

Determining Tax Benefits for a Qualifying Child or Qualifying Relative (for Form 1040, 1040A and 1040EZ)

The following two charts can be used to determine who is your qualifying child and who is your qualifying relative for the following income tax purposes:

- Dependency exemption
- Child tax credit
- Education credits
- Qualifying widow(er) filing status
- Head of household filing status
- Child and dependent care credit and exclusion
- Earned income tax credit
- Medical expense deduction

Chart 1, the Qualifying Child chart, has two pages and is used for your child, your sibling, or a descendant of any of them. Chart 2, the Qualifying Relative chart, is for everyone else. **Always start with Chart 1, Box 1.** If Chart 1 does not apply, you will soon be sent to Chart 2.

If you follow the arrows, you will eventually get to a shaded box that has no arrows leading away from it. At that point, STOP. This box tells you **all** the tax benefits that you can claim based on that person.

You must meet other requirements as well. These charts will tell you if the child or person is a qualifying person for a particular tax benefit. Most benefits have other requirements as well. In addition to having a qualifying person, **you also must meet these other requirements** before you can claim any given benefit. The other requirements (not covered by the charts) are summarized at the bottom of this page.

When either chart says “TP” or “you,” it is referring to you, the taxpayer. When it uses the words “child, person, him, her, his, or hers,” it is referring to the child or other person who might qualify the taxpayer for tax benefits. The term “child” always includes an adopted child.

The term “education credits” refers to both education credits and to the tuition and fees adjustment if extended.

If the taxpayer can file married filing jointly, ignore the references to head of household and qualifying widow(er) filing status.

The small red numbers within each box are simply to identify it for discussion purposes.

Other Requirements Not Covered by Charts

Education Credits

- You cannot file MFS.
- Payments must be to a qualifying institution.
- Payments must be for qualifying expenses.
- For tuition and fees adjustment, payments must be made by or on behalf of TP.
- Payments made from certain tax-free funds cannot be included.
- Neither taxpayer can be treated as a non-resident alien for tax purposes.
- American Opportunity Credit: 1st 4 tax years, at least ½-time, toward certificate or degree, no felony drug convictions.
- Only one credit or adjustment per student. Sometimes unused expenses can be used elsewhere.

Qualifying Widow(er) with Dependent Child

- Your spouse must have died during previous two years. See special rules if he or she was missing in action.
- You were eligible to file MFJ with the deceased in the year of death.
- You have not remarried.

Medical Expense Deduction

- You must have paid the expenses and not used them elsewhere on the return.
- You can also claim expenses paid this year for someone who was your qualifying person when the expenses were incurred.

