

4

Dependent-Related Filing Statuses

OVERVIEW

In this chapter, we will discuss how having dependents can affect a taxpayer's filing status and tax rate. Dependents will also qualify many taxpayers for valuable tax credits, which may further reduce their tax liability or even eliminate it completely. You will learn more about those benefits as you proceed through this course.

OBJECTIVES

At the conclusion of this chapter, the participants will be able to:

- Identify whether a taxpayer qualifies to file as head of household.
- Explain how to determine the cost of maintaining support of a household.
- Recognize whether a taxpayer qualifies as unmarried for tax purposes.
- Identify whether a taxpayer qualifies to file as a qualifying widow(er).
- Explain which parent may claim the dependency exemption for a qualifying child when the parents are divorced or separated.
- Recognize which taxpayer will be awarded a qualifying child when more than one taxpayer claims the child.

TAX TERMS

Look up the definitions of the following terms in the glossary:

- Custodial parent.
- Dependent.
- Fair rental value.
- Full-time student.
- Multiple support agreement.
- Noncustodial parent.
- Nonresident alien.
- Permanent and total disability.
- Physical custody.
- Principal place of abode (principal residence).
- Qualifying child (QC).
- Qualifying relative (QR).

FILING STATUSES AND DEPENDENTS

In Chapter 2, you learned there are five filing statuses recognized by the Tax Code:

- Single (S).
- Married filing jointly (MFJ).
- Married filing separately (MFS).
- Head of household (HH).
- Qualifying widow (er) (QW).

In Chapter 2, we learned that the first three statuses (S, MFJ, and MFS) are allowed regardless of whether the taxpayer has a dependent. The last two statuses require that the taxpayer have at least one dependent. In this chapter, we look at both HH and QW, and the requirements for these filing statuses.

Head of Household

Taxpayers may file as head of household if they meet all of the following requirements:

- The taxpayer is unmarried or “considered unmarried” on the last day of the tax year.
- The taxpayer paid more than half of the cost of maintaining the household for the year.
- The taxpayer maintains a household for either of the following:
 - A qualifying child or qualifying relative (see exceptions to the head of household requirements on page 4.6) lived with the taxpayer for more than half the year, and the taxpayer can claim an exemption for them.
 - Their parent, who the taxpayer may claim as an exemption on their return, for the entire year. The parent is not required to live in the home.

Example: Herbert (34) is unmarried and pays 100% of the cost of maintaining a household for Clarice (5). Clarice is Herbert’s qualifying child. Herbert may file as head of household.

Example: Juanita (42) is unmarried and pays 65% of the cost of maintaining a home for her father, Bernabe (77). Juanita will claim Bernabe on her tax return in 2016. Juanita may file as head of household.

The Cost of Maintaining a Household

In order to file as head of household, a taxpayer must have paid more than half the cost of maintaining a household for the year. Include these costs when making this determination:

- Rent.
- Mortgage interest.
- Real estate taxes.
- Homeowner's or renter's insurance.
- Repairs/maintenance.
- Utilities.
- Food eaten in the home.

Do *not* include the costs of the following items:

- Clothing.
- Education.
- Medical treatment.
- Vacations.
- Life insurance.
- Transportation.
- Rental value of a home owned by the taxpayer.
- Services provided by the taxpayer or other members of the household.

The fair rental value of a home owned by the taxpayer is not included in tallying the cost of maintaining a home. The same is true when that home is owned by one of the taxpayer's dependents—for example, a parent.

If the total amount paid by the taxpayer is more than the amount others paid, including amounts paid from government assistance programs, then the taxpayer meets the requirement of paying more than half the cost of maintaining the household for the year.

When there is doubt as to whether an individual paid more than half the cost of maintaining the household for the year, use the Worksheet 2-1, *Cost of Keeping Up a Home*, found in IRS Publication 17, page 23. This worksheet is shown in Illustration 4.1 on page 4.4. Drake also provides a *Household Support Worksheet*. This worksheet is available on the Filing Status input screen in the software. This Drake worksheet is shown in Illustration 4.2 on page 4.5. After the appropriate lines are filled in and totaled, divide the amount the individual pays by the total amount of the cost.



BlockWorks Tip: Use the *Household Support Worksheet* found on the Filing Status screen to determine if a taxpayer has paid more than half the cost of keeping up a home for the year, if there are any concerns as to whether the taxpayer actually qualifies. This worksheet is very helpful if the client’s income level makes it seem unlikely they could be paying one-half of the cost of maintaining the household. An example of this worksheet is shown in Illustration 4.2.

