



IRS Tie Breaker Rules

Only One Person May Claim a Qualifying Child

Sometimes a child meets the rules to be a qualifying child of more than one person.

If your child is also the qualifying child of another person, **only one of you** may claim the child for the EITC and related child tax benefits.

Exception

If a qualifying child's parents are divorced, separated or parents living apart, the noncustodial parent may be entitled to claim the EITC.

Related: Publication 596, Earned Income Credit (EIC)

How to Choose Who Will Claim the Qualifying Child

To choose which person can claim the qualifying child to get the EITC, use these tiebreaker rules:

- Only one person is the child's parent: The parent may claim the child
- Both parents file a joint tax return with each other: They may claim the child
- Both parents claim the child on separate tax returns: The parent with whom the child lived the longest during the year may claim the child
 - If the child lived with each parent for the same amount of time: The parent with the higher adjusted gross income (AGI) for the year may claim the child
- Neither person is the child's parent: The person who had the highest AGI for the year may claim the child
- A parent can claim the child but doesn't: The person who had the highest AGI for the year may claim the child, but only if that person's AGI is greater than the AGI of any of the child's parents who can claim the child

If you can't claim the qualifying child because of the tiebreaker rules, you may be eligible to claim the EITC with no qualifying child.

More information can be found at:

<https://www.etc.irs.gov/etc-central/about-etc/basic-qualifications/tie-breaker-rules/applying-tiebreaker-rules>