

**TECHNICAL EXPLANATION OF THE  
“RELIEF FOR WORKING FAMILIES TAX ACT OF 2003”**

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JOINT COMMITTEE ON TAXATION



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## INTRODUCTION

This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of the “Relief for Working Families Tax Act of 2003,” as passed by the Senate on June 5, 2003.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *Technical Explanation of the “Relief for Working Families Tax Act of 2003”* (JCX-59-03), June 11, 2003.

**A. Accelerate the Increase in the Child Tax Credit  
(secs. 101, 102, and 103 of the bill and sec. 24 of the Code)**

**Present Law**

**In general**

For 2003, an individual may claim a \$1,000 tax credit for each qualifying child under the age of 17. In general, a qualifying child is an individual for whom the taxpayer can claim a dependency exemption and who is the taxpayer's son or daughter (or descendent of either), stepson or stepdaughter (or descendent of either), or eligible foster child.

The child tax credit is scheduled to revert to a lower amount then increase to \$1,000, phased-in over several years. These scheduled increases were enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA").

Table 1, below, shows the scheduled increases of the child tax credit.

**Table 1.—Scheduled Increase of the Child Tax Credit**

<b>Taxable Year</b>	<b>Credit Amount Per Child</b>
2003-2004	\$1,000
2005-2008	\$700
2009	\$800
2010 <sup>1</sup>	\$1,000

<sup>1</sup> The credit reverts to \$500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

The child tax credit is phased-out for individuals with income over certain thresholds. Specifically, the otherwise allowable child tax credit is reduced by \$50 for each \$1,000 (or fraction thereof) of modified adjusted gross income over \$75,000 for single individuals or heads of households, \$110,000 for married individuals filing joint returns, and \$55,000 for married individuals filing separate returns.<sup>2</sup> The length of the phase-out range depends on the number of qualifying children. For example, the phase-out range for a single individual with one qualifying child is between \$75,000 and \$95,000 of modified adjusted gross income. The phase-out range for a single individual with two qualifying children is between \$75,000 and \$115,000.

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<sup>2</sup> Modified adjusted gross income is the taxpayer's total gross income plus certain amounts excluded from gross income (i.e., excluded income of U.S. citizens or residents living abroad (sec. 911); residents of Guam, American Samoa, and the Northern Mariana Islands (sec. 931); and residents of Puerto Rico (sec. 933)).

The amount of the tax credit and the phase-out ranges are not adjusted annually for inflation.

### **Refundability**

For 2003, the child credit is refundable to the extent of 10 percent of the taxpayer's earned income in excess of \$10,500.<sup>3</sup> The percentage is increased to 15 percent for taxable years 2005 and thereafter. Families with three or more children are allowed a refundable credit for the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit, if that amount is greater than the refundable credit based on the taxpayer's earned income in excess of \$10,500 (for 2003). The refundable portion of the child credit does not constitute income and is not treated as resources for purposes of determining eligibility or the amount or nature of benefits or assistance under any Federal program or any State or local program financed with Federal funds. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the rules allowing refundable child credits.

### **Alternative minimum tax liability**

The child credit is allowed against the individual's regular income tax and alternative minimum tax. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the rules allowing the child credit against the alternative minimum tax.

### **Explanation of Provision**

The bill accelerates to 2003 the increase in refundability to 15 percent of the taxpayer's earned income in excess of \$10,500, scheduled for 2005. The bill also provides that taxpayers eligible for such additional refundable child credit amount will receive this additional amount in the same manner as other taxpayers receiving advance payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003. Also, the bill provides that the beginning point of the phase-out range for the child credit will be \$150,000 (\$115,000 in 2008 and 2009) in 2010 for married individuals filing joint returns. It also provides that the beginning point for such phase-out range in the case of unmarried individuals and married individuals filing separately will be one-half of the beginning point of the phase-out range for married individuals filing joint returns for taxable years beginning in 2008 through 2010. Finally, the bill provides that any amount excluded from gross income under section 112 of the Code (relating to certain combat zone compensation) shall be treated as earned income for purposes of the calculation of the child tax credit. This change will extend the child credit to certain taxpayers serving in combat zones. All modifications to the child credit under the bill are subject to the sunset provision of EGTRRA.

