



Qualifying Child Rule Changes May Affect Some Lower-Income Taxpayers

Three changes to eligibility rules for the Earned Income Credit and Child Tax Credit were enacted by Congress in 2008. The rules took effect beginning in 2009 for returns filed in 2010. These changes to the Qualifying Child rules also apply to claiming exemptions for dependent children:

1. **The tax filer must be older than the qualifying child**, in order to claim the child for tax benefits or the qualifying child must be permanent and totally disabled. For example, Jason is working and is the primary caretaker for his younger brother, Mark who is 14. Under EIC rules Mark is a qualifying child. But under previous EIC rules, if Jason was under age 24 and a full-time college student, he also was considered a qualifying child of Mark — even if Mark was not working. Under the previous rules, Jason could not claim the EIC if he also was a qualifying child. Under the new rule Jason would no longer be considered a qualifying child of Mark and, if otherwise eligible, could claim Mark for the EIC, the CTC and as a dependent.
2. **Waiver of parental custody for tax benefits.** Parents who live for more than half the year with a qualifying child may *choose* to allow another eligible person living in the home to claim the child for the EIC, CTC and dependent exemption. Under the new rule change, this may now only be done if the **other person has higher adjusted gross income** than either parent. The purpose of this rule is to prevent high-income tax filers who may receive little or nothing from these child tax benefits from allowing a lower-income relative in the household to claim higher benefits instead. Parents still have the *priority* to claim their qualifying child, even if they live with a relative who has higher income.
3. **Claims for married children.** A **married person** who files a joint return may not be claimed by another filer as a qualifying child, unless the married couple files only to claim a refundable credit, such as the EIC, or over withheld income tax. For example, Tom and Sally

are married, have no children and are living with Sally's mother, Rose. Tom and Sally file a joint return and claim no tax refund. Sally is under age 19. Her mother Rose, who is employed, may not claim Sally as a qualifying child for any child tax benefit. If Tom and Sally owed no income tax and claimed a refund for over withheld tax, then Rose could claim Sally on her own return for the EIC.