Illustration 4.1

Worksheet 2-1. Cost of Keeping Up a Home

Keep for Your Records

	Amount You Paid	Total Cost
Property taxes	\$	\$
Mortgage interest expense		
Rent		
Utility charges		
Repairs/maintenance		
Property insurance		
Food eaten in the home		
Other household expenses		
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.

Example: Tim is not sure whether he or his father pays more than one-half the cost of maintaining the household. If Tim pays more than half the cost, he will qualify to file as head of household. The total costs for maintaining the home were \$45,450, and Tim paid \$22,950 of the costs. Since Tim pays 50.5% of the costs [$\$22,950 \div \$45,450 \text{ total costs} = 0.505$], Tim will file as head of household.

Exceptions to the Head of Household Requirements

Married qualifying child. The qualifying child of a taxpayer for head of household purposes cannot be married, unless the taxpayer can claim an exemption for that child.

Nonrelative dependent. A dependent who meets the relationship test because they live in the same household with the taxpayer for the entire year cannot qualify the taxpayer for head of household status. To qualify the taxpayer for head of household, the dependent must actually be related to the taxpayer, as indicated in the relationship test for a qualifying relative.

Example: Let's revisit the cousins, Tony and Adam, from Chapter 3. Adam, if you remember, is a qualified relative dependent of Tony. However, Tony may not file head of household because their relationship as cousins does not meet the head of household relationship test. Unless Tony has another qualifying child or another relative that meets the relationship test for qualifying relative, he cannot claim Head of Household. Tony must file as single.

Multiple support agreements. A taxpayer who has a dependent because of a multiple support agreement cannot file as head of household. Taxpayers who have qualifying relative dependents must have provided over half of the support for those dependents by themselves.

Nonresident aliens. A taxpayer who is a nonresident alien for any part of the tax year may not file head of household.

Married, But Unmarried For Tax Purposes

To be considered unmarried for tax purposes, a married person must be legally separated under a decree of divorce or separate maintenance, or must meet all of the following requirements:

- The person must file a separate return from their spouse.
- The person must have provided more than half the cost of maintaining their home for the tax year.
- The home must have been the principal place of abode of the taxpayer and their dependent son, daughter, or eligible foster child (qualifying child or qualifying relative) for more than half the tax year. This includes a child who would be a dependent except that the exemption was awarded to the noncustodial spouse by (a) a post-1984 divorce or separation agreement or (b) a waiver by the custodial parent (Form 8332). This will be covered later in this chapter.
- The person's spouse must not have lived in the home at any time during the last six months of the tax year.

This does not include those situations in which the spouse is living away from the home temporarily (job assignment, military deployment, etc.) as opposed to the couple being estranged from each other.

mExample: Sandy Remington has lived apart from her husband since February 3, 2016. She does not wish to file a joint return with her husband. Sandy and her husband do not have a decree of divorce or separate maintenance or a written separation agreement. She has provided more than half of the cost of the maintaining the home where she and her son, Mark, have lived all year. Sandy qualifies as unmarried for tax purposes. Sandy may file as head of household.

Recall that a person's principal place of abode does not change if there is an absence from the home that is temporary in nature due to special circumstances. Examples include absences due to vacation, business, hospitalization, education, military service, or short-term incarceration.

mExample: Thelma lived apart from her husband for all of 2016 and does not wish to file a joint return. She paid the entire cost of maintaining her home in Paducah, Kentucky. She maintains a room in the home for her dependent daughter, Daphne, who is currently attending college in Los Angeles, where she shares a dorm room with two other students. Most of Daphne’s belongings remain at Thelma’s home. Daphne seldom visits her father and does not keep any of her belongings at his home. It is clear from the circumstances that Daphne’s principal place of abode is Thelma’s home. Since Thelma meets the qualification to be considered unmarried for tax purposes, she may file as head of household.m

A married taxpayer who does not wish to file a joint return generally will benefit from the rule that allows them to be considered unmarried, if they qualify. If they do not qualify, they must either file a joint return with their spouse (which often is not an option) or use the married filing separately status.

The disadvantages of the married filing separately status include:

- The standard deduction is \$0 if the other spouse itemizes.
- The effective tax rates are higher.
- Many deductions and credits are disallowed completely or phased out at lower income levels.

 **Complete Exercises 4.1 and 4.2 before continuing to read.**

Qualifying Widow(er)

Taxpayers may file as qualifying widow(er) if they meet both of the following requirements:

- The taxpayer’s spouse died in either of the two tax years immediately preceding the current tax year.
- The taxpayer paid over half the cost of maintaining their household, which is the home of their dependent son, stepson, daughter, or stepdaughter for the *entire* year.

