

California Head of Household Filing Status

hoh

FTB Pub 1540

2010

- 1 Single
- 2 Married/Registered Domestic Partner (RDP) filing joint return (even if only spouse or RDP had income).
- 3 Married/RDP filing separate return. Enter spouse's or RDP's social security number above and full name here _____.
- 4 Head of household (with qualifying person).
- 5 Qualifying widow(er) with dependent child. Enter year spouse or RDP died _____.

California Franchise Tax Board

FTB 540 & 540A | Information

Tax Information for Head of Household Filing Status

Tax Year 2010

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Introduction

Although you may be the head of your house, you may not qualify for the head of household (HOH) filing status under state and federal tax laws. The legal requirements are more complicated for the filing status than simply being the head of the house. To qualify for HOH filing status, you must have a qualifying person who is related to you and meets the requirements to be either a qualifying child or qualifying relative. You must also pay more than half the cost of keeping up your home in which you and your qualifying person lived for more than half the year.

If you use the HOH filing status and are not qualified to do so, you may be subject to additional tax, interest, and any penalties that may apply.

We underlined certain terms throughout this publication. For each underlined term, there is a legal definition in the section following the Self-Test. Read the legal definition even if you think you know the meaning of a term. We determine if you qualify for the head of household filing status based on the legal definition of these terms. The definitions start on PAGE 7.

Registered Domestic Partners (RDPs)

Effective for taxable years beginning on or after January 1, 2007, RDPs under California law **must file** their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified. For more information on RDPs, go to ftb.ca.gov and search for **Publication 737**.

If you are an RDP, you may qualify to use the HOH filing status if both of the following apply:

- You are in the process of ending your relationship.
- You meet the requirements to be considered not in a registered domestic partnership. (See Considered Unmarried or Considered Not in a Registered Domestic Partnership under Legal Definitions.)

Benefits of the Head of Household Filing Status

The head of household (HOH) filing status provides two benefits if you qualify:

1. A lower tax rate.
2. A higher standard deduction than either the single or married/RDP filing separately filing status.

If you are married or an RDP, the married/RDP filing jointly filing status normally provides the lowest tax rate and highest standard deduction.

Read the General Rules below and the Self-Test Instructions that follow. Complete the appropriate self-test for your circumstances to determine if you qualify to use the HOH filing status.

General Rules

The HOH filing status is for taxpayers who are either unmarried and not an RDP or meet the requirements to be considered unmarried or considered not in a registered domestic partnership and maintain a home for a relative who lived with them for more than half the year.

If you incorrectly claimed the HOH filing status on your federal tax return, amend your federal return to claim your correct filing status. Then file your California tax return using your correct filing status.

You are entitled to the HOH filing status only if **all** of the following apply:

- You were unmarried and not an RDP, or met the requirements to be considered unmarried or considered not in a registered domestic partnership on the last day of the year.
- You paid more than one-half the costs of keeping up your home for the year.
- Your home was the main home for you and a qualifying person who lived with you for more than half the year.
- The qualifying person was related to you and met the requirements to be a qualifying child or qualifying relative.
- You were entitled to a Dependent Exemption Credit for your qualifying person. However, you do not have to be entitled to a Dependent Exemption Credit for your qualifying child if you were unmarried and not an RDP, and your qualifying child was also unmarried and not an RDP.
- You were not a nonresident alien at any time during the year.

If you, your spouse/RDP, or your qualifying person who lived with you was absent from your home during the year, see Temporary Absence. If your qualifying person is your father or mother, see Parent/Stepparent (Father or Mother).

Self-Test Instructions

Complete the appropriate self-test below to see if you qualify to use the HOH filing status. Only one test will apply to you.