### **Effective Date**

The provision is effective for taxable years beginning after December 31, 2002.

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<sup>3</sup> The \$10,500 amount is indexed for inflation.

**B. Establish Uniform Definition of a Qualifying Child**  
**(secs. 201 through 208 of the bill and**  
**secs. 2, 21, 24, 32, 151, and 152 of the Code)**

**Present Law**

**In general**

Present law contains five commonly used provisions that provide benefits to taxpayers with children: (1) the dependency exemption; (2) the child credit; (3) the earned income credit; (4) the dependent care credit; and (5) head of household filing status. Each provision has separate criteria for determining whether the taxpayer qualifies for the applicable tax benefit with respect to a particular child. The separate criteria include factors such as the relationship (if any) the child must bear to the taxpayer, the age of the child, and whether the child must live with the taxpayer. Thus, a taxpayer is required to apply different definitions to the same individual when determining eligibility for these provisions, and an individual who qualifies a taxpayer for one provision does not automatically qualify the taxpayer for another provision.

**Dependency exemption**<sup>4</sup>

**In general**

Taxpayers are entitled to a personal exemption deduction for the taxpayer, his or her spouse, and each dependent. For 2003, the amount deductible for each personal exemption is \$3,050. The deduction for personal exemptions is phased out for taxpayers with incomes above certain thresholds.<sup>5</sup>

In general, a taxpayer is entitled to a dependency exemption for an individual if the individual: (1) satisfies a relationship test or is a member of the taxpayer's household for the entire taxable year; (2) satisfies a support test; (3) satisfies a gross income test or is a child of the taxpayer under a certain age; (4) is a citizen or resident of the U.S. or resident of Canada or Mexico;<sup>6</sup> and (5) did not file a joint return with his or her spouse for the year.<sup>7</sup> In addition, the taxpayer identification number of the individual must be included on the taxpayer's return.

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<sup>4</sup> Secs. 151 and 152. Under the statutory structure, section 151 provides for the deduction for personal exemptions with respect to "dependents." The term "dependent" is defined in section 152. Most of the requirements regarding dependents are contained in section 152; section 151 contains additional requirements that must be satisfied in order to obtain a dependency exemption with respect to a dependent (as so defined). In particular, section 151 contains the gross income test, the rules relating to married dependents filing a joint return, and the requirement for a taxpayer identification number. The other rules discussed here are contained in section 151.

<sup>5</sup> Sec. 151(d)(3).

<sup>6</sup> A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a dependent (provided other applicable requirements are met) if (1)

### Relationship or member of household test

Relationship test.—The relationship test is satisfied if an individual is the taxpayer’s (1) son or daughter or a descendant of either (e.g., grandchild or great-grandchild); (2) stepson or stepdaughter; (3) brother or sister (including half brother, half sister, stepbrother, or stepsister); (4) parent, grandparent, or other direct ancestor (but not foster parent); (5) stepfather or stepmother; (6) brother or sister of the taxpayer’s father or mother; (7) son or daughter of the taxpayer’s brother or sister; or (8) the taxpayer’s father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

An adopted child (or a child who is a member of the taxpayer’s household and who has been placed with the taxpayer for adoption) is treated as a child of the taxpayer. A foster child is treated as a child of the taxpayer if the foster child is a member of the taxpayer’s household for the entire taxable year.

Member of household test.—If the relationship test is not satisfied, then the individual may be considered the dependent of the taxpayer if the individual is a member of the taxpayer’s household for the entire year. Thus, a taxpayer may be eligible to claim a dependency exemption with respect to an unrelated child who lives with the taxpayer for the entire year.