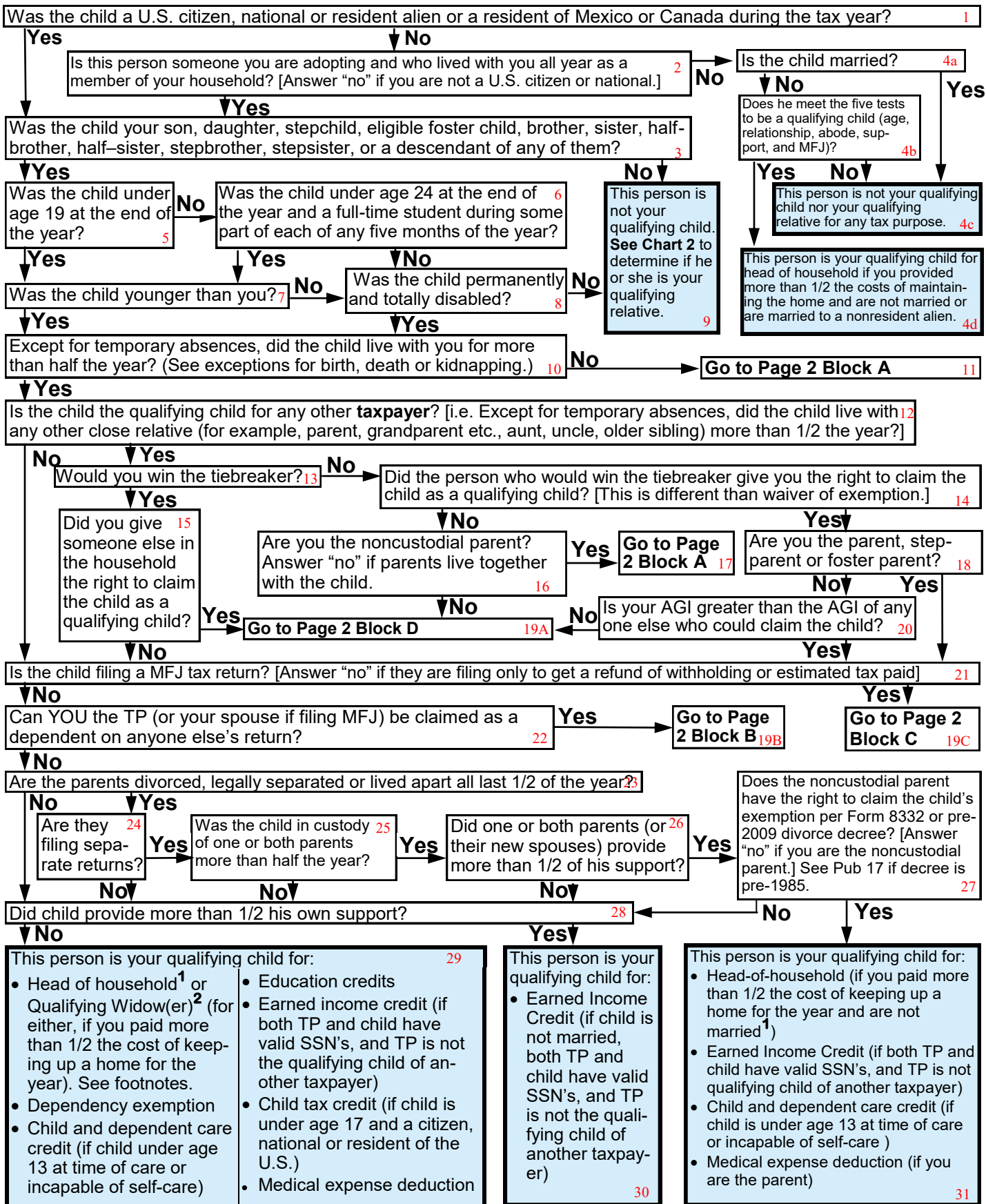
Dependent Care Credit

- Qualifying person can be your spouse who is incapable of self-care. No need to use charts.
- If married, must file MFJ unless you lived apart from your spouse all the last half of the year and paid more than half the cost to maintain a home for both you and the child or disabled person.
- Taxpayer(s) must have earned income. Special rules apply if MFJ and either spouse is a full-time student or incapable of self-care.
- You must make the payments so you can work or look for work.
- Purpose of payments must be for person’s well being and protection—not education (below kindergarten ok; day camp ok, household services ok if partly for well-being or protection).
- Payments cannot be made to your spouse, to the child’s other parent (with some exceptions for a disabled person), to your dependent, or to your child who is under age 19.
- You must have made a reasonable effort to get provider’s name, address and tax identification number (SSN or EIN).

Earned Income Tax Credit

- You cannot file MFS. If married to NRA spouse must file MFJ.
- You must have earned income (other than penal income).
- You cannot have investment income over a certain amount.
- Taxpayer must be U.S. citizen or resident alien all year.
- You must live with the child in U.S. at least half the year.
- You cannot claim the foreign earned income exclusion.
- EIC cannot have been disallowed by IRS due to fraud in last 10 years.