- Self-Test 1 Unmarried and not an RDP as of the last day of the year (i.e., never married, never registered as a domestic partner, or widowed in a prior year).
- Self-Test 2 (PAGES 3 and 4) Married or an RDP as of the last day of the year.
- Self-Test 3 (PAGES 4, 5, and 6) By the last day of the year, any of the following was true:
 - You received a final decree of divorce.
 - You received a final decree of legal separation.
 - You received a final decree of dissolution of your registered domestic partnership.
 - You filed a Notice of Termination of Domestic Partnership with the California Secretary of State and the six-month waiting period for the notice to become final passed.

Self-Test 1 — For taxpayers who were unmarried and not an RDP

If you were never married, never an RDP, or were widowed in a prior year, answer the questions below to see if you qualify.

1. Did you keep up a home for your qualifying child who, on December 31, 2010, was either under age 19 or a full-time student under the age of 24?

A qualifying child can be any of the relatives listed below or a descendant of such a child:

- Birth child, grandchild, stepchild, or adopted child
- Eligible foster child
- Brother, half brother, or stepbrother
- Sister, half sister, or stepsister
- Blood related nephew or niece

Yes. Go to question 2.

No. Go to question 3.

2. Did this person provide more than half of his or her own support during the year?

Yes. Go to question 3.

No. Go to question 8.

3. Without regard to the person's age, did you keep up a home for your qualifying relative? A qualifying relative can be your birth child, grandchild, stepchild, adopted child, or a descendant of such a child.

Your qualifying relative may also be your:

- Brother, half brother, stepbrother, or brother-in-law
- Sister, half sister, stepsister, or sister-in-law
- Son-in-law or daughter-in-law
- Parent, grandparent, or stepparent
- Mother-in-law or father-in-law
- Blood related uncle, aunt, nephew, or niece

Yes. Go to question 4.

No. **Stop.** You do not qualify.

4. Did you provide more than half of the support for this person?

Yes. Go to question 5.

No. **Stop.** You do not qualify.

5. Did this person have gross income less than \$3,650 during the year?

Yes. Go to question 6.

No. **Stop.** You do not qualify.

(Self-Test 1 is continued on the following page)

6. Was this person your parent/stepparent (father or mother)?

- Yes. Go to question 7.
 No. Go to question 8

7. Did you provide more than half the cost of keeping up a separate residence in which your parent/stepparent lived for the entire year?

- Yes. Go to question 10.
 No. Go to question 8.

8. Did this person live with you for more than half the year?

- Yes. Go to question 9.
 No. **Stop.** You do not qualify.

9. Did you pay more than half the cost of keeping up your home?

- Yes. Go to question 10.
 No. **Stop.** You do not qualify.

10. Did your qualifying person file a joint federal or state tax return with his or her spouse/RDP? (For an exception to this rule, see the Joint Return Test in the Legal Definitions section under Dependent Exemption Credit.)

- Yes. **Stop.** You do not qualify.
 No. Go to question 11.

11. Was your qualifying person a citizen or national of the U.S. or a resident of the U.S., Canada, or Mexico?

- Yes. You qualify to use the HOH filing status.
 No. **Stop.** You do not qualify.

Self-Test 2 — For taxpayers who were married or an RDP

If you were married or an RDP as of the last day of the year, answer the questions below to see if you qualify.

1. Did you live with your spouse/RDP at any time during the last six months of the year?

- Yes. **Stop.** You do not qualify.
 No. Go to question 2.

2. Did you keep up a home for your birth child, stepchild, adopted child, or eligible foster child who, as of the last day of the tax year, had not yet reached the age of 19, or was a full-time student who had not yet reached the age of 24?

- Yes. Go to question 3.
 No. Go to question 4.

3. Did your child provide more than half of his or her own support during the year?

- Yes. Go to question 4.
 No. Go to question 7.

4. Without regard to the child's age, did you keep up a home for your birth child, stepchild, or adopted child?

- Yes. Go to question 5.
 No. **Stop.** You do not qualify.

(Self-Test 2 is continued on the following page)

5. Did you provide more than half the support for your child?

- Yes. Go to question 6.
 No. **Stop.** You do not qualify.