For the member of household test to be satisfied, the taxpayer must both maintain the household and occupy the household with the individual.<sup>8</sup> A taxpayer or other individual does not fail to be considered a member of a household because of “temporary” absences due to special circumstances, including absences due to illness, education, business, vacation, and military service.<sup>9</sup> Similarly, an individual does not fail to be considered a member of the taxpayer’s household due to a custody agreement under which the individual is absent for less than six months.<sup>10</sup> Indefinite absences that last for more than the taxable year may be considered “temporary.” For example, the IRS has ruled that an elderly woman who was indefinitely confined to a nursing home was temporarily absent from a taxpayer’s household. Under the facts of the ruling, the woman had been an occupant of the household before being confined to a nursing home, the confinement had extended for several years, and it was possible that the

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the child’s principal place of abode is the taxpayer’s home and (2) the taxpayer is a citizen or national of the United States. Sec. 152(b)(3).

<sup>7</sup> This restriction does not apply if the return was filed solely to obtain a refund and no tax liability would exist for either spouse if they filed separate returns. Rev. Rul. 54-567, 1954-2 C.B. 108.

<sup>8</sup> Treas. Reg. sec. 1.152-1(b).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

woman would die before becoming well enough to return to the taxpayer's household. There was no intent on the part of the taxpayer or the woman to change her principal place of abode.<sup>11</sup>

### Support test

In general.—The support test is satisfied if the taxpayer provides over one half of the support of the individual for the taxable year. To determine whether a taxpayer has provided more than one half of an individual's support, the amount the taxpayer contributed to the individual's support is compared with the entire amount of support the individual received from all sources, including the individual's own funds.<sup>12</sup> Governmental payments and subsidies (e.g., Temporary Assistance to Needy Families, food stamps, and housing) generally are treated as support provided by a third party. Expenses that are not directly related to any one member of a household, such as the cost of food for the household, must be divided among the members of the household. If any person furnishes support in kind (e.g., in the form of housing), then the fair market value of that support must be determined.

Multiple support agreements.—In some cases, no one taxpayer provides more than one half of the support of an individual. Instead, two or more taxpayers, each of whom would be able to claim a dependency exemption but for the support test, together provide more than one half of the individual's support. If this occurs, the taxpayers may agree to designate that one of the taxpayers who individually provides more than 10 percent of the individual's support can claim a dependency exemption for the child. Each of the others must sign a written statement agreeing not to claim the exemption for that year. The statements must be filed with the income tax return of the taxpayer who claims the exemption.

Special rules for divorced or legally separated parents.—Special rules apply in the case of a child of divorced or legally separated parents (or parents who live apart at all times during the last six months of the year) who provide over one half the child's support during the calendar year.<sup>13</sup> If such a child is in the custody of one or both of the parents for more than one half of the year, then the parent having custody for the greater portion of the year is deemed to satisfy the support test; however, the custodial parent may release the dependency exemption to the noncustodial parent by filing a written declaration with the IRS.<sup>14</sup>

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<sup>11</sup> Rev. Rul. 66-28, 1966-1 C.B. 31.

<sup>12</sup> In the case of a son, daughter, stepson, or stepdaughter of the taxpayer who is a full-time student, scholarships are not taken into account for purpose of the support test. Sec. 152(d).

<sup>13</sup> For purposes of this rule, a "child" means a son, daughter, stepson, or stepdaughter (including an adopted child or foster child, or child placed with the taxpayer for adoption). Sec. 152(e)(1)(A).

<sup>14</sup> Special support rules also apply in the case of certain pre-1985 agreements between divorced or legally separated parents. Sec. 152(e)(4).



### Gross income test

In general, an individual may not be claimed as a dependent of a taxpayer if the individual has gross income that is at least equal to the personal exemption amount for the taxable year.<sup>15</sup> If the individual is the child of the taxpayer and under age 19 (or under age 24, if a full-time student), the gross income test does not apply.<sup>16</sup> For purposes of this rule, a “child” means a son, daughter, stepson, or stepdaughter (including an adopted child of the taxpayer, a foster child who resides with the taxpayer for the entire year, or a child placed with the taxpayer for adoption by an authorized adoption agency).

