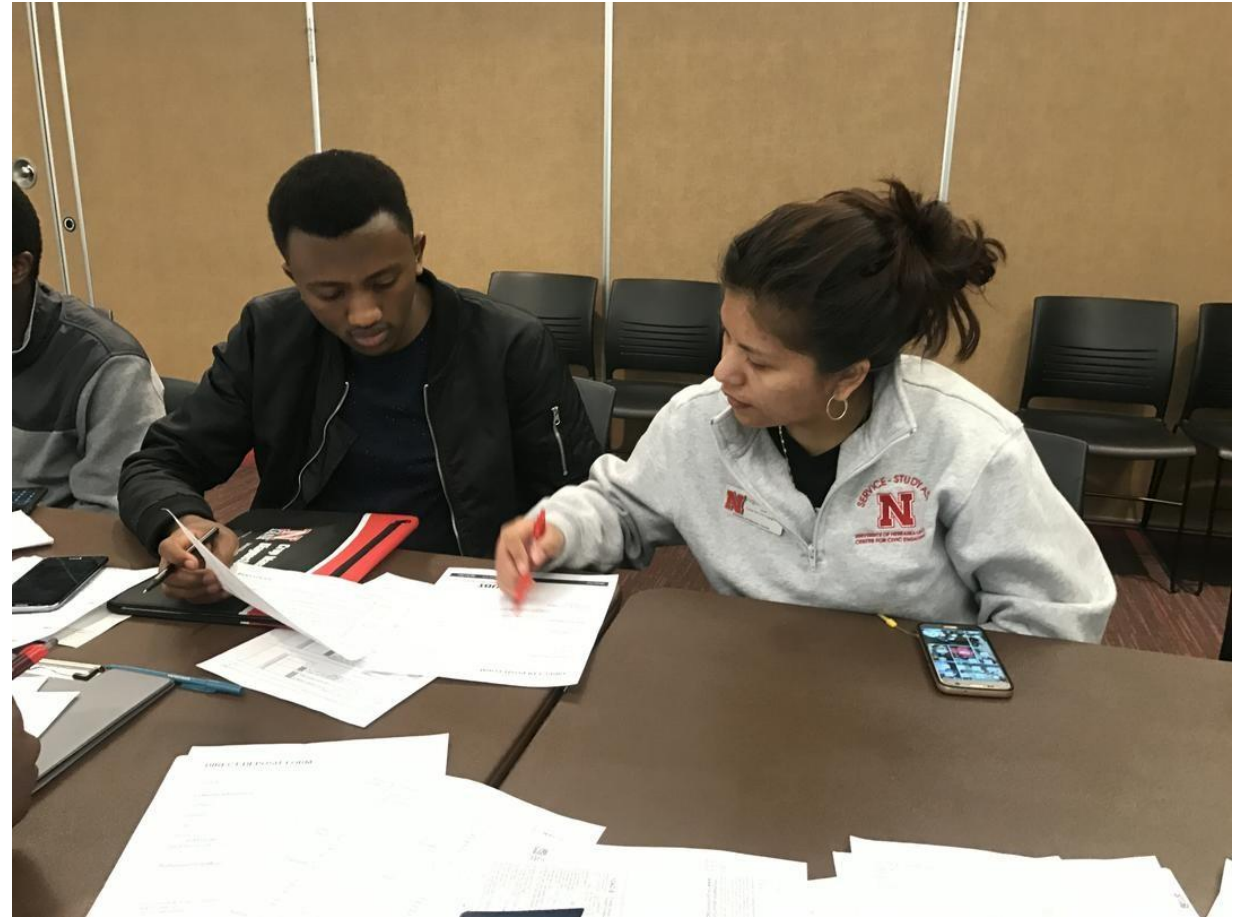
References

Pub 4012: B-10 to B-13 & C-1 to C-7

Pub 4491: 4-1 to 6-12

Form 13614C: Intake, Interview, & Quality Review

<https://www.irs.gov/pub/irs-pdf/f13614c.pdf>



Check Identity of Tax Payer & Spouse (if applicable)

1. Verify identity with government issued photo id, SSN or ITIN
2. Ask if they have been issued an Identity Protection PIN