6. Did your child have gross income less than \$3,650 during the year?

- Yes. Go to question 7.
 No. **Stop.** You do not qualify.

7. Did your spouse/RDP (ex-spouse/ex-RDP) live with you and your child during the year?

- Yes. Go to question 8.
 No. Go to question 9.

8. Did your child live with you for more than half the year? You may include half the time that you, your spouse/RDP (ex-spouse/ex-RDP), and your child lived together, and all of the time you and your child lived together without your spouse/RDP.

- Yes. Go to question 10.
 No. **Stop.** You do not qualify.

9. Did your child live with you for more than half the year?

- Yes. Go to question 10.
 No. **Stop.** You do not qualify.

10. Did you pay more than half the cost of keeping up your home during the year?

- Yes. Go to question 11.
 No. **Stop.** You do not qualify.

11. Did your child file a joint federal or state tax return with his or her spouse/RDP? (For an exception to this rule, see the Joint Return Test in the Legal Definitions section under Dependent Exemption Credit.)

- Yes. **Stop.** You do not qualify.
 No. Go to question 12.

12. Was your child a citizen or national of the U.S. or a resident of the U.S., Canada, or Mexico?

- Yes. You qualify to use the HOH filing status.
 No. **Stop.** You do not qualify.

Self-Test 3 — For divorced or legally separated taxpayers

If you received a final decree of divorce, legal separation, or termination of registered domestic partnership, or filed a Notice of Termination of Domestic Partnership with the California Secretary of State by the last day of the year, answer the questions below to see if you qualify.

1. Did you keep up a home for your qualifying child who, on December 31, 2010, was under age 19 or a full-time student under the age of 24?

A qualifying child can be any of the relatives listed below or a descendant of such a child:

- Birth child, grandchild, stepchild, or adopted child
- Eligible foster child
- Brother, half brother, or stepbrother
- Sister, half sister, or stepsister
- Blood related nephew or niece

- Yes. Go to question 2.
 No. Go to question 3.

(Self-Test 3 is continued on the following page)

2. Did this person provide more than half of his or her own support during the year?

- Yes. Go to question 3.
- No. Go to question 8.

3. Without regard to the person's age, did you keep up a home for your qualifying relative? A qualifying relative can be your birth child, grandchild, stepchild, adopted child, or a descendant of such a child.

Your qualifying relative may also be your:

- Brother, half brother, stepbrother, or brother-in-law
- Sister, half sister, stepsister, or sister-in-law
- Son-in-law or daughter-in-law
- Parent, grandparent, or stepparent
- Mother-in-law or father-in-law
- Blood related uncle, aunt, nephew, or niece

- Yes. Go to question 4.
- No. **Stop.** You do not qualify

4. Did you provide more than half the support for this person?

- Yes. Go to question 5.
- No. **Stop.** You do not qualify.

5. Did this person have gross income less than \$3,650 during the year?

- Yes. Go to question 6.
- No. **Stop.** You do not qualify.

6. Was this person your parent/stepparent (father or mother)?

- Yes. Go to question 7.
- No. Go to question 8.

7. Did you provide more than half the cost of keeping up a separate residence in which your parent/stepparent lived for the entire year?

- Yes. Go to question 13.
- No. Go to question 11.

8. Was this person your birth child, stepchild, adopted child, or eligible foster child?

- Yes. Go to question 9.
- No. Go to question 11.

9. Did your spouse/RDP (ex-spouse/ex-RDP) live with you and your child during the year?

- Yes. Go to question 10.
- No. Go to question 11.

10. Did your child live with you for more than half the year? You may include half the time that you, your spouse/RDP (ex-spouse/ex-RDP), and your qualifying child lived together, and all of the time you and your qualifying child lived together without your spouse/RDP (ex-spouse/ex-RDP).

- Yes. Go to question 12.
- No. **Stop.** You do not qualify.

