

### Section 152 - Internal Revenue Code Dependent Tax Qualification

**Note that the information provided herein is not intended as tax advice; rather, it is included in order to alert you to relevant tax law and potential tax ramifications of adding benefit plan coverage for Domestic Partners and/or their dependents.** PASSHE recommends that each employee considering enrollment of his/her dependents, domestic partners, and/or the partner's children under any PASSHE sponsored program consult with a qualified tax professional for guidance as to the tax issues involved and their application to the employee's specific situation.

Section 152 of the Internal Revenue Code defines a *dependent* as either a *qualifying child* or another *qualifying relative*.

A "qualifying child" is an individual who satisfies the following requirements:

1. **Relationship.** The individual must be the taxpayer's child, sibling, stepsibling or any descendent of such individuals. The taxpayer's child includes a legally adopted child, a child lawfully placed with the taxpayer for adoption, and a foster child placed with the taxpayer by an authorized placement agency or by a court.
2. **Age.** The individual must be under the age of 19 or be a full-time student under the age of 24. The age limit does not apply to individuals who are permanently and totally disabled.
3. **Residency.** The individual must live with the taxpayer for more than one-half of the taxable year.
4. **Support.** The individual must not have provided more than one-half of his or her own support for the taxable year.

A "qualifying relative" is an individual who satisfies the following requirements:

1. **Relationship.** The individual must be the taxpayer's child or descendent of a child, a sibling, a stepsibling, a parent or ancestor of a parent, a stepparent, a niece or nephew, an aunt or uncle, a son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law. Any other individual who is a member of the taxpayer's household (other than a spouse) and lives with the taxpayer for the taxable year is also a qualifying relative, unless the relationship between the taxpayer and the individual violates local law.

For purposes of PASSHE health and tuition waiver benefits provided to a domestic partner and the child or children of a domestic partner, "(tax) qualified dependent" generally means:

1. an eligible Employee's eligible child (including an eligible stepchild and adopted child), if the eligible Employee provides over half of such child's support, or

2. an eligible Employee's domestic partner, or such domestic partner's child, provided that the following requirements are satisfied:
  - a. the eligible Employee must provide over half of the support of the domestic partner or child of the domestic partner, as the case may be, during the eligible Employee's taxable year (the calendar year);
  - b. the domestic partner or child of the domestic partner must live in the residence of the eligible Employee's residence during the entire taxable year, with the exception of temporary absences due to illness, education, business, vacation, military service or custody agreement under which the domestic partner or child is absent less than six months of the year;
  - c. the eligible Employee must maintain and live in his or her own residence for the entire taxable year, with the exception of temporary absences due to illness, education, business, vacation, or military service, and
  - d. the eligible Employee's relationship with the domestic partner or domestic partner's child must not violate any law.

**Note, in addition, that dependent status, with respect to PASSHE-provided health and tuition waiver benefits, may be subject to other requirements established by the Internal Revenue Service or as set forth in the applicable plan or policy for the respective benefit. Eligibility for each benefit is governed by the applicable plan or policy for the benefit provided.**