Form 13614-C (October 2022)		Department of the Treasury - Internal Revenue Service Intake/Interview & Quality Review Sheet			OMB Number 1545-1964	
You will need: <ul style="list-style-type: none"> • Tax Information such as Forms W-2, 1099, 1098, 1095. • Social security cards or ITIN letters for all persons on your tax return. • Picture ID (such as valid driver's license) for you and your spouse. 				<ul style="list-style-type: none"> • Please complete pages 1-4 of this form. • You are responsible for the information on your return. Please provide complete and accurate information. • If you have questions, please ask the IRS-certified volunteer preparer. 		
Volunteers are trained to provide high quality service and uphold the highest ethical standards. To report unethical behavior to the IRS, email us at wi.voltax@irs.gov						
Part I – Your Personal Information (If you are filing a joint return, enter your names in the same order as last year's return)						
1. Your first name		M.I.	Last name		Best contact number	Are you a U.S. citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No
2. Your spouse's first name		M.I.	Last name		Best contact number	Is your spouse a U.S. citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No
3. Mailing address				Apt #	City	State ZIP code
4. Your Date of Birth		5. Your job title		6. Last year, were you:		a. Full-time student <input type="checkbox"/> Yes <input type="checkbox"/> No
				b. Totally and permanently disabled <input type="checkbox"/> Yes <input type="checkbox"/> No		c. Legally blind <input type="checkbox"/> Yes <input type="checkbox"/> No
7. Your spouse's Date of Birth		8. Your spouse's job title		9. Last year, was your spouse:		a. Full-time student <input type="checkbox"/> Yes <input type="checkbox"/> No
				b. Totally and permanently disabled <input type="checkbox"/> Yes <input type="checkbox"/> No		c. Legally blind <input type="checkbox"/> Yes <input type="checkbox"/> No
10. Can anyone claim you or your spouse as a dependent? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure						
11. Have you, your spouse, or dependents been a victim of tax related identity theft or been issued an Identity Protection PIN? <input type="checkbox"/> Yes <input type="checkbox"/> No						
12. Provide an email address (optional) (this email address will not be used for contacts from the Internal Revenue Service)						

Where to start in determining Filing Status

Form 13613-C, Intake/Interview & Quality Review

Interview with taxpayer

Part II – Marital Status and Household Information

1. As of December 31, 2022, what was your marital status?

Never Married (This includes registered domestic partnerships, civil unions, or other formal relationships under state law)

Married a. If Yes, Did you get married in 2022? Yes No

Divorced b. Did you live with your spouse during any part of the last six months of 2022? Yes No

Legally Separated Date of final decree _____

Widowed Date of separate maintenance decree _____

Year of spouse's death _____

2. List the names below of:

- **everyone** who lived with you last year (other than your spouse)
- **anyone** you supported but did not live with you last year

If additional space is needed check here and list on page 3

									To be completed by a Certified Volunteer Preparer				
Name (first, last) Do not enter your name or spouse's name below	Date of Birth (mm/dd/yy)	Relationship to you (for example: son, daughter, parent, none, etc)	Number of months lived in your home last year	US Citizen (yes/no)	Resident of US, Canada, or Mexico last year (yes/no)	Single or Married as of 12/31/22 (S/M)	Full-time Student last year (yes/no)	Totally and Permanently Disabled (yes/no)	Is this person a qualifying child/relative of any other person? (yes/no)	Did this person provide more than 50% of his/her own support? (yes,no,n/a)	Did this person have less than \$4,400 of income? (yes,no,n/a)	Did the taxpayer(s) provide more than 50% of support for this person? (yes/no/n/a)	Did the taxpayer(s) pay more than half the cost of maintaining a home for this person? (yes/no)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)					

Determining Filing Status

Pub 4012, Filing Status, B-9
Pub 4491x, 4-1 to 4-10

Filing status **impacts**:

1. the calculation of **income tax**,
2. affects the amount of the **standard deduction**, and
3. determines allowance or limitation of certain **credits and deductions**.

Married Filing Jointly

Qualifying Widow(er)

Head of Household

Single

Married Filing Separately

Note: Most nonresident aliens and dual status aliens have different filing requirements and may have to file Form 1040-NR. In this case, the return is Out of Scope. Refer the taxpayer to a site with Foreign Student certification (UNL International Student & Scholar VITA site)

Married or Unmarried?

- **Confirm** their marital status on the last day of the tax year
 - Avoid using information from the prior year, as it may have changed
- Generally, taxpayers are considered to be **unmarried** for the entire year if, **on the last day of the tax year**, they were:
 - Unmarried
 - Legally separated from their spouse under a divorce or separate maintenance decree. State law governs whether taxpayers are married or legally separated under a divorce or separate maintenance decree
- Taxpayers are considered to be **married** for the entire year if:
 - They were married on the last day of the tax year, or
 - The spouse died during the year and the surviving spouse has not remarried

Filing “Single”

- Not married
- Legally separated or divorced, or
- Widowed before the beginning of the tax year and did not remarry

Some single taxpayers qualify for Head of Household or for Qualifying Widow(er) with Dependent Child status, which can mean a lower tax

Filing “Married Filing Jointly”

On the last day of the tax year:

- Were married and lived together.
- Were married and living apart, but were not legally separated under a divorce or separate maintenance decree.
 - State law governs whether taxpayers are married or legally separated under a divorce or separate maintenance decree.
- Were common law married pursuant to the laws of the state in which they live (or in the state where the common law marriage began) and the marriage has not been dissolved, such as by death or divorce.
- Are the surviving spouse who did not remarry before the end of the tax year (surviving taxpayer can file a joint return with the deceased spouse).