Chart 1: QUALIFYING CHILD (page 1)

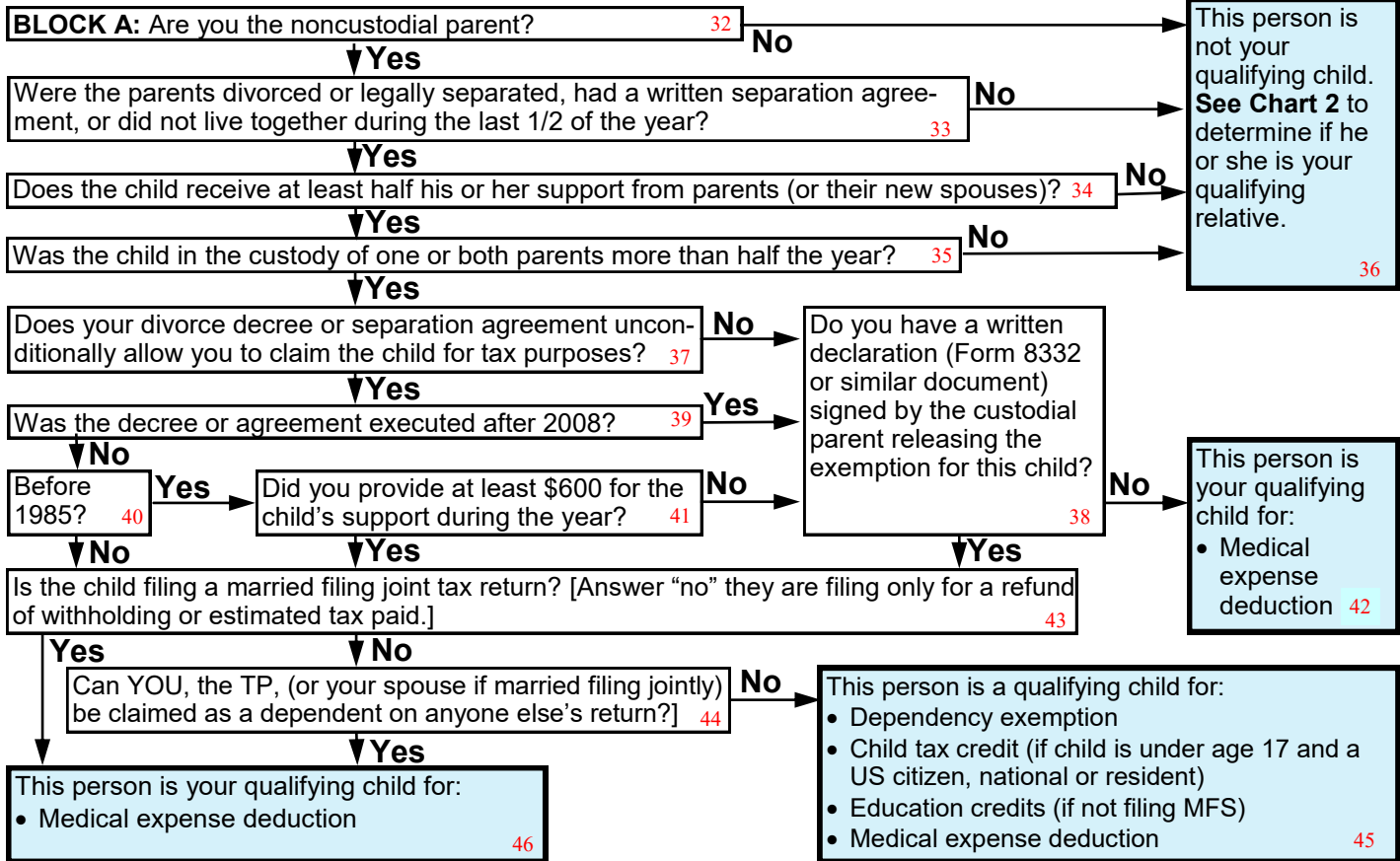


1: If you are married you can claim head of household only if your spouse is treated as a nonresident alien for tax purposes OR 1) the person is your child, step-child or eligible foster child, and 2) you lived apart from your spouse the entire last half of the year.
 2: You can claim qualifying widow(er) if the person is your child or stepchild who lived with you all year except for temporary absences.

