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Prop. Reg. Section 1.152-2(g)(4), Ex. 6

Qualifying child

(a) In general. The term qualifying child of a taxpayer for a taxable year means an individual who satisfies the tests described in paragraphs (b), (c), (d), (e), and (f) of this section. If an individual satisfies the definition of a qualifying child for more than one taxpayer, then the tiebreaker rules in paragraph (g) of this section apply. See, however, section 152(e) and §1.152-5 for a special rule for a child of divorced or separated parents or parents who live apart.

(b) Qualifying child relationship test. The individual must bear one of the following relationships to the taxpayer-

(1) A child of the taxpayer or descendant of such a child; or

(2) A brother, sister, stepbrother, or stepsister of the taxpayer, or a descendant of any of these relatives.

(c) Residency test. The individual must have the same principal place of abode as the taxpayer for more than one-half of the taxable year. Generally, an individual has the same principal place of abode as the taxpayer for more than one-half of the taxable year if the individual resides with the taxpayer for more than one-half of the taxable year. See §1.152-4(c) for rules relating to principal place of abode and temporary absence and for determining whether an individual resides with the taxpayer for more than one-half of the taxable year.

(d) Age test.

(1) In general. The individual must be younger than the taxpayer claiming the individual as a qualifying child and must not have attained the age of 19, or age 24 if the individual is a student within the meaning of §1.152-1(b)(2), as of the end of the calendar year in which the taxpayer's taxable year begins. For purposes of this section, an individual attains an age on the anniversary of the individual's birth.

(2) Disabled individual. This age requirement is treated as satisfied if the individual is permanently and totally disabled, as defined in section 22(e)(3), at any time during the calendar year.

(e) Qualifying child support test. The individual must not provide more than one-half of the individual's own support for the calendar year in which the taxpayer's taxable year begins. See §1.152-4(a) for rules relating to the definition and sources of an individual's support.

(f) Joint return test. The individual must not file a joint return, other than solely to claim a refund of estimated or withheld taxes, under section 6013 with the individual's spouse for the taxable year beginning in the calendar year in which the taxpayer's taxable year begins.

(g) Child who is eligible to be claimed as a qualifying child by more than one taxpayer.

(1) In general. Under section 152(c)(4), if an individual satisfies the definition of a qualifying child for two or more taxpayers (eligible taxpayers) for a taxable year beginning in the same calendar year, the following rules apply.

(i) More than one eligible parent. If more than one eligible taxpayer is a parent of the individual (eligible parent), any one of the eligible parents may claim the individual as a qualifying child. However, if more than one eligible parent claims the individual as a qualifying child, and those eligible parents do not file a joint return with each other, the individual is treated as the qualifying child of the eligible parent claiming the individual with whom the individual resides for the longest period of time during the taxable year as determined under §1.152-4(c)(3). If the individual resides for the same amount of time during the taxable year with each eligible parent claiming the child, the individual is treated as the qualifying child of the eligible parent with the highest adjusted gross income who claims the individual.

(ii) Eligible parent not claiming. If at least one eligible taxpayer is a parent of the individual, but no eligible parent claims the individual as a qualifying child, the individual may be treated as the qualifying child of another eligible taxpayer only if that taxpayer's adjusted gross income exceeds both the adjusted gross income of each eligible parent of the individual and the adjusted gross income of each other eligible taxpayer, if any.

(iii) One eligible parent and other eligible taxpayer(s). Except as provided in paragraph (g)(1)(i) or (ii) of this section, if there are two or more eligible taxpayers, only one of whom is the parent of the individual, the individual is treated as the qualifying child of the eligible parent.

(iv) No eligible parent. If no eligible taxpayer is a parent of the individual, the individual is treated as the qualifying child of the eligible taxpayer with the highest adjusted gross income for the taxable year.

(2) Determination of adjusted gross income of a person who files a joint return. For purposes of section 152 and the related regulations, the adjusted gross income of each person who files a joint return is the total adjusted gross income shown on the joint return.

(3) Coordination with other provisions. Except to the extent that section 152(e) and §1.152-5 apply, if more than one taxpayer may claim a child as a qualifying child, the child is treated as the qualifying child of only one taxpayer for purposes of head of household filing status under section 2(b), the child and dependent care credit under section 21, the child tax credit under section 24, the earned income credit under section 32, the exclusion from income for dependent care assistance under section 129, and the dependency exemption under section 151. Thus, the taxpayer claiming the individual as a qualifying child under any one of these sections is the only taxpayer who may claim any credit or exemption under these other sections for that same individual for a taxable year beginning in the same calendar year as the taxpayer's taxable year. If section 152(e) applies, however, the noncustodial parent may claim the child as a qualifying child for purposes of the dependency exemption and the child tax credit, and another person may

claim the child for purposes of one or more of these other provisions. See §1.152-5 for rules under section 152(e).