Filing “Married Filing Separately”

The Married Filing Separately status is for taxpayers who are married, and either:

- Choose to file separate returns, or
- Cannot agree to file a joint return

Taxpayers who file as Married Filing Separately each report their own income and deductions on separate returns.

These rules do not apply in community property states.

Filing “Married Filing Separately”

- The **tax rate is generally higher** than on a joint return
- Taxpayers **cannot** take the child and dependent care credit, education credits, and certain other benefits and credits
- Some credits and deductions, such as the child tax credit and the retirement savings contributions credit, are reduced at **income levels that are half** those for a joint return
- If a spouse itemizes deductions on their return, the taxpayer must itemize and cannot take the standard deduction

Who is an *“Injured Spouse”*?

- When a joint return is filed and only one spouse owes a past-due amount, the other spouse can be considered an injured spouse
- Injured spouses may file **Form 8379** to receive their share of the refund shown on the joint return.
- The injured spouse:
 1. Must not be legally obligated to pay the past-due amount, and
 2. Must have made and reported tax payments (such as federal income tax withheld from wages or estimated tax payments), or claimed a refundable tax credit (see the credits listed in Publication 17 under Who Should File?).
- Both of these conditions must apply unless the injured spouse lived in a community property state at any time during the tax year. In community property states, the injured spouse must meet only the first condition. If the taxpayer meets these requirements, Form 8379 can be e-filed with the joint return.

Filing “Head of Household”

- Taxpayers may qualify for the Head of Household filing status, if they:
- Are unmarried or “considered unmarried” on the last day of the tax year, and
- Paid more than half the cost of keeping up a home for the required period of time, and
- Had a qualifying person living in their home for more than half the year (except for temporary absences, such as school)

A qualifying person for Head of Household is defined as:

A qualifying child who is single (whether or not the child can be claimed as a dependent)

A married child who can be claimed as a dependent

A dependent parent

A qualifying relative who lived with the taxpayer more than half the year, and is one of the relatives listed on the chart, and can be claimed as a dependent by the taxpayer

Who Qualifies You as Head of Household?

IF the person is your . . .	AND . . .	THEN that person is . . .
qualifying child (such as a son, daughter, or grandchild who lived with you more than half the year and meets certain other tests) ²	he or she is single	a qualifying person, whether or not the child meets the Citizen or Resident Test ⁷ .
	he or she is married <u>and</u> you can claim him or her as a dependent	a qualifying person.
	he or she is married <u>and</u> you can't claim him or her as a dependent	not a qualifying person. ³
qualifying relative ⁴ who is your father or mother	you can claim him or her as a dependent ⁵	a qualifying person. ⁶
	you can't claim him or her as a dependent	not a qualifying person.
qualifying relative ⁴ other than your father or mother.	he or she lived with you more than half the year, <u>and</u> you can claim him or her as a dependent, <u>and</u> is one of the following: son, daughter, stepchild, foster child, or a descendant of any of them; your brother, sister, half brother, half sister or a son or daughter of any of them; an ancestor or sibling of your father or mother; or step-brother, stepsister, stepfather, stepmother, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law ⁵	a qualifying person.
	he or she didn't live with you more than half the year	not a qualifying person.
	he or she isn't related to you in one of the ways listed above <u>and</u> is your qualifying relative only because he or she lived with you all year as a member of your household (for example, a companion or a friend)	not a qualifying person.
	you can't claim him or her as a dependent	not a qualifying person.

Head of Household Qualifying Individual Notes

Footnotes

¹ A person can't qualify more than one taxpayer to use the head of household filing status for the year.

² The term "qualifying child" is covered in Tab C, Dependents. Note: If you are a noncustodial parent, the term "qualifying child" for head of household filing status doesn't include a child who is your dependent only because of the rules described in the Children of Divorced or Separated Parents table. If you are the custodial parent and those rules apply, the child generally is your qualifying child for head of household filing status even though the child isn't a qualifying child who you can claim as a dependent. A grandchild is not a qualifying person for HOH status if the taxpayer is married filing a separate return from their spouse.

³ This person is a qualifying person if the only reason you can't claim him or her as a dependent is that you can be claimed as a dependent on someone else's return.

⁴ The term "qualifying relative" is covered in Tab C, Dependents.

