

Definition of Dependent for State Tax Purposes

The following is the definition of “dependent” under each state’s tax law. The information provided here is intended to be a high level summary of the most commonly referenced dependent qualification requirements. Further, these rules are subject to change by state legislatures or regulatory agencies. Please contact your state or your tax advisor for the most accurate information that applies to your specific situation. American Fidelity does not provide tax or legal advice.

AR (Internal Revenue Code Section 152 in Effect from 1976 to Dec. 31, 2004, does not follow current federal law):

A dependent child includes any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer:

- A son or daughter of the taxpayer, or a descendant of either,
- A stepson or stepdaughter of the taxpayer,
- A brother, sister, stepbrother, or stepsister of the taxpayer,
- The father or mother of the taxpayer, or an ancestor of either,
- A stepfather or stepmother of the taxpayer,
- A son or daughter of a brother or sister of the taxpayer,
- A brother or sister of the father or mother of the taxpayer,
- A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,
- A legally adopted child, child placed for adoption, or foster child of the taxpayer,
- An individual who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer’s household.

The general rule in the case of divorce is that the custodial parent (with whom the child resides for more than half the year) is eligible to claim the child as a tax dependent. To determine when a non-custodial parent may claim a child as a tax-dependent for benefit plan purposes, please contact your state or tax advisor.

HI, WI, (Internal Revenue Code Section 152 in Effect from Jan 1, 2005 to Dec. 31, 2008, does not follow current federal law)

KY (for 2010 only; complies with federal law for 2011):

An individual who is a Qualifying Child or Qualifying Relative is a tax-qualified dependent.

A “Qualifying Child” is:

- A child (including natural, adopted, foster and/or step child) and descendent of such person (i.e., grand and great grandchildren), or a brother or sister (including step) and a descendent of such person (i.e., nieces or nephews, including step nieces and nephews); and,
- Has the same principal abode as the employee for more than half of the year,
- Is under the age of 19 at the end of the year, or, if a full-time student, under the age of 24 at the end of the year, or is permanently disabled, and
- Does not provide more than half of his or her own support.

A “Qualifying Relative”:

- A child (including natural, adopted, foster and /or step child) and descendent of such person (i.e., grand and great grandchildren), or a brother or sister (including step siblings), parent or ancestor, stepparent (not including ancestors), aunt or uncle, niece or nephew, in-laws, or any other individual not listed above (i.e., a non-relative) who, for the taxable year (1) has the same principal place of abode as taxpayer, and (2) is a member of taxpayer’s household (and the relationship does not violate local law), and
- Receives more than half of his or her support from the employee; and,
- Is not a “qualifying child” of any taxpayer.

The general rule in the case of divorce is that the custodial parent (with whom the child resides for more than half the year) is eligible to claim the child as a tax dependent. To determine when a non-custodial parent may claim a child as a tax-dependent for benefit plan purposes, contact your state or tax advisor.

GA, IN, SC, VT (Internal Revenue Code Section 152 in Effect from Jan. 1, 2009 to March 29, 2010, does not follow current federal law) (OR for 2010 only; complies with federal law for 2011) (MN complies with federal law for 2010 only),

The Internal Revenue Code Section 152 definition in effect in 2009 applies, but in order to be a Qualifying Child the individual also (1) must not have filed a joint return (other than a claim of refund) with the individual’s spouse for a taxable year beginning in the calendar year in which the taxable year of the taxpayer begins; and (2) must be younger than the employee/taxpayer.

All Other States and Current Federal Law (Internal Revenue Code Sections 152 and 105 in Effect from March 30, 2010 to present):

The Internal Revenue Code Section 152 definition in effect on January 1, 2010 applies. In addition, a child (including natural, adopted, foster and/or step child) of a taxpayer who as of the end of the calendar year has not attained age 27 is eligible under both federal and state law to receive tax-free health FSA reimbursements (regardless of whether the individual is a Qualifying Child or Qualifying Relative).