

Age, Residency, Relationship, and Joint Return Tests

Following are some of the questions preparers asked us about the age, residency, relationship, and joint return tests and our answers:

Note: We have placed sections changed by the new due diligence requirements finalized in December 2011 in green.

Preparer Question	IRS Answer
<p>Must I review the birth certificate to verify the age of a qualifying child?</p>	<p>No, it's not required. However, if you have reason to question a child's age or relationship, you may want to request the birth certificate. If you use the information to determine EITC eligibility, you need to keep a copy with your records.</p> <p>See this important note about Puerto Rican birth certificates.</p>
<p>My client has a 23-year-old son who attends college. My client's wife is younger than his son. Can my client claim his son as a qualifying child for EITC?</p>	<p>If your client and his younger wife file a joint return and meet all other EITC requirements, they can claim the son as a qualifying child. Either the taxpayer, or the spouse if filing a joint return, must be older than the individual claimed as a qualifying child.</p>
<p>If a child works for minimal pay under a special program for individuals with disabilities, does IRS consider it "substantial gainful activity" under the definition of permanently and totally disabled?</p>	<p>No, certain work offered to individuals with physical or mental disabilities is considered sheltered employment. The qualified locations are:</p> <ul style="list-style-type: none"> • Sheltered workshops, • Hospitals and similar institutions, • Homebound programs • Department of Veterans Affairs (VA) sponsored homes.

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<p>My client says he has a 32-year-old son who lived with him all year in the U.S. and has a disability. I know the son worked part of the year and am not sure if the son is permanently and totally disabled. What documents would my client need to prove permanent and total disability?</p>	<p>To prove permanent and total disability, IRS asks for a letter from the child's doctor, other healthcare provider or any social service program or agency verifying the child is permanently and totally disabled. You need to keep a copy of any documents, you review if you use the information to determine EITC eligibility.</p> <p>IRS sends a Form 886-H-EIC with audit letters. The form is also available in Spanish. The forms have information on the documentation IRS accepts to prove Age, Relationship and Residency.</p>
<p>A woman takes care of her older sister who lives with her and receives Supplemental Security Income for a disability. No one else lives with them. Can the younger sister claim the older sister as her qualifying child?</p>	<p>The older sister must meet the IRS definition of permanently and totally disabled:</p> <ul style="list-style-type: none"> • Not being able to engage in any substantial gainful activity because of a medically determinable physical or mental condition; and • A physician must certify the condition has lasted or is expected to last continuously for at least 12 months or to result in death. <p>The age test for qualifying child is met by an individual of any age who is permanently and totally disabled.</p>
<p>If a college student stays in the college town to work during the summer break, can the child still pass the residency test?</p>	<p>The residency test is met if the child and the taxpayer had the same principal place of home for more than half of the tax year in the United States. The time attending school may count as a temporary absence.</p>

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<p>A household has a father who earned \$11,000, a stay-at-home mom, and a son, 17- years old who earned \$12,000. The son did not save any of the money he earned. Instead, he spent his earnings on a car and clothing. The son did not pay any household expenses. The son is single and meets the age, relationship, residency, and joint return tests to be a qualifying child of his parents. The father and mother meet all the basic EITC qualifications and file a joint return. May the parents claim the son as a qualifying child for purposes of the EITC, and may the son claim a personal exemption for himself?</p>	<p>Yes, the son is a qualifying child of his parents for purposes of the EITC. There is no support test for the EITC.</p> <p>Yes, he may claim a personal exemption for himself. His parents may not claim him as a dependent, since he provided more than half of his own support. The cost of his support included costs related to the car and entertainment.</p>
<p>Can a sworn statement or affidavit be used to prove the residency of a child?</p>	<p>During an examination, the IRS accepts letters on official letterhead from schools, medical providers, social service agencies, or places of worship that show the name of the child's parent or guardian, the child's address, and the dates the child lived with the taxpayer. The official letterhead is preferred since it is confirmation of the provider's identity. However, the IRS may accept a sworn statement or affidavit containing the same information and contact information, so the IRS can verify the document.</p> <p>See the Form 886-H-EIC for additional information. The form is also available in Spanish. IRS sends this form with an audit notice. The forms have information on the documentation IRS accepts to prove Age, Relationship, and Residency.</p>

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<p>What is a foster child for EITC purposes? Some of my "clients" attempt to claim various children as a foster child or stepchild.</p>	<p>An eligible foster child is a child placed by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.</p> <p>A step relationship formed by a legal marriage according to state law is not dissolved by divorce or death. Treasury Regulations section 1.152-2(d) currently provides that "the relationship of affinity once existing will not terminate by divorce or the death of a spouse."</p>
<p>What type of documentation is the IRS going to ask to show relationship when an uncle or aunt is claiming his niece/nephew.</p>	<p>The IRS will ask for birth certificates or other official documents of birth for all parties to show the relationship. See the Form 886-H-EIC for more information. The form is also available in Spanish. IRS sends this form with an audit notice. The forms have information on the documentation IRS accepts to prove Age, Relationship, and Residency.</p>