⁵ If you can claim a person as a dependent only because of a multiple support agreement, that person isn't a qualifying person.

See Multiple Support Agreement, in Publication 17.

⁶ You are eligible to file as head of household even if your parent, whom you can claim as a dependent, doesn't live with you. You must pay more than half the cost of keeping up a home that was the main home for the entire year for your parent. This test is met if you pay more than half the cost of keeping your parent in a rest home or home for the elderly.

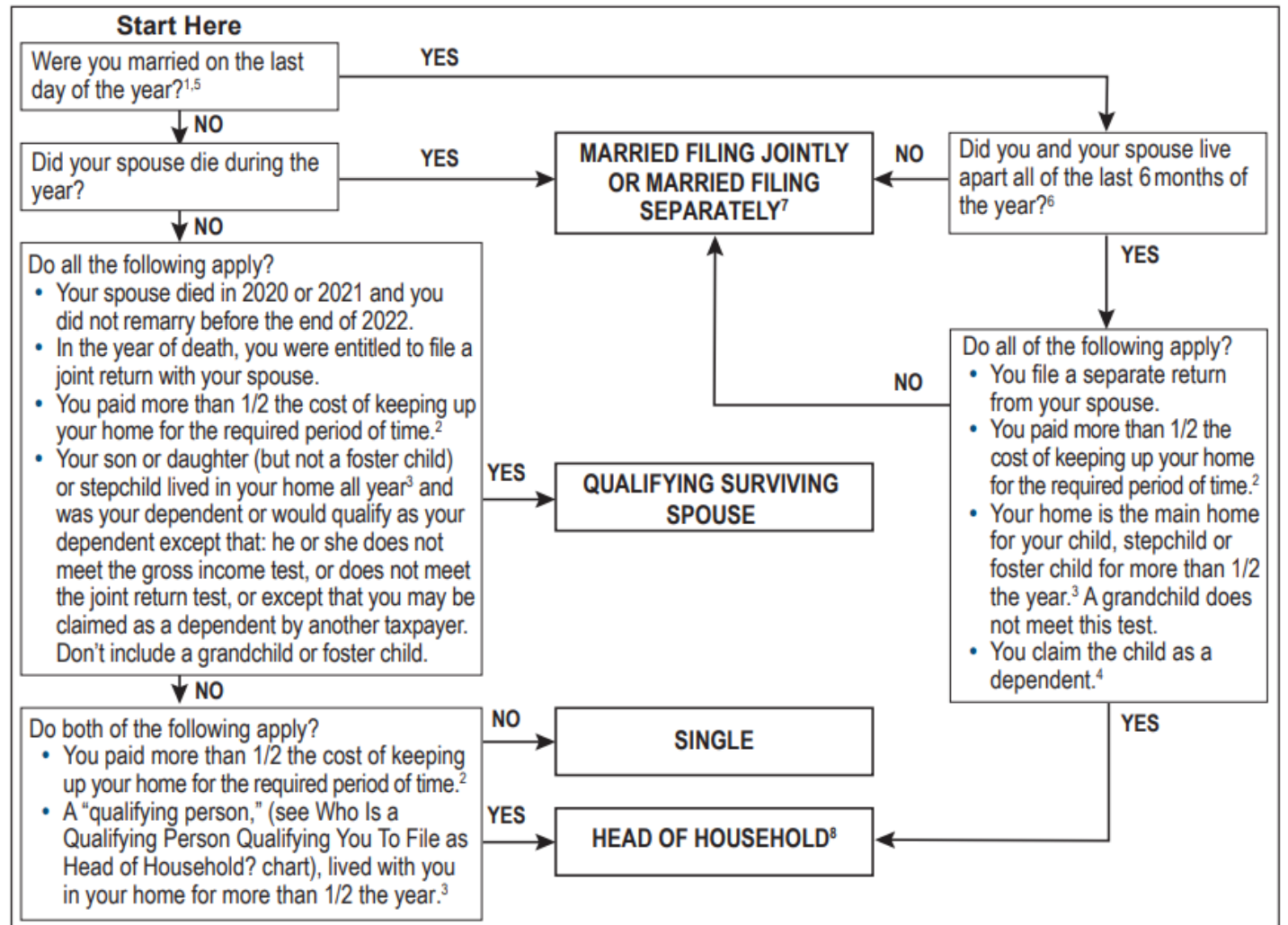
⁷ The Citizen or Resident Test states: You generally can't claim a person as a dependent unless that person is a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico.

