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## February 2002 - WHO GETS TO CLAIM THE DEPENDENT?

On 2001 income tax returns, a \$2,900 exemption is allowed for each dependent claimed. A dependent can be claimed by at most one person, which can cause problems when more than one person feels entitled to claim the same dependent. Let's discuss the rules that determine who actually is allowed to claim a dependent.

**Claiming Yourself.** Your ability to claim yourself as a dependent on your own return comes down to one question. Can anyone else claim you as a dependent? It does not matter if anyone else actually does claim you. If anyone could claim you, you cannot claim yourself. This prevents most children still living at home with their parents from claiming themselves as dependents. Please read on and see if anyone else can claim you before trying to claim yourself.

**Claiming Your Spouse.** If you and your spouse file a joint return, generally no one else can claim either of you as a dependent. (The sole exception is if you and your spouse owe zero tax and only file the joint return to get a refund). If you file separate returns, you may only claim your spouse as an exemption if he or she had no gross income and he or she is not the dependent of another taxpayer. It is important to note that if there is a final decree of divorce or separate maintenance issued by December 31, you may not claim your former spouse as an exemption even if you provided his or her entire support.

**Claiming Your Children.** Stepchildren and legally adopted children are considered yours for purposes of claiming the dependent exemption. If you have an interlocutory adoption decree, you are allowed to claim that child as a dependent for the year the interlocutory decree is entered.

A foster child that is a member of your household for the entire year except for temporary absences is considered your child. Your other children do not have to live with you.

The dependent exemption is allowed for a child who was born alive, no matter how quickly they later die. No dependent exemption is allowed for a child who was born dead (stillborn).

**Income Limits for Claiming Your Children.** Once your children reach age 19, they must have gross income of less than \$2,900 (for 2001). The only exception is from age 19 to 23, if they attend school full time during at least five calendar months of the year, then there is no maximum gross income requirement to claim the dependent exemption. Correspondence schools and on-the-job training courses do not count towards the five calendar month requirement.

**Claiming Your Relatives.** Any of the following relatives can be claimed as dependents if they meet the other tests listed later in this article: grandchild, great-grandchild, son- or daughter-in-law, father- or mother-in-law, brother- or sister-in-law, parent, brother, sister, grandparent, step-parent, stepbrother or sister, or half-brother or sister. Also, if related by blood, you can claim your uncle, aunt, niece, or nephew as dependents. These relatives do not have to live with you.

**Claiming Non-Relatives Who Are Members of Your Household.** A non-relative who is a member of your household for the entire year, except temporary absences, can also be claimed as a dependent if the other tests listed later in this article are met. However, if your relationship with a non-relative member of your household is in violation of state law, you cannot claim that person as a dependent. For example, eight states continue to make it a crime for an unmarried man and a woman to cohabit together: Florida, Idaho, Michigan, Mississippi, North Carolina, North Dakota, Virginia and West Virginia. Arizona and New Mexico decriminalized unmarried cohabitation in 2001. Other states have other kinds of restrictions, so if you are in doubt you may want to check with an attorney before claiming such a member of your household as a dependent.

**Other Tests.** Once you have determined that a person is a possible dependent because they are a relative or a full year member of your household, then they will also need to meet the following two other tests to be eligible to be claimed as a dependent.

(1) Support Test.

- (a) If you contribute more than 50% of the total spent for the person's support (including housing, food, utilities, etc.) you pass the test, unless a divorce decree states otherwise.
- (b) If a group of people contribute more than 50% together of the total spent for the person's support, and none of them contributed more than 50% individually, then any of the people who provided over 10% of the total spent for the person's support can be chosen to pass the support test. In this case, you must attach Form 2120 (Multiple Support Declaration) to your return, which must be signed by all of the other people who provided over 10% of the total support. By signing this form these other people are agreeing not to claim the person as a dependent on their tax return.
- (c) If no group of people contribute more than 50% of the total spent for a person's support, then nobody is allowed to claim the dependent exemption for that person. An example of this situation is where government assistance is providing over 50% of the support, but others are also contributing.

(2) Citizenship or Residence Test.

The person to be claimed as a dependent must be a U.S. citizen or a resident of the U.S., Canada, or Mexico.

**December 31 is the key date each year.** If a final divorce or separate maintenance decree has been issued when you file your tax return for a year, but the decree had not been issued by December 31, you can claim an exemption for your former spouse if he or she has no gross income and is not the dependent of another taxpayer.

If you are married on December 31, you are considered married for the entire year for tax filing purposes. In some cases, this may influence your choice of wedding dates.

If your dependent child is born by December 31, you can claim an exemption for that child for the entire year.

**Information Required on Your Tax Return.** Once you have determined who you will claim a dependent exemption for, be sure you know the exact spelling of each name and the exact social security number for each dependent as they are currently listed on the records of the Social Security Administration (SSA). Nonresident and resident aliens not eligible for Social Security numbers must have an individual taxpayer identification number in order for you to claim them a dependent exemption for them. You will want to contact the SSA directly at 1-800-772-1213 or on the Internet at [www.ssa.gov](http://www.ssa.gov) if you need to confirm name spellings or social security numbers. Your claim for a dependent exemption will be denied, and you will be billed for additional tax or have your refund reduced if the name spelling and social security or individual taxpayer identification numbers do not match the SSA records.

**Head of Household Status, Earned Income Credit, and Child Tax Credit.** The rules for these items are similar to, but are different from the rules for the dependent exemption. They will be the subject of my next article.

**The information in this article is intended to inform you of some of the income tax rules concerning claiming a dependent. It is not intended to give you specific advice for your personal situation. If you need such advice, please contact a qualified professional!** Please call or e-mail me ([dougbeecher@yahoo.com](mailto:dougbeecher@yahoo.com)) if you are a prospective new client and would like a free initial 30-minute consultation to discuss your personal situation and how the tax laws might benefit you.

If you have a question you'd like to have answered in a future article, please contact me.