11. Did your qualifying person live with you for more than half of the year?

- Yes. Go to question 12.
- No. **Stop.** You do not qualify.

(Self-Test 3 is continued on the following page)

12. Did you pay more than half the cost of keeping up your home during the year?

- Yes. Go to question 13.
- No. **Stop.** You do not qualify.

13. Did your qualifying person file a joint federal or state tax return with his or her spouse/RDP? (For an exception to this rule, see the Joint Return Test in the Legal Definitions section under Dependent Exemption Credit.)

- Yes. **Stop.** You do not qualify.
- No. Go to question 14.

14. Was your qualifying person a citizen or national of the U.S. or a resident of the U.S., Canada, or Mexico?

- Yes. You qualify to use the HOH filing status.
- No. **Stop.** You do not qualify.

Legal Definitions

We determine if you qualify for the head of household filing status based on the legal definition of these terms.

Adopted Child

An adopted child is a child you legally adopted. After legal adoption, the child is considered your child by blood. Before legal adoption, a child is considered your child for head of household purposes if, during the tax year, an authorized agency placed the child with you for adoption and the child was a member of your household. Also see the definition for Qualifying Child.

Annulment

If you were married or an RDP in the tax year but the marriage or registered domestic partnership was later annulled, you are unmarried or not in a registered domestic partnership during the year.

Child

Beginning in 2005, the federal Working Families Tax Relief Act of 2004 established a uniform definition of a child for purposes of determining entitlement to head of household filing status and the Dependent Exemption Credit. In general, the term child means a birth child, stepchild, adopted child, or an eligible foster child of the taxpayer.

Considered Unmarried or Considered Not in a Registered Domestic Partnership

If you were married or an RDP as of the last day of the tax year or if your spouse/RDP died during the tax year, you may be considered unmarried or considered not in a registered domestic partnership for head of household purposes if you meet **all** of the following requirements:

- Your spouse/RDP did not live in your home at any time during the last six months of the year (see Temporary Absence).
- Your qualifying person is your birth child, stepchild, adopted child, or eligible foster child.
- You paid more than one-half the cost of keeping up your home for the year.
- Your home was the main home for you and your birth child, stepchild, adopted child, or eligible foster child for more than half the year.
- You must be entitled to claim a Dependent Exemption Credit for your child; that is, your child must meet the requirements to be either a qualifying child or qualifying relative and meet the joint return and citizenship tests. You cannot claim a Dependent Exemption Credit for your child if you could be claimed as a dependent by another taxpayer.

You can still meet this requirement if the only reason you cannot claim a Dependent Exemption Credit for your child is because either of the following applies, as provided in a decree of divorce, legal separation, or termination of registered domestic partnership, or a written separation agreement that applies to the tax year at issue:

- The noncustodial parent is entitled to the Dependent Exemption Credit for the child.
- The custodial parent signed a written statement that he or she will not claim the Dependent Exemption Credit for the child. (The custodial parent may sign federal Form 8332, *Release of Claim to Exemption for Child of Divorced or Separated Parents*, or a similar statement. The custodial parent can revoke their Form 8332 or similar statement by providing written notice to the other parent.) The noncustodial parent must attach a copy of the statement to his or her income tax return.

If either of the above provisions was contained in a pre-1985 decree or agreement, the noncustodial parent must have provided more than \$600 in support for the child during the year.

Death or Birth

If the person who you believe qualifies you as head of household is born or dies during the year, you may still be able to claim the head of household filing status. You must have provided more than half the cost of keeping up a home that was the person's main home for more than half the year. However, the requirement that the home must have been the person's main home for more than half the year does not apply if the person was not alive for more than half the year. In that case, the home must have been the person's main home for the period that the person was alive during the year.

Dependent Exemption Credit

You qualify for a Dependent Exemption Credit for a qualifying person if **both** of the following apply:

1. Your qualifying person meets the requirements to be either a qualifying child or a qualifying relative.
2. Your qualifying person meets the joint return and citizenship tests below.