In the actual year the spouse died, the taxpayer must have been eligible to file married filing jointly in order to use the qualifying widow(er) status for the following two years, if they have a dependent son, stepson, daughter, or stepdaughter. If the taxpayer remarries during any of these years, the taxpayer cannot file as qualifying widow(er).

mExample: Helen and Charles were married for 15 years before Charles unexpectedly passed away in 2015. Helen has a dependent son, Dennis, who lived with her all year long. In 2015, Helen filed her tax return as married filing jointly. In 2016 and 2017, Helen may file as qualifying widow (provided she does not remarry during that time), Dennis remains her dependent for both years, and she pays over half the cost of maintaining the home.m

mExample: George and Ingrid were married for ten years before Ingrid died in 2014. George has a dependent daughter, Alice, who lived with him all year long. George remarried in January 2016. Unfortunately, his marriage did not last, and he was divorced in November of 2016. In 2014, George filed his tax return as married filing jointly. In 2015, he filed his tax return as qualifying widower. Now in 2016, George may either file his return as single or head of household. He may no longer use the qualifying widow(er) status, because he remarried in 2016.m

 **Complete Exercise 4.3 before continuing to read.**

CHILDREN OF DIVORCED OR SEPARATED PARENTS

The rules for a qualifying child are handled a bit differently in cases involving divorced or separated parents. For tax purposes, 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*. Generally, it is the custodial parent who may claim the dependency exemption for the qualifying child.

In a situation where the parents divorce or separate during the year and the child lived with both parents before they separated, the custodial parent is the one with whom the child lived for the greater number of nights during the rest of the year.

Note: If the number of nights is equal, the custodial parent is the parent with the higher AGI.



Tax Tip: When dealing with divorced or separated parents, always determine the custodial and noncustodial parent. Generally, the custodial parent is the one with whom the child lived for the greater number of nights during the year. A child is treated as living with a parent for a night if the child either:

- Sleeps at that parent's home, whether or not the parent is present.
- Is in the company of the parent, when the child does not sleep at a parent's home (for example, vacation).

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 (AGI).

Temporary Absences Involving Divorced or Separated Parents

Generally, a temporary absence from the home due to special circumstances does not constitute a change in the person's principal place of abode. However, in cases involving divorced or separated parents, any time the child spends with either parent is not treated as a temporary absence from the other parent. The number of nights the child spent with either parent during the year is totaled, and the parent with whom the child spent more nights is, for tax purposes, the custodial parent. This is true regardless of which parent has legal custody or which claims to maintain the child's "permanent" place of abode. The designation of custodial parent is determined by the circumstances each year.

mExample: Tyree and Brenda Butler were divorced in 2009. The divorce decree grants them joint legal custody of their son, Adam (13). Brenda usually has Adam living with her, but Adam visits Tyree every weekend, and for four weeks in the summer (124 nights in 2015). For 2015, Brenda was the custodial parent because Adam stayed with her for 241 days.

In 2016, Brenda was incarcerated for six months of the year. As a consequence of this unfortunate event, Tyree became the physical custodian of Adam for over six months of 2016, and Tyree is now the custodial parent for 2016.

The rules for divorced and separated parents apply if all of the following conditions exist:

- One or both of the parents provided more than half the child's total support (explained in Chapter 3) for the year.
- At the end of the year, the parents of the child are one of the following:
 - They are divorced or legally separated under a court decree of divorce or separate maintenance.
 - They are separated under a written separation agreement.
 - They have lived apart for the last six months of the year, regardless of whether they were ever married.
- The child lived with one or both parents for more than half the year.

These rules also apply even if the parents were never married to each other.

mExample: Butch and Melanie Garrison were divorced in 2006. The divorce decree granted them joint custody of their son, Brian.

Brian, now age 16, lived with Melanie until June 24. During the tax year, Brian decided that life would be more fun living with his father, Butch. Brian went to stay with Butch on June 25 and lived there the remainder of the year.

Brian stayed with Melanie 175 nights and with Butch 190 nights during the year. Butch is entitled to claim Brian as a qualifying child because Brian lived with his parents combined for more than half the year and spent more time with Butch.

mExample: Suppose that, after Brian moved out of Melanie's home, he stayed with his older sister for three weeks before moving in with Butch. Thus, he stayed with Melanie 175 nights, his sister 21 nights, and Butch 169 nights. Although Brian did not stay with either parent individually for more than half the year, Melanie is now entitled to claim him as a qualifying child, because Brian lived with his parents combined for more than half the year, and he spent the longer amount of time with her.

