



TaxNewsFlash

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Final regulations: “Qualifying relative” and personal exemption amount clarified

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9913) to clarify the definition of a “qualifying relative” for purposes of various Code provisions for tax years 2018 through 2025.

Read the [final regulations](#) [PDF 197 KB]

Summary

Regulations were proposed in January 2017 concerning definitions and rules relating to the following: 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.

Subsequently, in December 2017, a new tax law was enacted in the United States (Pub. L. No. 115-97)—the law that is often referred to as the “Tax Cuts and Jobs Act” (TCJA)—with 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.

In June 2020, proposed regulations were released to address the rules for application of the “zero” personal exemption for the tax years 2018 through 2025. Certain provisions of the regulations proposed in January 2017 were replaced to clarify terms such as a qualifying relative. Those 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. Read [TaxNewsFlash](#)

The preamble to today's final regulations states that it "adopts the proposed regulations as final regulations with no substantive change." It is noted that because certain measures of the proposed regulations originally were proposed as changes to provisions of the January 2017 proposed regulations (which have not yet been finalized), certain measures of the proposed regulations have been redesignated in the final regulations to coordinate with the existing regulations. Therefore, the final regulations adopt provisions of the proposed regulations "without substantive change" to:

- Provide that the exemption amount, for purposes other than a deduction for a personal or dependency exemption under section 151, is \$4,150 for tax year 2018, and for tax years 2019 through 2025, the exemption amount, as adjusted for inflation, is the section 152(d)(1)(B) exemption amount that will be set forth in IRS guidance
- Describe certain payments to a payee spouse for purposes of the support test without references to repealed sections 71 and 682

The final regulations clarify an issue raised regarding a statutory cross-reference in section 24(h)(4) to "a qualifying child described in subsection (c)." As was proposed in the proposed regulations, these regulations clarify in Reg. section 1.24-1 that the statutory cross-reference is a reference to section 24(c), rather than to section 152(c).

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