

# EXPERT UPDATE



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## IRS Proposed Changes to Definition of Tax Dependent

The Internal Revenue Service has issued proposed regulations that will redefine “dependent”. The changes update existing regulations so that they reflect the IRS’s current position on the “tiebreaker” rules, Qualifying Child and Qualifying Relative. The revised definition of dependent has implications on employee benefit plans as the federal definition of dependent determines whether a household member, like a domestic partner, can receive employer-provided health benefits on a tax-free basis and whether certain child care expenses are eligible for reimbursement under an employer sponsored Dependent Care Assistance Program (DCAP). For the most part, the proposed changes will have little relevance for employer plan sponsors at this time.

The [Proposed Regulations](#) accomplish the following:

- Update existing regulations so that the rules reflect current Code provisions and IRS guidance;
- Change how to determine a taxpayer’s adjusted gross income under the “tiebreaker” rules;
- Address the Code’s relationship, residency, age, support, and joint return tests for being a taxpayer’s qualifying child;
- Address the relationship, income, support, and not-a-qualifying-child tests for the determination of qualifying relative;
- Provide details on how a taxpayer is to determine the sources of support or whether an individual resides with the taxpayer for more than half the taxable year;
- Provide details on how temporary absences from a principal place of abode are treated; and
- Provide clarity and examples on when students, children placed for adoption and foster children are considered dependents.

*Please note that the information contained in this document is designed to provide authoritative and accurate information, in regard to the subject matter covered. However, it is not provided as legal or tax advice and no representation is made as to the sufficiency for your specific company’s needs. This document should be reviewed by your legal counsel or tax consultant before use.*

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## Applicability Date:

The regulations are proposed to apply for taxable years beginning after final regulations are published, however, the preamble illustrates that taxpayers may apply the proposed definition in any open taxable year.

## Plan sponsor responsibilities:

Employers have no obligation to communicate the proposed regulations to employees but should be prepared to revise benefit materials if the any information distributed to employees includes the IRS definition of definition of Dependent, Qualifying Child or Qualifying Relative.

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