However, you cannot claim any dependents if you could be claimed as a dependent by another taxpayer.

- **Joint Return Test.** Even if your qualifying person meets the requirements to be a qualifying child or qualifying relative, you are generally not allowed an exemption if he or she files a joint income tax return. However, you may take an exemption for a qualifying person who files a joint income tax return, if **both** of the following apply:
 - Neither your qualifying person nor their spouse/RDP would have a federal or state tax liability if they filed separate returns.
 - Your qualifying person and their spouse/RDP only filed a joint income tax return to get a refund of income tax withheld.
- **Citizenship Test.** For some part of the calendar year in which your tax year begins, the qualifying child or qualifying relative must be a U.S. citizen or national, or a resident of the U.S., Canada, or Mexico.

Divorced or Registered Domestic Partnership Terminated

You are divorced or your registered domestic partnership is terminated if you have a final decree of divorce or a final decree terminating your registered domestic partnership that was effective by the last day of the tax year. Living apart from your spouse/RDP, or filing a petition for divorce or termination of registered domestic partnership is not the same as having a final decree.

Your registered domestic partnership is also legally terminated if you filed a Notice of Termination of Domestic Partnership with the California Secretary of State and the six-month waiting period for the notice to become final has passed.

Eligible Foster Child

An eligible foster child is a child placed with you by an authorized placement agency or by a judgment, decree, or other order of a court of competent jurisdiction. Generally, formal placement ends when the child reaches the age of 18.

Full-time Student

A full-time student attends school during some part of each of five calendar months during the year. The school must have a:

- Regular teaching staff.
- Course of study.
- Regularly enrolled body of students in attendance.

The student must be enrolled for the number of hours or courses considered by the school as full-time attendance or the student must be taking a full-time, on-farm training course given either by a school or by a state or political subdivision of a state. Schools may include primary and secondary schools, as well as technical schools, colleges, and universities.

Gross Income

Your qualifying relative's gross income must be less than the federal exemption amount for the year in question. Generally, gross income for head of household purposes only includes income that is taxable for federal income tax purposes. It does not include nontaxable income such as welfare benefits or the nontaxable portion of social security benefits.

If your qualifying relative was married or an RDP, you must consider the qualifying relative's community interest in the spouse's/RDP's income in applying the gross income test. For the federal allowable exemption amount, see the federal instruction booklet for that particular tax year. For more information, go to irs.gov and search for **Publication 17, Your Personal Income Tax**.

Joint Custody

If you have joint custody of your child, to qualify for the head of household filing status, you must still meet all the requirements for the filing status. (See General

Rules on PAGE 1.) These requirements include the following:

- Your child must have lived with you for more than half the year.
- You must have paid more than half the cost of keeping up your home.

(Also see Noncustodial Parent.)

Keeping Up Your Home

You are keeping up your home only if you pay more than half the cost of keeping up the home for the year.

Generally, if two or more people keep up the same home, only one of the people could pay more than half the costs and qualify for the head of household filing status.

However, when two or more families occupy the same dwelling, each family may be treated as keeping up a separate home if:

- Each family maintains separate finances, and
- Neither family contributes to the support of the other family.

The taxpayer who provides more than half the cost of maintaining that separate home is treated as keeping up that separate home.

To determine whether you paid more than half the cost of keeping up your home, complete the following worksheet. Do not include costs of clothing, education, medical treatment, vacations, life insurance, transportation, rental value of a home you own, or value of your services or those of the person qualifying you as head of household.

Temporary Assistance for Needy Families (formerly Aid to Families with Dependent Children) payments you use to keep up your home **do not** count as amounts you paid.

