

Phone: (818) 243-1977
 Fax (213) 984-2653
 Email: info@nbsone.com

210 N Central Ave. #100
 Glendale, Ca 91203
 Web www.8182431977.com

DEPENDENCY & EXEMPTIONS

DEPENDENCY

2 TIERS OF DEPENDENCY (Began In 2005)	
A. Tier 1 Dependent: Also called "Qualifying Child" (Must Pass 3 Tests)	
Test 1 - Residency	Dependent must have same principal residence as taxpayer for more than ½ the year. "Temporary absence" for illness, education, incarceration, business, vacation, or military service is ignored. A dependent who is born or dies during tax year qualifies, except a stillborn child. Dependent Child must be US citizen, US national or resident alien of Canada, Mexico, or the US. Dependent needs a valid SSN, ITIN, or ATIN.
Test 2 - Relationship	Dependent must be <ul style="list-style-type: none"> • T/P's child, stepchild, sibling, stepsibling, or a descendent of one of these. • Legally adopted. • A foster child (placed by authorized agency or order of a competent court) who was a member of the household for the entire year.
Test 3 - Age	Must be under 19 (24 if a full-time student). No age limitation if the individual is totally and permanently disabled. NOTE: Different age requirements apply for the Child Tax Credit (age 17) and the Dependent Care Credit (age 13). Began In 2009 – Dependent must be either (a) younger than claimant, or (b) permanently & totally disabled. (Increasing Adoption Act of 2008)
General Notes	<p>SELF-SUPPORTING CHILD. A child who provides more than half his/her own support is not a qualifying child for dependency purposes, but might be a qualifying child for purposes of the EIC.</p> <p>NOT A DEPENDENT. One who can be claimed as another's Tier 1 Dependent may not claim any dependents on his/her own return.</p> <p>TIE-BREAKER RULES. If a child is Tier 1 for multiple T/Ps we have 2 tiers of rules:</p> <p>1) 2009 & On – If both a parent and a non-parent qualify to claim a Tier 1 dependent, the non-parent may NOT claim the dependency unless non-parent has higher AGI than parent. (Increasing Adoption Act of 2008)</p> <p>2) If a Tier 1 dependent is <u>claimed by both T/Ps</u>, apply the following rules in order.</p> <ul style="list-style-type: none"> • PARENT FIRST. If one of the individuals is parent of the child, parent wins. • BOTH PARENTS – NO JOINT RETURN. If both parents claim, but do not file a joint return, parent with whom the child lived for the greater part of the year wins. • NONE IS PARENT – HIGHEST AGI. If no claiming individual is the parent, the child is the qualifying child of the claimant with highest AGI. <p>DIVORCE/SEPARATION. Dependency goes first to parent with whom a child lives for greater portion of the year. Dependency may be waived, and must be waived where certain decrees of divorce/separation award dependency to non-custodial parent.</p> <p>JOINT RETURN. Began In For 2009 – a person filing a joint return (except for refund only) cannot be a Tier 1 dependent of another. (Increasing Adoption Act of 2008)</p> <p>KIDNAPPED CHILD. If an otherwise "qualifying child" is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family, the child is deemed to be a "qualifying child" for all purposes of the Tax Code. This ends the year after the child is determined to be dead, or would have turned 18.</p>

THAT'S IT! The chart is complete. There is a diagrammatic version of the relationship test 4 pages from here.

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BRASS TAX Presentations

1040/540 TUNEUP 2017

B. Tier 2 Dependent—"QUALIFIED RELATIVE"	
1. A Potential Dependent Must Pass All Five Of These Tests	
1) Citizen or Residency Test	Must be U.S. citizen, national or a resident of the U.S., Canada or Mexico.
2) Joint Return Test	Must be unmarried, or, if married, must not file a joint return, except for refund.
3) Support Test	Taxpayer must provide over 50% of potential dependent's support.
4) Member Of Household Or Relationship Test	<p>TIER 2A: Must be the taxpayer's:</p> <ul style="list-style-type: none"> • Child, stepchild, foster child or a descendent of any of them; • Brother, sister, niece or nephew; • Father, mother, grandmother, grandfather, aunt or uncle; • Step-brother, step-sister, step-father, step-mother or any of the following in-laws—son, daughter, father, mother, brother or sister. <p>OR</p> <p>TIER 2B: A person (related or not) who lived with T/P all year as member of T/P's household, as long as the relationship does not violate local law.</p>
5) Gross Inc. Test	Gross taxable income must be < pers exemption amount (\$4,050 in 2017).
2. And Watch Out For This!	
Caveat	<p>NOT A TIER 1 DEPENDENT OF ANOTHER TAXPAYER. We may not claim as a Tier 2 Dependent anyone who qualifies as a Tier 1 Dependent of another person.</p> <p>EXCEPTION: You may claim a Tier 2 dependent if the person who could claim the dependent under Tier 1 (a) is not required to file a return, and does not file a return, or (b) files a return simply to claim refund of <i>withheld</i> taxes. (<i>IRS Notice 2008-5</i>)</p>



INDIVIDUAL TAXPAYER IDENTIFICATION NUMBERS (ITINs)

ITINs are issued to aliens who are not eligible for social security numbers.