### **Earned income credit**<sup>17</sup>

#### In general

In general, the earned income credit is a refundable credit for low-income workers. The amount of the credit depends on the earned income of the taxpayer and whether the taxpayer has one, more than one, or no “qualifying children.” In order to be a qualifying child for the earned income credit, an individual must satisfy a relationship test, a residency test, and an age test. In addition, the name, age, and taxpayer identification number of the qualifying child must be included on the return.

#### Relationship test

An individual satisfies the relationship test under the earned income credit if the individual is the taxpayer’s: (1) son, daughter, stepson, or stepdaughter, or a descendant of any such individual;<sup>18</sup> (2) brother, sister, stepbrother, or stepsister, or a descendant of any such individual, who the taxpayer cares for as the taxpayer’s own child; or (3) eligible foster child. An eligible foster child is an individual (1) who is placed with the taxpayer by an authorized placement agency, and (2) who the taxpayer cares for as her or his own child. A married child of the taxpayer is not treated as meeting the relationship test unless the taxpayer is entitled to a dependency exemption with respect to the married child (e.g., the support test is satisfied) or would be entitled to the exemption if the taxpayer had not waived the exemption to the noncustodial parent.<sup>19</sup>

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<sup>15</sup> Certain income from sheltered workshops is not taken into account in determining the gross income of permanently and totally disabled individuals. Sec. 151(c)(5).

<sup>16</sup> Sec. 151(c).

<sup>17</sup> Sec. 32.

<sup>18</sup> A child who is legally adopted or placed with the taxpayer for adoption by an authorized adoption agency is treated as the taxpayer’s own child. Sec. 32(c)(3)(B)(iv).

<sup>19</sup> Sec. 32(c)(3)(B)(ii).

### Residency test

The residency test is satisfied if the individual has the same principal place of abode as the taxpayer for more than one half of the taxable year. The residence must be in the United States.<sup>20</sup> As under the dependency exemption (and head of household filing status), temporary absences due to special circumstances, including absences due to illness, education, business, vacation, and military service are not treated as absences for purposes of determining whether the residency test is satisfied.<sup>21</sup> Under the earned income credit, there is no requirement that the taxpayer maintain the household in which the taxpayer and the qualifying individual reside.

### Age test

In general, the age test is satisfied if the individual has not attained age 19 as of the close of the calendar year. In the case of a full-time student, the age test is satisfied if the individual has not attained age 24 as of the close of the calendar year. In the case of an individual who is permanently and totally disabled, no age limit applies.

### **Child credit**<sup>22</sup>

Taxpayers with incomes below certain amounts are eligible for a child credit for each qualifying child of the taxpayer. The amount of the child credit is up to \$1,000, in the case of taxable years beginning in 2003 or 2004. The child credit reverts to \$700 for taxable years beginning in 2005 through 2008, \$800 for taxable years beginning in 2009, and \$1,000 for taxable years beginning in 2010. The credit declines to \$500 in taxable year 2011.<sup>23</sup> For purposes of this credit, a qualifying child is an individual: (1) with respect to whom the taxpayer is entitled to a dependency exemption for the year; (2) who satisfies the same relationship test applicable to the earned income credit; and (3) who has not attained age 17 as of the close of the calendar year. In addition, the child must be a citizen or resident of the United States.<sup>24</sup> A portion of the child credit is refundable under certain circumstances.<sup>25</sup>

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<sup>20</sup> The principal place of abode of a member of the Armed Services is treated as in the United States during any period during which the individual is stationed outside the United States on active duty. Sec. 32(c)(4).

<sup>21</sup> IRS Publication 596, *Earned Income Credit (EIC)*, at 13. H. Rep. 101-964 (October 27, 1990), at 1037.

<sup>22</sup> Sec. 24.

<sup>23</sup> EGTRRA, Pub. L. No. 107-16, sec. 901(a) (2001) (making, by way of the EGTRRA sunset provision, the increase in the child credit inapplicable to taxable years beginning after December 31, 2010).