Cost of Keeping Up Your Home

	Amount You Paid	Total Cost
Rent	\$ _____	\$ _____
Mortgage Interest	\$ _____	\$ _____
Property Taxes	\$ _____	\$ _____
Property Insurance	\$ _____	\$ _____
Utilities	\$ _____	\$ _____
Upkeep/Repairs	\$ _____	\$ _____
Food Consumed on the Premises	\$ _____	\$ _____
Other Household Expenses	\$ _____	\$ _____
Totals	\$ _____	\$ _____
Minus the Total Amount You Paid		\$ (_____)
Amount Others Paid		\$ _____

If the total amount you paid is more than the amount others paid, you meet the requirement that you paid more than half the cost of keeping up your home.

Legally Separated

You are legally separated if you live apart from your spouse/RDP under a final decree of legal separation that is effective by the last day of the tax year. A petition for legal separation or an informal separation agreement is not the same as a final decree of legal separation. Also, simply living apart from a spouse/RDP is not the same as being legally separated under a final decree of legal separation.

Main Home

Your home must be the main home for yourself and the person who you believe qualifies you for head of household filing status for more than half the year. Generally, the location of your and the other person's main home is determined by where you and the other person actually lived. You and your qualifying person must have lived together in your home for more than half the year, except for temporary absences. (See Parent/Stepparent (Father or Mother) and Temporary Absence.)

Married or an RDP

If you were legally married or an RDP as of the last day of the year, you can only be eligible for head of household filing status if you were ending your relationship and lived apart from your spouse/RDP at all times during the last six months of the year. See Considered Unmarried or Considered Not in a Registered Domestic Partnership.

If you marry or enter into a registered domestic partnership during the tax year but do not live with your spouse/RDP due to housing, education, business, religious, military, or other reasons, you and your spouse/RDP are still considered members of the same household because there is no intent to end the marriage or registered domestic partnership. Your spouse's/RDP's absence from your home is considered a temporary absence and you and your spouse or RDP are treated as having lived together from the date you married or entered into a registered domestic partnership.

More Than Half the Year

Just because someone lived with you for six months does not mean that the person lived with you for more than half the year. A year has 365 days, and more than half the year is 183 days. (A leap year has 366 days, and more than half a leap year is 184 days.)

To determine how many days your home was your qualifying person's main home, follow these guidelines:

- If you were not married and not an RDP at any time during the year, count all of the days that your qualifying person lived with you in your home.
- If you were married or an RDP at any time during the year and received a final decree of divorce, legal separation, or your registered domestic partnership was legally terminated by the last day of the year, add together:

- Half the number of days that you, your spouse/RDP, and your qualifying person lived together in your home.
- All of the days that you and your qualifying person lived together in your home without your spouse/RDP (ex-spouse/ex-RDP).
- If you were married or an RDP as of the last day of the year, and you did not live with your spouse/RDP at any time during the last six months of the year, add together:
 - Half the number of days that you, your spouse/RDP, and your qualifying person lived together in your home.
 - All of the days that you and your qualifying person lived together in your home without your spouse/RDP.
- If you were married or an RDP as of the last day of the year, and you lived with your spouse/RDP at any time during the last six months of the year, you cannot qualify for the head of household filing status.

When calculating the above, you may include days when your qualifying person was temporarily absent from your home. Temporary absences include vacations, illness, business, school, or military service.

Multiple Support Agreement

Sometimes no one person provides more than half the support for an individual. Instead, two or more persons together provide more than half the individual's support. Each of these persons would be able to take the Dependent Exemption Credit except for the support test (see Dependent Exemption Credit). When this happens, those providing the support can agree that one of them, who individually provides more than 10 percent of the individual's support, can take the exemption for that individual.

If you can take a Dependent Exemption Credit for an individual only because of a multiple support agreement, that individual cannot qualify you for the head of household filing status.

National

A U.S. national is an individual who, although not a U.S. citizen, owes allegiance to the U.S. This includes American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens. For more information, go to irs.gov and search for **Publication 519, U.S. Tax Guide for Aliens**, or contact your local bureau of U.S. Citizenship and Immigration Services (USCIS).