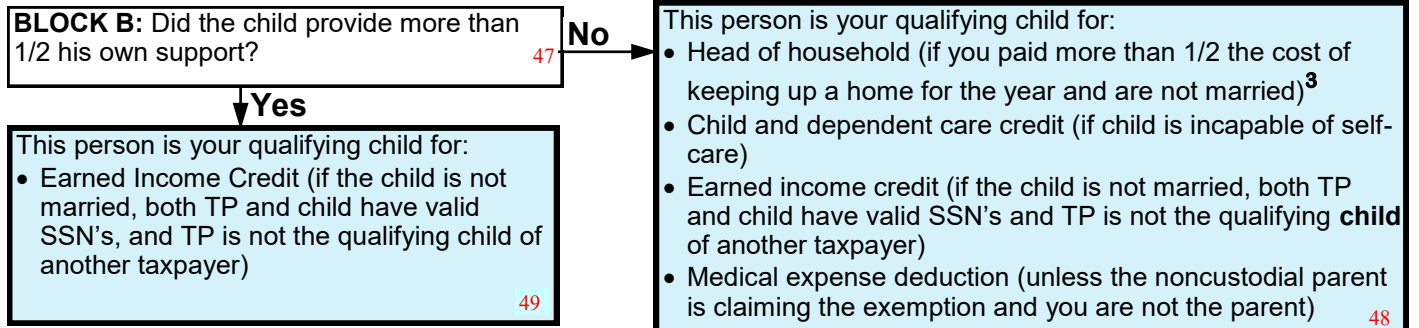
See other requirements on first page.

Chart 1: QUALIFYING CHILD (page 2)

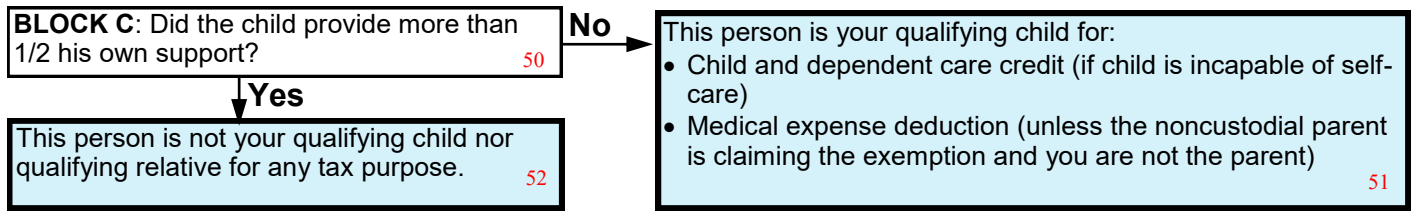
TP and child didn't live together more than half the year