Filing as “Qualifying Widow(er)”

- Taxpayers who do not remarry in the year their spouse dies can file jointly with the deceased spouse
- For the two years following the year of death, the surviving spouse may be able to use the Qualifying Widow(er) filing status
- To qualify, the taxpayer must:
 - Be entitled to file a joint return for the year the spouse died, regardless of whether the taxpayer actually filed a joint return that year
 - Have had a spouse who died in either of the two prior years. The taxpayer must not remarry before the end of the current tax year
 - Have a child, stepchild, or adopted child who qualifies as the taxpayer’s dependent for the year or would qualify as the taxpayer’s dependent except that he or she does not meet the gross income test, or does not meet the joint return test, or except that the taxpayer may be claimed as a dependent of another taxpayer
 - Live with this child in the taxpayer’s home all year, except for temporary absences
 - Have paid more than half the cost of keeping up the home for the year

Determination of Filing Status – Decision Tree

Pub 4012, B-10



Footnotes

¹ Answer "NO" to this question if, on the last day of the year, you were legally separated from your spouse under a divorce or separate maintenance decree. Answer "NO" for individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that is not called a marriage under state (or foreign) law. Answer YES if taxpayer is married regardless of where the spouse lives.

² Include in the cost of upkeep expenses such as rent, mortgage interest, real estate taxes, insurance on the home, repairs, utilities and food eaten in the home. Under proposed regulations, a taxpayer may treat a home's fair market rental value as a cost of maintaining a household instead of the sum of payments for mortgage interest, property taxes and insurance. See "Cost of Keeping Up a Home" worksheet later in this tab.

³ See Publication 17, Your Federal Income Tax For Individuals, Filing Status, for rules applying to birth, death, or temporary absence during the year. There are special rules for claiming your parent as a qualifying person for head of household. See the Who Is a Qualifying Person Qualifying You To File as Head of Household? Chart later in this tab.

⁴ Unless the child's other parent claims him or her under rules for children of divorced or separated parents or parents who lived apart.

⁵ You are considered unmarried for head of household purposes if your spouse was a nonresident alien at any time during the year and you do not choose to treat your nonresident spouse as a resident alien. However, your spouse is not a qualifying person for head of household purposes. You must have another qualifying person (see the Who Is a Qualifying Person Qualifying You To File as Head of Household? chart later in this tab) and meet the other tests to be eligible to file as a head of household. You are considered married if you choose to treat your nonresident alien spouse as a resident alien. See chapter 1 of Pub 519, U.S. Tax Guide For Aliens.

⁶ Your spouse is considered to live in your home even if he or she is temporarily absent due to illness, education, business, vacation, military service, or incarceration.

⁷ If the taxpayer wants to file MFS, emphasize the advantages to Married Filing Jointly and the possibility of filing Form 8379, Injured Spouse Claim & Allocation (if appropriate). See Pub 17, Filing Status, MFS Special Rules for list of disadvantages. Respect a taxpayer's decision to file MFS. If domiciled in a community property state see Pub 555, Community Property.

⁸ There may be multiple filing statuses (for example, two heads of household) within a shared living quarter if each household meets their determined filing requirements.



If one spouse dies and the other remarries in the same year, the deceased spouse files Married Filing Separately.

Cost of Keeping Up a Home

Keep for Your Records

	Amount You Paid	Total Cost
Property Taxes*	\$ _____	\$ _____
Mortgage interest expenses*	\$ _____	\$ _____
Rent	\$ _____	\$ _____
Utility charges	\$ _____	\$ _____
Property insurance*	\$ _____	\$ _____
Food eaten in the home	\$ _____	\$ _____
Other household expenses	\$ _____	\$ _____
Fair market rental value*	\$ _____	\$ _____

*Under proposed regulations, fair market rental value may be used (instead of the sum of payments for property taxes, mortgage interest expenses, and property insurance)

Totals

Minus total amount you paid (_____)

Amount others paid \$_____

If the total amount you paid is more than the amount others paid, you meet the requirement of paying more than half the cost of keeping up the home



Costs you include. Include in the cost of keeping up a home expenses such as rent, mortgage interest, real estate taxes and insurance on the home, repairs, utilities, and food eaten in the home. As an alternative to including mortgage interest, real estate taxes, and insurance under proposed regulations, you may include the fair market rental value of the home.

Costs you don't include. Don't include the cost of clothing, education, medical treatment, vacations, life insurance, or transportation. Also, don't include the value of your services or those of a member of your household.



Payments received under Temporary Assistance for Needy Families or other public assistance programs used to pay the costs of keeping up the home can be counted as money you paid. Amounts paid out of funds received in the child's or qualifying person's name, such as social security, are considered paid by the child, not you.

Out of Scope

- A spouse who may be relieved of joint liability as an innocent spouse
- Depending on your tax assistance program, married taxpayers who wish to file a separate return from their spouse and are subject to community property tax laws
- Taxpayers who are not certain they are in a common law marriage (rules are complex and differ from state to state)

Filing Status Scenarios

1: Jane's husband moved out of their home in February of the tax year and has not returned. Jane provides all the cost of keeping up the home for herself and her two dependent children. Jane refuses to file a joint return with her husband. What filing status should she use?