Any decree of divorce or separate maintenance, or written separation agreement that became effective after 1984 and prior to 2009, must state the following three facts:

- The noncustodial parent can claim the child as a dependent without regard to any conditions, such as payment of support.
- The custodial parent will not claim the child as a dependent for the year.
- The years for which the noncustodial, instead of the custodial parent, can claim the child as a dependent.

Beginning with 2009 tax returns, divorce decrees or other court documents issued in 2009 and later do not serve to release the child's exemption to a noncustodial parent. In these cases, Form 8332 must be used. It would be best to secure a Form 8332 any time a custodial parent is sharing benefits with the noncustodial parent.

Divorced and separated parents

If the noncustodial parent is allowed to take the dependency exemption for a qualifying child, they are also allowed to claim the Child Tax Credit for that child. This is true even if their filing status is married filing separately. The custodial parent, in such a case, may not claim the Child Tax Credit for the child.

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Note: The Child Tax Credit is one of the few credits that is allowed to a person using the married filing separately status; however, the income phaseout of the credit for married filing separately is substantially lower than for the other filing statuses.

Form 8332

The custodial parent may waive the right to claim the dependency exemption for a qualifying child to allow the noncustodial parent to claim the exemption. This is usually accomplished by preparing Form 8332, *Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent*. Illustration 4.3 on page 4.11 shows an example of the current version of Form 8332. Prior to 2009, the agreement may have been included in the divorce or separation instrument, making Form 8332 unnecessary when all three conditions are met.

Form 8332 must be attached to the tax return of the noncustodial parent each year they claim the dependency exemption. If the waiver is included in the pre-2009 divorce or separation agreement, copies of the following pages must be attached in lieu of Form 8332:

- On the cover page, they should write the other parent's social security number.
- The pages containing the information required (see the three bullets previously discussed at the bottom of page 4.9).
- The signature page showing the date of the agreement and the other parent's signature.

The child will be considered the qualifying child of the noncustodial parent allowing them to claim the exemption and child tax credit, if the custodial parent signs such an agreement.

Stepchildren

For tax purposes, a relationship established by marriage is not terminated by divorce. So, for example, once a taxpayer marries someone with a child, a stepparent/stepchild relationship is formed. Even if the couple later divorces, the relationship still exists for tax purposes, and is subject to the rules for divorced or separated parents.

Note: If a taxpayer attaches Form 8332 to their tax return, the return should either be mailed or, if the return is e-filed, Form 8332 should be attached to Form 8453 and mailed within three business days after receiving acknowledgment that the IRS has accepted the electronically filed return.

TIE-BREAKER RULES

An individual can be the qualifying child of more than one taxpayer. However, only one taxpayer can claim the individual. Subject to these rules, the taxpayer and the other person may be able to choose which of the two claims the child as the qualifying child. In a situation where two or more taxpayers claim an individual, there are "tie-breaker" rules outlined in the Tax Code to award the qualifying child to a particular taxpayer.

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The rules are:

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
- If the parents do not file a joint return together but both parents claim the child, the IRS will treat the child as the QC of the parent with whom the child lived for the greater number of nights during the year. If the child lived with each parent the same amount of time, the IRS will treat the child as the QC of the parent with the greater AGI for the year.
- If neither parent can claim the child as a QC, the child is treated as the QC of the person with the highest AGI for the year.
- If a parent can claim the child but no parent does claim the child, the child is treated as the QC of the person who had the highest AGI for the year, but only if that person's AGI is greater than the higher AGI of either of the child's parents who could have claimed the child. If the child's parents file a joint return with each other, this rule can be applied by dividing the parents' combined AGI equally between the two.

mExample: Betty lives with her mother, Stephanie. Stephanie's AGI for 2016 is \$32,650. Betty's AGI for 2016 is \$21,350. Betty's daughter, Tammi, lives in the same household as Betty and Stephanie. Tammi is a qualifying child for both Betty and Stephanie. In 2016, Tammi's mother, Betty, has the right to claim Tammi as a qualifying child because the tie-breaker rules state that the parent of the child has the superior claim to the dependency exemption.m

mExample: In 2016, Margie and David were married and lived with their dependent son, Andrew, from January 1 until June 30. On July 1, David moved out of the home and filed for divorce. On December 1, their divorce was granted, and Margie was awarded residential custody of Andrew, but the decree was silent about who could claim the dependency exemption each year.

Prior to the divorce being final, Andrew spent the months of August and October with his father, David. For the months of September and November, Andrew lived with his grandmother. Andrew lived with his mother, Margie, the entire months of July and December.