<sup>24</sup> The child credit does not apply with respect to a child who is a resident of Canada or Mexico and is not a U.S. citizen, even if a dependency exemption is available with respect to the child. Sec. 24(c)(2). The child credit is, however, available with respect to a child dependent who is not a resident or citizen of the United States if: (1) the child has been legally adopted by

## **Dependent care credit**<sup>26</sup>

The dependent care credit may be claimed by a taxpayer who maintains a household that includes one or more qualifying individuals and who has employment-related expenses. A qualifying individual means (1) a dependent of the taxpayer under age 13 for whom the taxpayer is entitled to a dependency exemption, (2) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself,<sup>27</sup> or (3) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself. In addition, a taxpayer identification number for the qualifying individual must be included on the return.

A taxpayer is considered to maintain a household for a period if over one half the cost of maintaining the household for the period is furnished by the taxpayer (or, if married, the taxpayer and his or her spouse). Costs of maintaining the household include expenses such as rent, mortgage interest (but not principal), real estate taxes, insurance on the home, repairs (but not home improvements), utilities, and food eaten in the home.

A special rule applies in the case of a child who is under age 13 or is physically or mentally incapable of caring for himself or herself if the custodial parent has waived his or her dependency exemption to the noncustodial parent.<sup>28</sup> For the dependent care credit, the child is treated as a qualifying individual with respect to the custodial parent, not the parent entitled to claim the dependency exemption.

## **Head of household filing status**<sup>29</sup>

A taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half of the year of (1) an unmarried son, daughter, stepson or stepdaughter of the taxpayer or an unmarried descendant of the taxpayer's son or daughter, (2) an individual described in (1) who is married, if the taxpayer may claim a dependency exemption with respect to the individual (or could claim the exemption

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the taxpayer; (2) the child's principal place of abode is the taxpayer's home; and (3) the taxpayer is a U.S. citizen or national. *See* sec. 24(c)(2) and sec. 152(b)(3).

<sup>25</sup> Sec. 24(d).

<sup>26</sup> Sec. 21.

<sup>27</sup> Although such an individual must be a dependent of the taxpayer as defined in section 152, it is not required that the taxpayer be entitled to a dependency exemption with respect to the individual under section 151. Thus, such an individual may be a qualifying individual for purposes of the dependent care credit, even though the taxpayer is not entitled to a dependency exemption because the individual does not meet the gross income test.

<sup>28</sup> Sec. 21(e)(5).

<sup>29</sup> Sec. 2(b).

if the taxpayer had not waived the exemption to the noncustodial parent), or (3) a relative with respect to whom the taxpayer may claim a dependency exemption.<sup>30</sup> If certain other requirements are satisfied, head of household filing status also may be claimed if the taxpayer is entitled to a dependency exemption with respect to one of the taxpayer's parents.

## **Explanation of Provision**

### **General description of bill**

#### **In general**

The bill establishes a uniform definition of qualifying child for purposes of the dependency exemption, the child credit, the earned income credit, the dependent care credit, and head of household filing status. A taxpayer generally may claim an individual who does not meet the uniform definition of qualifying child (with respect to any taxpayer) as a dependent if the present-law dependency requirements are satisfied. The bill generally does not modify other parameters of each tax benefit (e.g., the earned income requirements of the earned income credit) or the rules for determining whether individuals other than children qualify for each tax benefit.

Under the uniform definition, in general, a child is a qualifying child of a taxpayer if the child satisfies each of three tests: (1) the child has the same principal place of abode as the taxpayer for more than one half the taxable year; (2) the child has a specified relationship to the taxpayer; and (3) the child has not yet attained a specified age. A tie-breaking rule applies if more than one taxpayer claims a child as a qualifying child.

Under the bill, the present-law support and gross income tests for determining whether an individual is a dependent generally do not apply to a child who meets the requirements of the uniform definition of qualifying child.