- a. Single b. Married Filing Separately c. Head of Household d. Qualifying Surviving Spouse

2: Seth lives alone and has never married. He does not support either of his parents. What filing status(es) can he use?

- a. Single b. Married Filing Jointly c. Married Filing Separately d. Head of Household e. Qualifying Surviving Spouse

3: Tanya's divorce became final in early September of the tax year. She has sole custody of her three children, who lived with her the entire year. The children are all under the age of 19. She provided more than half of the cost of keeping up the home. What filing status(es) can she use?

- a. Single b. Married Filing Jointly c. Married Filing Separately d. Head of Household e. Qualifying Surviving Spouse

4: Sydney's spouse died two years ago in January. He filed a joint return for that year as the surviving spouse. Since then, Sydney has not remarried, maintains a home for his young children who lived with him all year, and provides their sole support. Using the Filing Status Interview Tips in the Volunteer Resource Guide, determine what filing status Sydney should use?

- a. Single b. Married Filing Jointly c. Married Filing Separately d. Head of Household e. Qualifying Surviving Spouse



Exemptions & Dependents

The deduction for personal exemptions is suspended (reduced to \$0) for tax years 2018 through 2025 for Form 1040 per the Tax Cuts & Job Act

Although the exemption amount is zero, the ability to claim a dependent may make taxpayers eligible for other tax benefits

Defining Dependents

Dependents are either a **qualifying child** or a **qualifying relative** of the taxpayer. The taxpayer's spouse cannot be claimed as a dependent. Some examples of dependents include a child, stepchild, brother, sister, or parent

The Marital Status and Household Information section of the intake and interview sheet addresses the issues concerning dependency

- Use Tab C in Pub 4012,
- Intake/Interview & Quality Review, and
- Your interview

In General...

You can't claim any dependents if you, or your spouse if filing jointly, could be claimed as a dependent by another taxpayer

You can't claim a married person who files a joint return as a dependent unless that joint return is only to claim a refund of income tax withheld or estimated tax paid

You can't claim a person as a dependent unless that person is a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico

You can't claim a person as a dependent unless that person is your qualifying child or qualifying relative

Tests to Determine Dependents or Qualifying Relative

Dependent Tax Payer Test

A taxpayer (or taxpayer's spouse, if filing a joint return) who may be claimed as a dependent by another taxpayer may not claim anyone as a dependent on his or her own tax return

Joint Return Test

A married person who files a joint return cannot be claimed as a dependent unless that joint return is filed only to claim a refund of withheld income tax or estimated tax paid

Citizen or Resident Test

To be claimed as a dependent, a person must be a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico

Tests for Qualifying Child

Relationship

Age

Residency

Support



Relationship Test

- The taxpayer's son, daughter, stepchild, foster child (placed by an authorized placement agency), or a descendant (for example, a grandchild) of any of them
- The taxpayer's brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant (for example, niece or nephew) of any of them.
- An adopted child is treated as the taxpayer's own child for the purposes of the relationships described above. For example, an adopted brother or sister is a brother or sister of the taxpayer. An adopted child includes a child who was lawfully placed with a person for legal adoption.

Age Test - To meet this test, the child must meet one of the following three criteria:

- Under age 19 at the end of the tax year and younger than the taxpayer (or the taxpayer's spouse, if filing jointly)
- A full-time student under the age of 24 at the end of the year and younger than the taxpayer (or spouse, if filing jointly)
 - To qualify as a student, the child must be enrolled in the number of hours or courses the school considers full-time during some part of at least five months of the year. See Publication 17 for additional details.
- Any age if permanently and totally disabled at any time during the year.
 - He or she can't engage in any substantial gainful activity because of a physical or mental condition.
 - A doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

Residency Test

- To meet this test, the child must have lived with the taxpayer for more than half the year.
 - The taxpayer's home is any location where they regularly live; it does not need to be a traditional home (includes homeless shelters)
- Exceptions to the Residency Test.
 - Temporarily absent due to illness, education, business, vacation, military service, institutionalized care for a child who is permanently and totally disabled, or incarceration
 - A child who was born or died or kidnapped during the year, as long as the other dependency tests were met.

Support Test

- The child cannot have provided more than half of his or her own support during the tax year
- A person's own funds are not support unless they are actually spent for support

Can the Child Be a Qualifying Child of More than One Person?

