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Proposed regulations: "Qualifying relative" and personal exemption amount clarified

The U.S. Treasury Department and IRS today released a notice of proposed rulemaking (REG-118997-19) that is intended to clarify the definition of a "qualifying relative" for purposes of various Code provisions for tax years 2018 through 2025.

With today's release, a portion of regulations proposed in January 2017, that address the support test for a qualifying relative, are withdrawn and replacement language is proposed.

Read the [proposed regulations](#) [PDF 285 KB]

Summary of proposed regulations

The January 2017 proposed regulations included measures concerning definitions and rules relating to: surviving spouse and head of household filing status; the tax tables for individuals; the child and dependent care credit; the earned income credit; the standard deduction; joint tax returns; and taxpayer identification numbers for children placed for adoption.

In December 2017, new tax law in the United States (Pub. L. No. 115-97)—the law that is often referred to as the "Tax Cuts and Jobs Act" (TCJA)—made certain changes to Code provisions.

One TCJA change was a suspension of the personal exemption allowed under section 152 for tax years 2018 through 2025.

In August 2018, the IRS issued Notice 2018-70 stating that the IRS and Treasury Department intended to issue proposed regulations to clarify the definition of "qualifying relative" for the new \$500 credit for dependents and head of household filing status for years in which the exemption amount is zero—tax years 2018-2025. Notice 2018-70 explained that the future proposed regulations would provide that the reduction of the personal exemption amount to zero will not be taken into account for purposes of the \$500 credit and head of household filing status. Instead, the exemption amount for the application of these provisions will be treated as \$4,150, as adjusted for inflation, for years in which the exemption amount is zero. Read [TaxNewsFlash](#)

Hence, today's proposed regulations address the rules for application of the "zero" personal exemption for the tax years 2018 through 2025. The preamble explains that certain provisions of the regulations proposed in January 2017 are replaced to clarify terms such as a qualifying relative.

These proposed regulations apply to tax years ending after August 28, 2018 (the date when Notice 2018-70 was issued) and to tax years beginning on or after the date the regulations are published as final regulations in the Federal Register, but taxpayers may rely on these proposed regulations in any open tax year.

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