ITINs MORE THAN 5 YEARS OLD MUST BE RENEWED. Each year, ITINs more than 5 years old must be renewed. A rolling basis is used, so ITINs with middle digits of 70, 71, 72, or 80 must be renewed if the taxpayer will have a filing requirement in 2018 for 2017 returns.

In the second year of the renewal program, the IRS has made changes to make the process smoother for taxpayers. The renewal process for 2017 began more than three months earlier than the prior year.

UNUSED ITINs MUST BE RENEWED. ITINs not used on a federal income tax return in the last 3 years (2014, 2015, & 2016) will no longer be valid to use on a tax return as of January 1, 2018. ITIN holders who need to use these numbers to file a 2017 tax return must renew before their return can be filed.

HOW TO RENEW. File Form W-7 by mail, with a Certified Acceptance Agent, or by making an appointment at an IRS Taxpayer Assistance Center. All family members (taxpayer, spouse, dependents claimed on the return) can renew at the same time, rather than renewing separately over several years.

**TIER 2 – QUALIFYING RELATIVE
NOTES/EXCEPTIONS TO 5 TESTS**

1. MEMBER OF HOUSEHOLD/RELATIONSHIP. A chart of special cases:

Person	Relationship Test Passed	Must live in Household entire year
CHILDREN Child, grandchild, great-grandchild, etc Step-child Adopted Child Adoption not final – placed by qualified agency not placed by qualified agency Foster Child (no requirement for placement by an agency)	• • • •	• •
PARENTS Parent, grandparent, great-grandparent, etc "Step" or "In-Law" – single generation only	• •	
SIBLINGS – All including "step" & "in-law"	•	
UNCLES / AUNTS	•	
NIECE / NEPHEW	•	
COUSIN		•

COMMON TRAPS. And here are the special rules.

Trap	Rule
BIRTH/DEATH	In cases of birth or death, the member of household test is generally met. With births, it is required the child be born alive, but not required the child be taken home from the hospital during the year.
JOINT RETURNS SEPARATE RETURNS	Each test may be passed by EITHER spouse Each test must be passed by the filer
IN-LAWS ARE FOREVER	Relationships established by marriage do not end with death or divorce

2. CITIZEN OR RESIDENT TEST

Trap	Rule
Parent is citizen when child is born	Generally the child passes the test, regardless of where the child lives.
Citizen adopts non-citizen child.	Child must be resident in your home all year.
Residency	Includes Canada and/or Mexico.

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3. JOINT RETURN TEST

Trap	Rule
Child files joint return.	Child fails the test with one exception – if return (a) is filed only to claim a refund, and (b) neither spouse would have a tax if filing SEPARATELY, the test is passed.

4. GROSS INCOME TEST

Trap	Rule
Basic Test. Gross income includes –	Gross Income cannot exceed personal exemption amount. <ul style="list-style-type: none"> • Schedule C for manufacturing, sales, or mining – Gross sales less cost of goods. • Rentals – Gross rents • Partnerships – Partner's share of gross income. • Unemployment compensation, most grants and scholarships.
Gross income does NOT include -	<ul style="list-style-type: none"> • Tax exempt income such as social security payments. • Income received by a totally and permanently disabled person at a sheltered workshop.

5. SUPPORT TEST

A. GENERAL RULES FOR CALCULATING SUPPORT

Issue	Rule
Use of Funds: Dependent's own funds	Ignored unless actually used for support items.
Military Allotments	Considered used by the recipient of the allotments.
Tax Exempt Incomes	Considered if actually used for support.
Support provided by State	Generally considered used for support unless shown specifically otherwise.
Foster care payments	Considered as support provided by the agency – can lead to nobody being able to claim an exemption.
Capital Items	Cost included if actually used by the dependent in a support function.
Medical insurance	Cost is included in support.