#### **Residency test**

Under the uniform definition's residency test, a child must have the same principal place of abode as the taxpayer for more than one half of the taxable year. It is intended that, as is the case under present law, temporary absences due to special circumstances, including absences due to illness, education, business, vacation, or military service, would not be treated as absences.

#### **Relationship test**

In order to be a qualifying child under the bill, the child must be the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendant of any such individual. An individual legally adopted by the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, is treated as a child of such taxpayer by blood. A foster child who is placed with the taxpayer by an authorized

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<sup>30</sup> Sec. 2(b)(1)(A)(ii), as qualified by sec. 2(b)(3)(B). An individual for whom the taxpayer is entitled to claim a dependency exemption by reason of a multiple support agreement does not qualify the taxpayer for head of household filing status.

placement agency or by judgment, decree, or other order of any court of competent jurisdiction is treated as the taxpayer's child.<sup>31</sup>

### Age test

Under the bill, the age test varies depending upon the tax benefit involved. In general, a child must be under age 19 (or under age 24 in the case of a full-time student) in order to be a qualifying child.<sup>32</sup> In general, no age limit applies with respect to individuals who are totally and permanently disabled within the meaning of section 22(e)(3) at any time during the calendar year. The bill retains the present-law requirements that a child must be under age 13 (if he or she is not disabled) for purposes of the dependent care credit, and under age 17 (whether or not disabled) for purposes of the child credit.

### Children who support themselves

Under the bill, a child who provides over one half of his or her own support generally is not considered a qualifying child of another taxpayer. The bill retains the present-law rule, however, that a child who provides over one half of his or her own support may constitute a qualifying child of another taxpayer for purposes of the earned income credit.

### Tie-breaking rules

If a child would be a qualifying child with respect to more than one individual (e.g., a child lives with his or her mother and grandmother in the same residence) and more than one person claims a benefit with respect to that child, then the following "tie-breaking" rules apply. First, if only one of the individuals claiming the child as a qualifying child is the child's parent, the child is deemed the qualifying child of the parent. Second, if both parents claim the child and the parents do not file a joint return, then the child is deemed a qualifying child first with respect to the parent with whom the child resides for the longest period of time, and second with respect to the parent with the highest adjusted gross income. Third, if the child's parents do not claim the child, then the child is deemed a qualifying child with respect to the claimant with the highest adjusted gross income.

### Interaction with present-law rules

Taxpayers generally may claim an individual who does not meet the uniform definition of qualifying child with respect to any taxpayer as a dependent if the present-law dependency requirements (including the gross income and support tests) are satisfied.<sup>33</sup> Thus, for example, a

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<sup>31</sup> The provision eliminates the present-law rule requiring that if a child is the taxpayer's sibling or stepsibling or a descendant of any such individual, the taxpayer must care for the child as if the child were his or her own child.

<sup>32</sup> The provision retains the present-law definition of full-time student set forth in section 151(c)(4).

<sup>33</sup> Individuals who satisfy the present-law dependency tests and who are not qualifying children are referred to as "qualifying relatives" under the provision.

taxpayer may claim a parent as a dependent if the taxpayer provides more than one half of the support of the parent and the parent's gross income is less than the exemption amount.

Children who are U.S. citizens living abroad or non-U.S. citizens living in Canada or Mexico may qualify as a qualifying child, as is the case under the present-law dependency tests. A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a qualifying child (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States.

#### Children of divorced or legally separated parents

The bill generally retains the present-law rule that allows a custodial parent to release the claim to a dependency exemption and the child credit to a noncustodial parent. Thus, the bill generally grandfathered those custodial waivers that are in place and effective on the date of enactment, and generally retains the custodial waiver rule for purposes of the dependency exemption and the child credit for decrees of divorce or separate maintenance or written separation agreements that become effective after the date of enactment. Under the bill, the custodial waiver rules do not affect eligibility with respect to children of divorced or legally separated parents for purposes of the earned income credit, the dependent care credit, and head of household filing status.