(4)Examples. The following examples illustrate the rules in this paragraph (g). In the examples, each taxpayer uses the calendar year as the taxpayer's taxable year, the child is a qualifying child (as described in section 152(c) and this section) of each taxpayer, and, except to the extent indicated, each taxpayer meets the requirements to claim the benefit(s) described in the example.

Example (1).

(i) A and B, parents of Child, are married to each other. A, B, and Child share the same principal place of abode for the first 8 months of the year. Thus, both parents satisfy the qualifying child residency test of paragraph (c) of this section. For the last 4 months of the year, the parents live apart from each other, and B and Child share the same principal place of abode. Section 152(e), relating to divorced or separated parents, does not apply. The parents file as married filing separately for the taxable year, and both parents claim Child as a qualifying child.

(ii) Under paragraph (g)(1)(i) of this section, Child is treated as a qualifying child of B for all purposes, because Child resided with B for the longer period of time during the taxable year.

Because section 152(e) does not apply, Child may not be treated as a qualifying child of A for any purpose.

Example (2).

(i) The facts are the same as in Example 1 of this paragraph (g)(4), except that B does not claim Child as a qualifying child.

(ii) Because A and B are not both claiming the same child as a qualifying child, under paragraph (g)(1)(i) of this section, Child is treated as a qualifying child of A.

Example (3).

(i) Child, Child's parent (D), and Grandparent share the same principal place of abode. D is not married and is not a qualifying child or dependent of Grandparent, and Grandparent is not D's dependent. Section 152(e), relating to divorced or separated parents, does not apply. Under paragraph (a) of this section, Child meets the definition of a qualifying child of both D and Grandparent. D claims Child as a qualifying child for purposes of the child and dependent care credit under section 21, the earned income credit under section 32, and the dependency exemption under section 151. Grandparent claims Child as a qualifying child for purposes of head of household filing status under section 2(b).

(ii) Under paragraph (g)(1)(iii) of this section, Child is treated as the qualifying child of D for all purposes, because D is eligible to claim and claims Child as D's qualifying child. Because D is eligible to claim and claims Child as D's qualifying child, under paragraph (g)(3) of this section, Child may not be treated as a qualifying child of Grandparent for any purpose. Grandparent erroneously claimed Child as Grandparent's qualifying child

for purposes of head of household filing status under section 2(b). If D had not claimed Child as D's qualifying child for any purpose, under paragraph (g)(1)(ii) of this section, Grandparent could have claimed Child as Grandparent's qualifying child if Grandparent's adjusted gross income (AGI) exceeded D's AGI. In that situation, under paragraph (g)(3) of this section, Grandparent could have claimed Child as Grandparent's qualifying child for purposes of any of the child-related tax benefits, provided that Grandparent had met the requirements of those sections.

Example (4).

(i) The facts are the same as in Example 3 of this paragraph (g)(4), except that Child's parents, D and E, are married to each other and share the same principal place of abode with Child and Grandparent for the entire taxable year. Under paragraph (a) of this section, Child meets the definition of a qualifying child of both parents and Grandparent. D and E file a joint return for the taxable year and do not claim Child as a qualifying child for any purpose.

(ii) Because D or E may claim Child as a qualifying child but neither claims Child as a qualifying child for any purpose, under paragraph (g)(1)(ii) of this section, Grandparent may claim Child as a qualifying child if Grandparent's AGI exceeds the total AGI reported on the joint return of D and E.

Example (5).

(i) The facts are the same as in Example 4 of this paragraph (g)(4), except that D and E are divorced from each other, E moved into a separate residence during that year and is the noncustodial parent, and section 152(e), relating to divorced or separated parents, applies. E attaches to E's return a Form 8332 on which D agrees to release D's claim to a dependency exemption for Child and E claims Child as a qualifying child for purposes of the dependency exemption and the child tax credit.

(ii) Under paragraph (g)(3) of this section, Child is treated as a qualifying child of E for purposes of the dependency exemption and the child tax credit. Child may be treated as a qualifying child of D for purposes of the earned income credit. If D claims Child as a qualifying child for purposes of the earned income credit, under paragraph (g)(1)(iii) of this section, Child may not be treated as a qualifying child of Grandparent for any purpose.



Example (6).

(i) F and G, parents of two children, are married to each other. F, G, and both children share the same principal place of abode for the entire taxable year. F and G file as married filing separately for the taxable year. F claims the older child as a qualifying child for purposes of the child tax credit, dependency exemption, and the child and dependent care credit. G claims the younger child as a qualifying child for purposes of the same three tax benefits.

(ii) The older child is treated as a qualifying child of F and the younger child is treated as a qualifying child of G. The tiebreaker rule of paragraph (g)(1)(i) of this section does not apply because F and G are not claiming the same child as a qualifying child.