Although a child could meet the conditions to be the qualifying child of more than one person, only one taxpayer can claim the child as a qualifying child for the following tax benefits (exception: if the special rule for children of divorced or separated parents or parents who live apart applies):

- Dependent
 - Child tax credit or credit for other dependents
 - Head of Household filing status
 - Credit for child and dependent care expenses
 - Exclusion from income for dependent care benefits
 - Earned income credit
 - Premium tax credit, generally See the Volunteer Resource Guide, Tab C, Dependents, Qualifying Child of More Than One Person chart.
- If two taxpayers have the same qualifying child, then only one taxpayer can claim all of the benefits for that particular qualifying child. They cannot agree to split these benefits. The other taxpayer cannot claim any of the benefits, based on the same qualifying child.

To determine which taxpayer can treat the child as a qualifying child and claim the benefits, apply these rules keeping in mind that an adopted child is treated as the taxpayer's own child:

- If only one of the taxpayers is the child's parent, the child is the qualifying child of the parent.
- If the parents file a joint return together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
- If the parents do not file a joint return together but both parents claim the child, IRS will treat the child as the qualifying child of the parent with *whom the child lived for the longer period of time* during the tax year. If the child lived with both parents the same amount of time, IRS will treat the child as the qualifying child of the *parent who had the higher Adjusted Gross Income (AGI)* for the tax year.
- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the tax year and who meets the requisite tests.
- If a parent can claim the child as a qualifying child but no parent does, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who could claim the child. If the parents file a joint return together, this rule allows the parents to divide their combined AGI equally (between themselves).

Tests for Qualifying Relative

- Not a qualifying child test
- Member of household or relationship test
- Gross income test, and
- Support
- Note...Unlike a qualifying child, a qualifying relative can be any age.

Not a Qualifying Child Test

- A child is not considered a taxpayer's qualifying relative if the child is the taxpayer's qualifying child or is the qualifying child of another taxpayer. However, there is an exception to this statement.
 - A child may qualify as the taxpayer's dependent under the tests for qualifying relative, even if that child is the qualifying child of another taxpayer. This is allowed only when the child's parent (or other person for whom the child is a qualifying child) is not required to file an income tax return and either:
 - Does not file a return, or
 - Only files to get a refund of income tax withheld or estimated tax paid

Member of household or relationship test

- Live as a member of the taxpayer's household all year, or
- Be related to the taxpayer in one of the following ways:
 - Child, stepchild, foster child or a descendant of any of them
 - Brother, sister, half-brother, half-sister, stepbrother or stepsister
 - Father, mother, grandparent or other direct ancestor, but not foster parent
 - Stepfather or stepmother
 - Son or daughter of the taxpayer's brother or sister (nephew or niece)
 - Son or daughter of the taxpayer's half-brother or half-sister
 - Brother or sister of the taxpayer's father or mother (uncle or aunt)
 - Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law

Not A Qualifying Child Test Question

Todd has lived with his girlfriend, Eva, and her two children all year in his home. Eva is not required to file, and does not file, a tax return this year. Eva and her two children pass the “not a qualifying child test” to be Todd’s qualifying relatives. If Todd meets all other tests, Eva and her two children are qualifying relatives. (Eva and Todd’s relationship does not violate local laws.)

All the facts are the same as in the previous example, except that Eva’s gross income is \$25,000, and she is required to file a return. In this situation, are the children Todd’s qualifying relatives?

- a. Yes
- b. No

Gross Income Test

To meet this test, the dependent's gross income for the tax year must be less than the threshold amount

- Refer to the Volunteer Resource Guide for the current year threshold amount
- Gross income is all income in the form of money, property, and services that is not exempt from tax
 - Specific examples are found in the Volunteer Resource Guide, Tab D, Income
- Remember this test does not apply to qualifying children, only qualifying relatives
- For purposes of this test, the gross income of an individual who is permanently and totally disabled does not include income from a sheltered workshop

Support

To meet this test, the taxpayer must have provided **more than 50% of the person's total support** for the tax year.

- Note that this support test is different from the one for a qualifying child, which tests whether the child provided more than one half of their own support. When calculating the amount of total support, taxpayers should compare their contributions with the entire amount of support the person received from all sources (such as taxable income, tax-exempt income, and loans).
- Review the list of valid support expenses and the Worksheet for Determining Support in the Volunteer Resource Guide, Tab C, Dependents, or in Publication 17.
- State benefit payments like welfare, Temporary Assistance for Needy Families (TANF), food stamps, or housing assistance are generally considered support provided by the state, not by the taxpayer
- Social Security benefits received by a child and used toward support are considered to have been provided by the child.
- A scholarship received by a child who is a student isn't taken into account in determining whether the child provided more than half of his or her own support.
 - Refer to the Worksheet for Determining Support in the Volunteer Resource Guide, Tab C, Dependents, or the Dependents chapter of Publication 17.