TP a Dependent



Child Filing MFJ

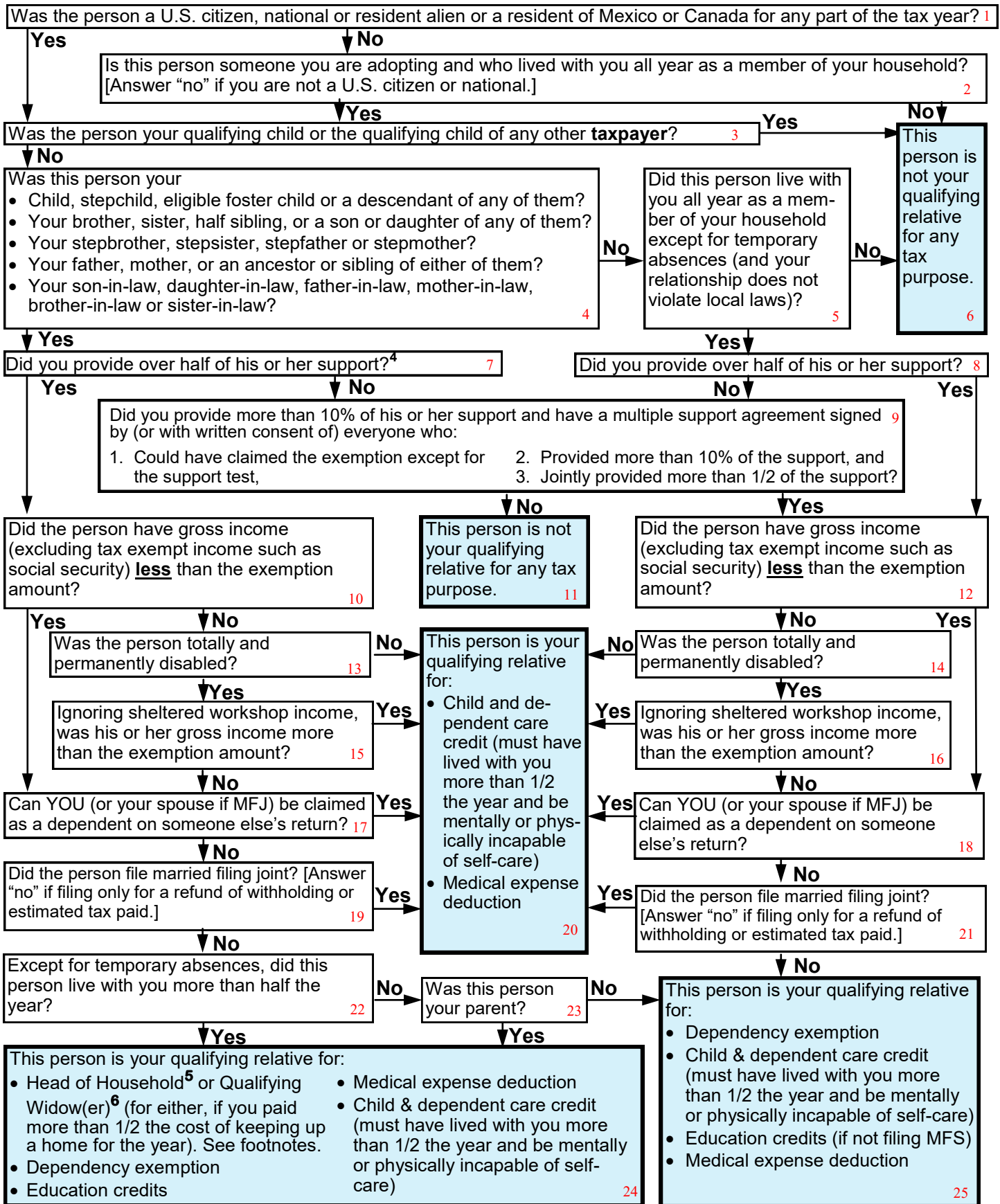


BLOCK D: Generally, this person is not your qualifying child or qualifying relative for any tax purpose.

- If the child has a SSN, you can claim EIC with a different child, but you **cannot** claim EIC without a qualifying child.
- If you are the parent, and the tests for a child of divorced or separated parents are met, you can claim medical expenses for this child. 53

3: If you are married you can claim head of household only if your spouse is treated as a nonresident alien for tax purposes.

Chart 2: QUALIFYING RELATIVE (or Other Person)