Noncustodial Parent

The custodial parent is the parent in whose home a child lived for the greater part of the year. The noncustodial parent is the parent who is not the custodial parent. A child is treated as the qualifying child or qualifying relative of the noncustodial parent if all of the following conditions are met:

- The parents are divorced, legally separated, their registered domestic partnership has been legally terminated, or they lived apart at all times during the last six months of the year. (Parents who are married or RDPs or who have never married each other must live apart at all times during the last six months of the year.)
- The child was in the custody of one or both parents for more than half of the year.
- The child received more than half of his or her support during the calendar year from his or her parents.
- Either of the following applies, as provided in a decree of divorce, legal separation, or termination of registered domestic partnership, or as provided in a written separation agreement that applies to the tax year at issue:
 - The noncustodial parent is entitled to the Dependent Exemption Credit for the child.
 - The custodial parent signed a written statement that he or she will not claim the Dependent Exemption Credit for the child. (The custodial parent may sign federal Form 8332, *Release of Claim to Exemption for Child of Divorced or Separated Parents*, or a similar statement. The custodial parent can revoke their Form 8332 or similar statement by providing written notice to the other parent.) The noncustodial parent must attach a copy of the statement to his or her income tax return.

If either of the above provisions was contained in a pre-1985 decree or agreement, the noncustodial parent must have provided more than \$600 in support for the child during the year.

The noncustodial parent qualifies for the Dependent Exemption Credit for a child who is treated as his or her qualifying child or qualifying relative under the conditions set forth above. However, the noncustodial parent does not qualify for head of household filing status.

Nonresident Alien

An alien is a person who is not a U.S. citizen. If you are a nonresident alien during any part of the year, you do not qualify for head of household filing status even though you may meet all of the other requirements for the filing status. For more information, go to irs.gov and search for **Publication 519, U.S. Tax Guide for Aliens**.

Nonresident Alien Spouse/RDP

If your spouse/RDP was a nonresident alien at any time during the year, you are unmarried or not a registered domestic partner for head of household purposes. If you are unmarried and not a registered domestic partner, you have a wider range of relatives who can qualify you for head of household filing status.

However, if you chose to treat your nonresident alien spouse/RDP as a resident alien, you remain married or an RDP for head of household purposes. As a married taxpayer or RDP, only your child can qualify you for the head of household filing status.

You are considered to have chosen to treat your nonresident alien spouse/RDP as a resident alien if all the following conditions are met:

1. You and your nonresident alien spouse/RDP filed a joint return in a previous year.
2. You chose to treat your nonresident alien spouse/RDP as a resident so you could file the joint return.
3. You have not revoked that choice by the extended due date for filing the return at issue.

For more information, go to irs.gov and search for **Publication 519, U.S. Tax Guide for Aliens**.

Not in a Registered Domestic Partnership

You were not in a registered domestic partnership if one of the following applied on the last day of the year:

- You have never entered into a registered domestic partnership.
- Your registered domestic partnership was annulled and you did not enter into another registered domestic partnership after the annulment.
- Your RDP died in a prior year and you did not enter into another registered domestic partnership.
- Your registered domestic partnership was legally terminated under a final decree of dissolution. Neither a petition for termination nor an interlocutory decree of termination is the same as a final decree. Until the final decree is issued, an RDP remains in a registered domestic partnership.
- You were legally separated from your RDP under a final decree of legal separation. A petition for legal separation, or an informal separation agreement is not the same as a final decree of legal separation. Also, just living apart from your RDP is not the same as being legally separated under a final decree of legal separation.
- You filed a Notice of Termination of Domestic Partnership with the Secretary of State and the six-month waiting period for the notice to become final passed.

Parent/Stepparent (Father or Mother)

Stepparents are treated the same as parents for tax purposes. If you were unmarried and not an RDP, you may be eligible for the head of household filing status even if your father or mother did not live with you. However, your parent must have been a citizen or national of the United States, or a resident of the United States, Canada, or Mexico.