Special Rule for Children of Divorced or Separated Parents or Parents Who Live Apart

- In most cases, the child is the qualifying child of the custodial parent.
- However, a child will be treated as the qualifying child or qualifying relative of his or her noncustodial parent if all the following conditions apply:
 - This rule does not apply for *Head of Household* filing status, the credit for child and dependent care expenses, or the earned income credit.
 - For these benefits, the child must meet the residency test. The custodial parent may still qualify for these provisions even though the noncustodial parent can claim the dependent for other tax benefits.

Continued..

1. The parents

- are divorced or legally separated under divorce or separate maintenance decrees or written separation agreements, or
- Lived apart at all times during the last six months of the year whether or not they are or were married

2. The child received over half of his or her support for the year from the parents.
(Multiple Support Agreement rules do not apply.)

3. The child was in the custody of one or both parents for more than half the year.

4. The custodial parent signs a written declaration (Form 8332 or a similar statement) that he or she will not claim the child as a dependent for the year and the noncustodial parent attaches this declaration to his or her return.

- If the decree or agreement went into effect after 1984 and before 2009, the noncustodial parent may be able to attach certain pages from the decree or agreement instead of Form 8332.
- For a pre-1985 decree or agreement, see Publication 17.
- This special rule is the exception to:
 - The residency test for qualifying child
 - The support test for qualifying relative Custodial and Noncustodial Parent

Determining Who is the Custodial Parent/Noncustodial Parent

- The custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the noncustodial parent
- If the parents divorced or separated during the year and the child lived with both parents before the separation, the custodial parent is the one with whom the child lived for the greater number of nights during the rest of the year.
- A child is treated as living with a parent for a night if the child sleeps:
 - At that parent's home, whether or not the parent is present, or
 - In the company of the parent, when the child does not sleep at a parent's home (for example, the parent and child are on vacation together).
 - If the child lived with each parent for an equal number of nights during the year, the custodial parent is the parent with the *higher adjusted gross income*.

Question:

Ted is divorced and has a daughter who lived with him and his ex-spouse for an equal number of nights. Ted's adjusted gross income is \$45,000 and his ex-spouse's adjusted gross income is \$30,000. Who is considered the custodial parent?

Tests To Be a Qualifying Child	Tests To Be a Qualifying Relative
<p>1. The child must be your son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them.</p> <p>An adopted child is always treated as your own child. The term “adopted child” includes a child who was lawfully placed with you for legal adoption.</p>	<p>1. The person can't be your qualifying child or the qualifying child of any other taxpayer. A child isn't the qualifying child of any other taxpayer if the child's parent (or any other person for whom the child is defined as a qualifying child) isn't required to file an income tax return or files an income tax return only to get a refund of income tax withheld.</p>
<p>2. The child must be: (a) under age 19 at the end of the year and younger than you (or your spouse, if filing jointly), (b) under age 24 at the end of the year, a full-time student, and younger than you (or your spouse, if filing jointly), or (c) any age if permanently and totally disabled.</p>	<p>2. The person either (a) must be related to you in one of the ways listed under Relatives who don't have to live with you (see Table 2, step 2), or (b) must live with you all year as a member of your household² (and your relationship must not violate local law).</p>
<p>3. The child must have lived with you for more than half of the year.²</p>	<p>3. The person's gross income for the year must be less than \$4,400.³ Gross income means all income the person received in the form of money, goods, property and services, that isn't exempt from tax. Don't include Social Security benefits unless the person is married filing a separate return and lived with their spouse at any time during the tax year or if 1/2 the Social Security benefits plus their other gross income and tax exempt interest is more than \$25,000 (\$32,000 if MFJ).</p>
<p>4. The child must not have provided more than half of his or her own support for the year.⁵</p>	<p>4. You must provide more than half of the person's total support for the year.^{4, 5}</p>
<p>5. The child isn't filing a joint return for the year (unless that joint return is filed only to claim a refund of income tax withheld or estimated tax paid).</p>	
<p>6. If the child meets the rules to be a qualifying child of more than one person, you must be the person entitled to claim the child as a qualifying child. See the “Qualifying Child of More Than One Person” chart.</p>	

Summary – For a taxpayer to claim a dependent, the following conditions must be met.

- The taxpayer may not claim a dependent if the taxpayer may be claimed as a dependent on another taxpayer's return
- The taxpayer may not claim a dependent who files a joint return unless the joint return is filed only to claim a refund and no tax liability would exist for either spouse on separate returns
- A person cannot be claimed as a dependent unless that person is a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico, for some part of the year (There is an exception for certain adopted children)
- A dependent must be either a qualifying child or qualifying relative

Questions/Comments?