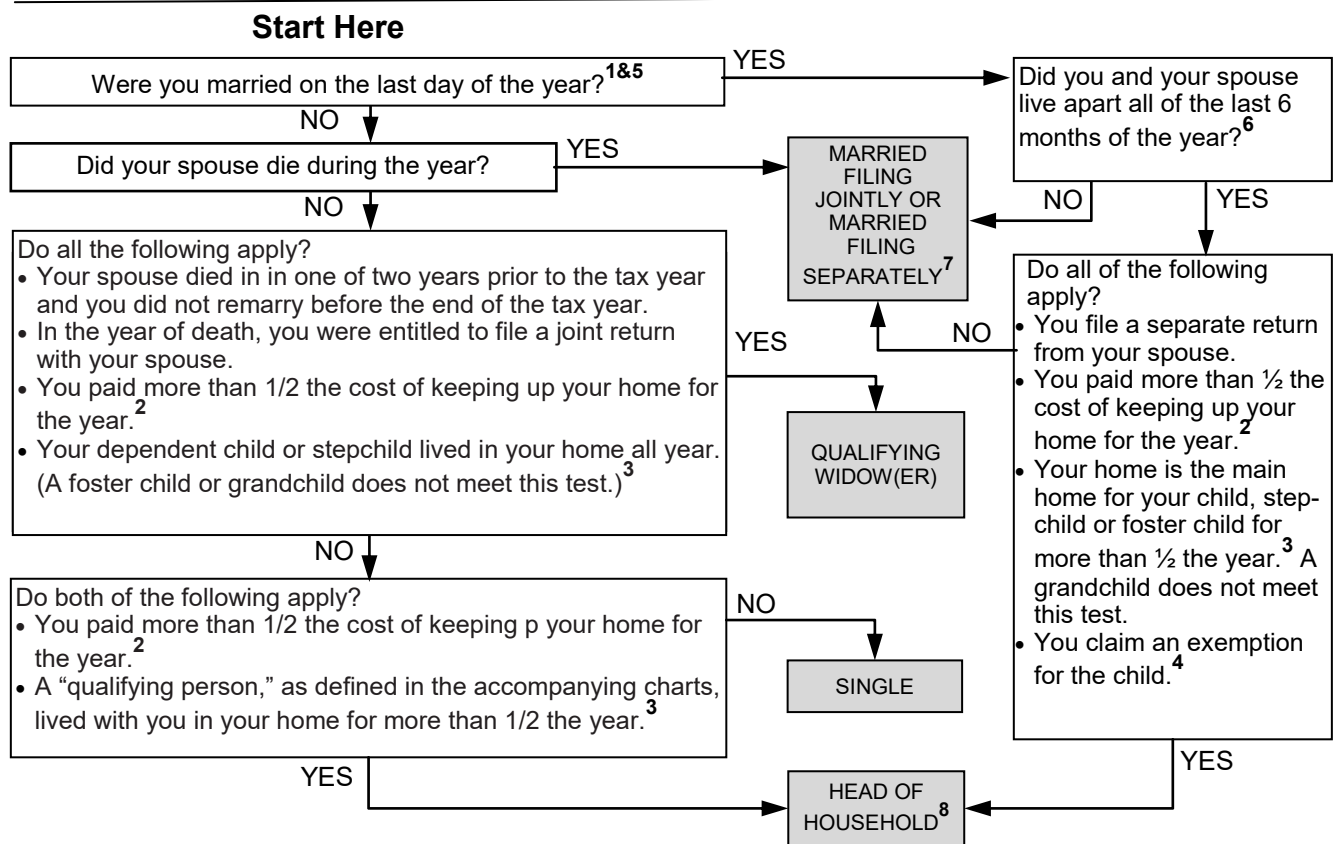
4: If you are the noncustodial parent, over half the support can be provided by one or both parents.

5: If you are married you can claim head of household only if your spouse is treated as a nonresident alien for tax purposes OR 1) the person is your child, stepchild or eligible foster child, and 2) you lived apart from your spouse the entire last half of the year.

6: You can claim qualifying widow(er) if the person is your child or stepchild who lived with you all year except for temporary absences.

See other requirements on first page.

Determination of Filing Status – Decision Tree



Note: If one spouse dies and the other remarries in the same year, the deceased spouse files MFS.