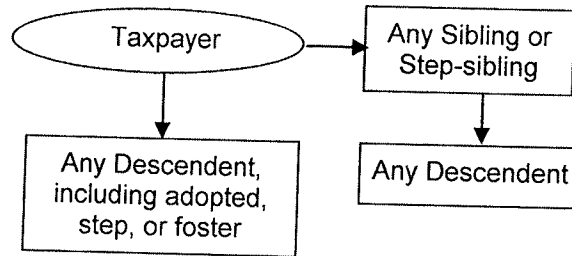
B. MULTIPLE SUPPORT AGREEMENT

When two or more persons provide together more than half the support of an individual and each of them could claim the dependency exemption but for the support test, any one of them who provides more than 10% of the dependent's support may be chosen by the group to claim the exemption. Use Form 2120.

**INTERACTION OF
DEPENDENCY RULES**

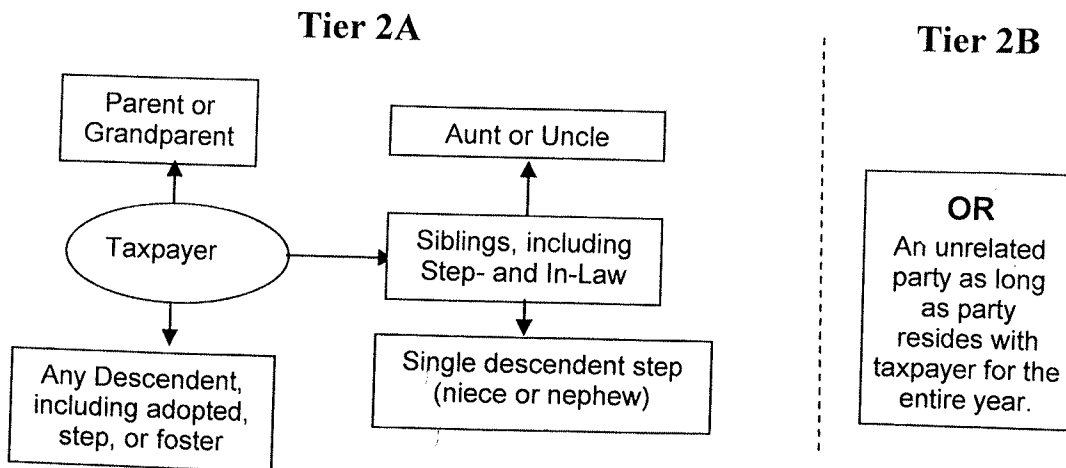
RELATIONSHIP – DIFFERENCES BETWEEN TIER 1 AND TIER 2.

TIER 1 DEMANDS A FAMILIAL RELATIONSHIP. If looked at on a “family tree” the relationships allowed in Tier 1 Dependency are:



Legally adopted children are included (as are foster-children if placed by a qualifying agency if they are present in the household for the entire year).

TIER 2 HAS DIFFERENT RELATIONSHIPS, AND ALLOWS A NON-RELATIVE! Note that Tier 2 allows for a “relationship” OR “Member of Household” test. The “Member of Household” test requires the dependent be a member of the household for the entire year. Moreover, the relationships are different:



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OTHER TAX ATTRIBUTES

There are other tax issues we often associate with “dependent”. Some of these are not allowed for a Tier 2 Dependent – hence, we learn that a Tier 1 Dependent is more valuable than a Tier 2 Dependent.

If Taxpayer Has A	Tier 1 Dependent	Tier 2 Dependent
Dependency Exemption	Yes	Yes
Head of Household Status	If pass other tests	If pass other tests and be Tier 2A
Child/Dependent Care Exp and excludable employer-provided dependent care assistance	If pass other tests	NEVER Unless physically or mentally disabled <i>(ILM 200812024)</i>
Earned Income Credit	If pass other tests	NEVER
Tuition & Fees Deduction	If pass other tests	If pass other tests
Education Credits	If pass other tests	If pass other tests
Child Tax Credit	If pass other tests	NEVER
Additional Child Tax Credit	If pass other tests	NEVER
Medical Expense of Dependent	Yes	Yes

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SEPARATED PARENTS

CUSTODIAL PARENT WINS! Here's a chart of key tax issues:

Item	Custodial Parent may benefit from	Non-custodial Parent may benefit from
Dependency Exemption	●	
Head of Household Status	●	
Child/Dependent Care Exp and excludable employer-paid dependent care assistance	● ¹	(1)
Earned Income Credit	● ²	
Tuition Deduction	● ³	
Education Credits	● ^{2&3}	
Child Tax Credit	●	
Additional Child Tax Credit	● ²	
Medical Expenses of Child		● ⁴

- (1) Custodial parent may claim his/her own expenses and can't use non-custodial parent's expenses. Non-custodial parent may not claim at all.
- (2) Denotes a refundable credit – has value even if tax is low.
- (3) Expense is claimed on return where personal exemption is claimed, regardless of who paid the money.
- (4) Each parent may claim his/her own expense.