After the separation, in 2016, Andrew spent 62 nights with Margie and 62 nights with David. He also spent 61 nights with his grandmother. Margie's AGI was \$42,000, David's AGI was \$46,500, and the grandmother's AGI was \$58,900. Since Andrew spent an equal amount of time with Margie and David, David is the custodial parent eligible to claim Andrew as a qualifying child based on the tie-breaker rules, because he has the higher AGI.m

mExample: Linda, Jim, and Jane all live with Linda's mother, Fran. Jane is Linda's daughter, and Linda married Jim when Jane was three years old. Jane is an eligible qualifying dependent for either Linda or Jim or Fran. Jim and Linda's tax return shows an AGI of \$23,000. Fran's tax return shows an AGI of \$21,000. Jim and Linda will not claim Jane on their joint return. Therefore, Fran can claim Jane, since her AGI of \$21,000 is treated as higher than the total AGI of the parents divided equally between Jim and Linda, as if each individual AGI were \$11,500 [$\$23,000 \div 2 = \$11,500$].m

mExample: Paula and her son, Trey (5), lived all year with Paula’s mother, Carolyn, who paid the entire cost of keeping up the home. Paula’s AGI was \$10,000 and Carolyn’s AGI was \$25,000. Trey’s father, Gary, did not live with Paula or Trey at any time during 2016. Under the rules for children of divorced or separated parents or parents who live apart, Trey will be treated as the qualifying child of Gary, who can claim the dependency exemption and the Child Tax Credit, since Paula signed a Form 8332 (shown in Illustration 4.3), releasing her claim to those benefits. Because of this, Paula cannot claim Trey’s exemption or the Child Tax Credit.

Trey’s father cannot claim Trey:

- As a qualifying child for head of household filing status.
- For the credit for child and dependent care expenses.
- As an exclusion for dependent care benefits.
- For the Earned Income Tax Credit.

Paula and Carolyn do not have any childcare expenses, but Trey is a qualifying child of both Paula and Carolyn for head of household filing status and the Earned Income Tax Credit because Trey meets the relationship, age, residency, support, and joint return tests for both Paula and Carolyn.

Note: You will learn in Chapter 11 that the support test does not apply for the Earned Income Tax Credit.

Paula agrees to let Carolyn claim Trey. This means Carolyn can claim Trey for head of household filing status and the Earned Income Tax Credit, but only if she qualifies for each, and if Paula does not claim Trey as a qualifying child for the Earned Income Tax Credit. Paula cannot claim head of household filing status, because Carolyn paid the entire cost of keeping up the home.

Note: The example above references the following topics we have not yet covered in this course: child and dependent care, dependent care benefits, and the Earned Income Tax Credit (EITC). Requirements and eligibility on these topics will be covered later in the course. However, this is a good place to cover the fact that a noncustodial parent may not claim all six benefits that come into play when a child is on the tax return.

NONCUSTODIAL PARENT MAY CLAIM	NONCUSTODIAL PARENT MAY NOT CLAIM
Exemption	Head of Household
Child Tax Credit	Daycare/Childcare
Additional Child Tax Credit	EITC*
<i>*Ignore the T in EITC because it does not travel to the noncustodial parent.</i>	

The items in the left column Travel to the noncustodial parent, just as the child Travels for a visit.

mExample: The facts are the same for Paula, Carolyn, Trey, and Gary as in the example above, except that Paula’s AGI is \$25,000 and Carolyn’s AGI is \$21,000. Carolyn cannot claim Trey as a qualifying child for any purpose, because her AGI is not higher than Paula’s.

 **Complete Exercise 4.4 before continuing to read.**

CHAPTER SUMMARY

In this chapter, you learned:

- How to identify whether a taxpayer qualifies to file as head of household.
- How to determine the cost of maintaining support of a household.
- A married taxpayer may be considered unmarried for tax purposes.
- Unmarried taxpayers may file as qualifying widow(er), head of household, or single. The single status should be used only if the taxpayer fails to qualify for either of the other two filing statuses.
- In cases of divorced or separated parents, the custodial parent generally claims the qualifying child. However, the custodial parent may waive their right to claim the exemption if they sign a written agreement to allow the other parent to claim the dependency exemption.
- A multiple-support agreement may be helpful when two or more taxpayers together provide over half the support of a qualifying relative.

Suggested Reading

For further information on the topics discussed in this chapter as they relate to 2016 tax returns, you may wish to read the following chapters in IRS Publication 17:

- Chapter 2, Filing Status.
- Chapter 3, Personal Exemptions and Dependents.
- Chapter 34, Child Tax Credit.