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 "YES" to this question if you are an individual in a same-sex marriage, legally married in a jurisdiction that recognizes the marriage, regardless of where you now live. Also, answer "YES" if you are married regardless of where your 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. See "Cost of Keeping Up a Home" worksheet in Pub 4012.
 - Payments received under Temporary Assistance for Needy Families or other public assistance programs used to pay the costs of keeping up the home cannot be counted as money you paid. These payments must be included in the total cost of keeping up the home to figure if you paid over 1/2 the cost.
 - Amounts paid out of funds received from SSA in the child's or qualifying person's name, or funds received as governmental assistance are considered to be paid by others, not by you.
3. See Publication 17, *Filing Status*, for rules applying to birth, death, or temporary absence during the year.
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 and meet the other tests to be eligible to file as a head of household.
6. Your spouse is considered to live in your home even if he or she is temporarily absent due to illness, education, business, vacation or military service.
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.
8. Generally, only one taxpayer in a home can claim Head of Household filing status. Just because each person has their own children living in a home does not mean they have a separate "household" for this filing status purpose.

This document has been prepared for general information purposes only and is not intended to be relied upon as tax or other advice. The charts and related specifications may assist Tax-Aide Volunteers in determining who is a qualifying child or qualifying relative for certain tax benefits as listed below. The charts should not be relied upon solely, and the user is advised to confirm the results to their own satisfaction. Not all terms are defined or explained in these pages. Tax-Aide volunteers should refer to appropriate reference materials for complete details. Printed by AARP Foundation Tax-Aide based in part on charts created by Deb Fisher, Tax-Aide Training Specialist, Idaho. For use by AARP Foundation Tax-Aide Volunteers Only. All other use prohibited unless permission granted. Call 800-424-2277 for more information.

Helpful Definitions

Custodial parent and 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.

Eligible foster child means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Full-time student: A full-time student is a student who is enrolled for the number of hours or courses the school specifies as "full-time." It includes an individual pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization. To be considered a student for dependency exemption purposes, the individual must have been a full-time student for any part of at least five months during the tax year.

Gross income: Gross income means all income you received in the form of money, goods, property, and services that is not exempt from tax, including any income from sources outside the United States or from the sale of your main home (even if you can exclude part or all of it). Include only the taxable portion of social security benefits. Gross income includes gains, but not losses, reported on Schedule D. Gross income from a business or farm is calculated in Part I of each form. But, in figuring gross income, do not reduce your income by any losses.

Incapable of self-care: Physically or mentally not able to care for oneself. Persons who cannot dress, clean, or feed themselves because of physical or mental problems are considered not able to care for themselves. Also, persons who must have constant attention to prevent them from injuring themselves or others are considered not able to care for themselves.

Permanently and totally disabled: A person is permanently and totally disabled if both of the following apply:

- He or she cannot 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 12 months or can lead to death.

Relationships not terminated by divorce or death: mother/father-in-law, sister/brother-in-law, daughter/son-in-law, stepchild, stepsister/brother, stepmother/ father.

Resident alien: You are a resident alien if you either have a green card or meet the substantial presence test. For more information about the substantial presence test, see Pub 4012 Tab L.

School defined: A school can be an elementary school, junior or senior high school, college, university, or technical, trade, or other vocational school. However, an on-the-job training course, correspondence school, or school offering courses only through the Internet does not count as a school does not count as a school for the full-time-student dependency exemption requirement.

Any other **taxpayer:** Someone who has a filing requirement or files to claim a refundable credit.

Temporary absence: Absence due to special circumstances such as illness, education, business, vacation, or military service. It must be reasonable to assume the absent person will return to the home after the temporary absence. You must continue to keep up the home during the absence.

Tie-breaker Rules:

1. If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent. But see also Rule 5.
2. 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.
3. If the parents do not file a joint return together but both parents claim the child as a qualifying child, the 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 year. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year.
4. 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 year.
5. If a parent can claim the child as a qualifying child but no parent does so claim the child, 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 can claim 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 parents.

Subject to these tiebreaker rules, you and the other person may be able to choose which of you claims the child as a qualifying child.

U.S. national: A U.S. national is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.