

# STRATEGIC

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## Dependents

The *Emergency Economic Stabilization Act of 2008* made some important changes to who qualifies as your dependent for federal income tax purposes. For tax year 2009, the deduction amount is \$3,650. It will remain at \$3,650 for the 2010 tax year as well, each year, the deduction typically goes up \$50 to \$150 dollars, depending on the size of a required inflation adjustment. However, the dependency exemption amount will not change between 2009 and 2010 due to an unprecedented low inflation rate of less than 0.2 percent between 2008 and 2009. The changes made by the Emergency Economic Stabilization Act of 2008 apply in 2009.

### Qualifying child

A qualifying child for purposes of the dependency exemption must satisfy four tests relating to relationship, age, abode, and support.

**Relationship test.** Qualifying children must be the taxpayer's children, siblings stepsiblings, or their descendants. Children include the taxpayer's natural children, stepchildren, legally adopted children, children who are lawfully placed in the taxpayer's household for legal adoption, and eligible foster children (that is, children placed with the taxpayer by an authorized placement agency or court order). Brothers and sisters include half-brothers and half-sisters.

**Abode test.** A qualifying child must have the same principal place of abode as the taxpayer for more than one-half of the taxpayer's tax year.

**Age test.** As of the close of the calendar year in which the taxpayer's tax year begins, a qualifying child must be under 19 years old; a student under 24 years old; or permanently and totally disabled.

**Support test.** A qualifying child must not have provided more than one-half of his or her own support during the calendar year in which the taxpayer's tax year begins.

**Tie-breaker rules.** Special tiebreaker rules apply when a single individual is a qualifying child for multiple taxpayers. If only one of the taxpayers is the child's parent, the child is a qualifying child for that parent. If two of the taxpayers are the child's parents and they do not file a joint return, the child is a qualifying child for the parent with whom the child resided for the longest period during the year; if the child spent equal amounts of time residing with each parent, the child is a qualifying child for the parent with the highest adjusted gross income. If none of the taxpayers is the child's parent, the child is a qualifying child for the taxpayer with the highest adjusted gross income.

### Emergency Economic Stabilization Act of 2008

The changes under the Emergency Economic Stabilization Act of 2008 impact the definition of a qualifying child respect to age and joint returns. The new law also clarifies the tiebreaker rules and ties child credit to the child's dependency exemption.

**Definition.** The Emergency Economic Stabilization Act added two new elements to the definition of qualifying-child.

1. The age test is expanded to require that a qualifying child must be younger than the taxpayer.
2. A new test is added with respect to joint returns. A qualifying child cannot file a joint return with a spouse for any tax year beginning during the calendar year in which the taxpayer's tax year begins. However, this test does not apply if the qualifying child files a joint return only to obtain a refund.

**Tie-breaker rules.** The Emergency Economic Stabilization Act added two clarifications to the tiebreaker rules that apply when a single individual is a qualifying child for more than one taxpayer. First, the law clarifies that the tie-breaker rules apply whenever two or more taxpayers can claim the individual as a qualifying child, regardless of whether they actually do so. Second, if the parents can claim an individual as a qualifying child, but neither parent does so, another taxpayer may claim the individual as a qualifying child only if that taxpayer's adjusted gross income (AGI) is higher than the highest AGI of any of the individual's parents.

Finally, the Emergency Economic Stabilization Act requires that a qualifying child for purposes of the child tax credit must also be the taxpayer's dependent. This restores an old rule (pre-2005), under which the child credit was explicitly tied to the child's dependency exemption.

Please contact our office if you have any questions about these important changes to the dependency exemption. 1-866-657-0246 or [jwaage@strategiclawgroup.com](mailto:jwaage@strategiclawgroup.com)