#### Other provisions

The bill retains the applicable present-law requirements that a taxpayer identification number for a child be provided on the taxpayer's return. For purposes of the earned income credit, a qualifying child is required to have a social security number that is valid for employment in the United States (that is, the child must be a U.S. citizen, permanent resident, or have a certain type of temporary visa).

### **Effect of bill on particular tax benefits**

#### Dependency exemption

For purposes of the dependency exemption, the bill defines a dependent as a qualifying child or a qualifying relative. The qualifying child test eliminates the support test (other than in the case of a child who provides more than one half of his or her own support), and replaces it with the residency requirement described above. Further, the present-law gross income test does not apply to a qualifying child. The rules relating to multiple support agreements do not apply with respect to qualifying children because the support test does not apply to them. Special tie-breaking rules (described above) apply if more than one taxpayer claims a qualifying child under the bill. These tie-breaking rules do not apply if a child constitutes a qualifying child with respect to multiple taxpayers, but only one eligible taxpayer actually claims the qualifying child.

The bill generally permits taxpayers to continue to apply the present-law dependency exemption rules to claim a dependency exemption for a qualifying relative who does not satisfy the qualifying child definition. In such cases, the present-law gross income and support tests, including the special rules for multiple support agreements, the special rules relating to income

of handicapped dependents, and the special support test in case of students, continue to apply for purposes of the dependency exemption.

As is the case under present law, a child who provides over half of his or her own support is not considered a dependent of another taxpayer under the bill. Further, an individual shall not be treated as a dependent of any taxpayer if such individual has filed a joint return with the individual's spouse for the taxable year.

#### Earned income credit

In general, the bill adopts a definition of qualifying child that is similar to the present-law definition under the earned income credit. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The present-law tie-breaker rule applicable to the earned income credit is used for purposes of the uniform definition of qualifying child. The bill retains the present-law requirement that the taxpayer's principal place of abode must be in the United States.

#### Child credit

The present-law child credit generally uses the same relationships to define an eligible child as the uniform definition. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The age limitation under the bill retains the present-law requirement that the child must be under age 17, regardless of whether the child is disabled.

#### Dependent care credit

The present-law requirement that a taxpayer maintain a household in order to claim the dependent care credit is eliminated. Thus, if other applicable requirements are satisfied, a taxpayer may claim the dependent care credit with respect to a child who lives with the taxpayer for more than one half the year, even if the taxpayer does not provide more than one half of the cost of maintaining the household.

The rules for determining eligibility for the credit with respect to an individual who is physically or mentally incapable of caring for himself or herself are amended to include a requirement that the taxpayer and the dependent have the same principal place of abode for more than one half the taxable year.

#### Head of household filing status

Under the bill, a taxpayer qualifies for head of household filing status with respect to a child who is a qualifying child as defined under the bill. An individual who is not a qualifying child will qualify the taxpayer for head of household status only if, as is the case under present law, the individual is a dependent of the taxpayer and the taxpayer is entitled to a dependency exemption for such individual, or the individual is the taxpayer's father or mother and certain other requirements are satisfied. Thus, under the bill a taxpayer is eligible for head of household filing status only with respect to a qualifying child or an individual for whom the taxpayer is entitled to a dependency exemption.

The bill retains the present-law requirement that the taxpayer provide over one half the cost of maintaining the household.

**Effective Date**

The provision is effective for taxable years beginning after December 31, 2003.



**C. Extension of Customs User Fees  
(sec. 301 of the bill)**

**Present Law**

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272), authorized the Secretary of the Treasury to collect certain service fees. Section 412 (P.L. 107-296) of the Homeland Security Act of 2002 authorized the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Provided for under 19 U.S.C. 58c, these fees include: processing fees for air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, merchandise, and Customs broker permits. COBRA was amended on several occasions but most recently by P.L. 103-182 which extended authorization for the collection of these fees through fiscal year 2003.

**Explanation of Provision**

The bill extends the fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985 through March 31, 2010.

**Effective Date**

The provision is effective on the date of enactment.