You must be entitled to claim a Dependent Exemption Credit for your parent. That is, your parent must meet the requirements of a qualifying relative and you must have paid more than half the cost of keeping up a home that was your parent's main home for the entire year. Your parent's main home could have been his or her own home, such as a house or apartment, or could have been any other living accommodation.

Qualifying Child

A qualifying child is a person who meets all of the following tests:

- **Relationship Test.** The person must be one of the relatives listed below or a descendant of such a person:

Birth <u>child</u>	Grandchild
<u>Stepchild</u>	<u>Adopted child</u>
Brother	Sister
Half brother	Half sister
Stepbrother	Stepsister
Nephew	Niece
<u>Eligible foster child</u>	

- **Age Test.** The person must be under 19 years of age or a full-time student under 24 years of age. The person also meets the age test if he or she is permanently and totally disabled at any time during the calendar year. (If the person does not meet the age test to be a qualifying child, he or she may meet the requirements to be a qualifying relative.)
- **Residency Test.** The person must live with you for more than half the year.
- **Support Test.** The person must not have provided more than half of his or her own support.

If your qualifying child was married or an RDP, you must be entitled to a Dependent Exemption Credit for your qualifying child in order to qualify for head of household filing status. Therefore, the qualifying child must also meet the two additional tests for dependency (joint return test and citizenship test.) See Dependent Exemption Credit in this publication for more information.

If you are considered unmarried or considered not in a registered domestic partnership, you must be entitled to a Dependent Exemption Credit for your child, regardless of your child's marital status. See Considered Unmarried or Considered Not in a Registered Domestic Partnership.

- **Special Test for Qualifying Child of More Than One Person.** If two or more taxpayers including a parent claim the same child as a qualifying child for a particular tax year, the person shall be treated as the qualifying child of the taxpayer who is:
 - A parent of the person, or
 - If none of the taxpayers is a parent, the taxpayer with the highest adjusted gross income for the taxable year.

If the parents both claim the same child, their child shall be the qualifying child of:

- The parent with whom the child resided for the greater portion of the taxable year, or
- The parent with the highest adjusted gross income, if the child resides with both parents for the same amount of time during the taxable year.

Qualifying Person

You must have a qualifying person who is related to you to qualify for head of household filing status. Your qualifying person must meet the requirements to be

either a qualifying child or qualifying relative. You must also pay more than half the cost of keeping up your home in which you and the qualifying child or qualifying relative lived for more than half the year. You may not claim yourself, your spouse/RDP, or your tax preparer as your qualifying person.

Qualifying Relative

A qualifying relative is a person who meets all of the following tests:

- **Not a Qualifying Child Test.** Your qualifying person must not meet the requirements to be your qualifying child or the qualifying child of anyone else.
- **Relationship or Member of the Household Test.**¹ The person must be one of the relatives listed below.² If at any time during the year the person was your spouse/RDP, the person cannot qualify as your dependent and you are not entitled to claim a Dependent Exemption Credit for the person.

A person who is not one of the relatives listed cannot qualify you for the head of household filing status. Under no circumstances shall the same person be used to qualify more than one taxpayer for the head of household filing status for the same year.

Birth <u>child</u>	<u>Stepchild</u>
Grandchild	<u>Adopted child</u>
Brother	Sister
Half brother	Half sister
<u>Parent/Stepparent</u>	Grandparent
Stepbrother	Stepsister
Son-in-law	Daughter-in-law
Brother-in-law	Sister-in-law
Father-in-law	Mother-in-law
Uncle ³	Aunt ³
Nephew ⁴	Niece ⁴

- ¹ Any unrelated person who lived with you all year as a member of your household can qualify you for a Dependent Exemption Credit as long as all the other requirements for the credit are met. However, such a person cannot qualify you for head of household filing status. A cousin is a descendant of a brother or sister of your parents and is **not** one of the relatives who by law can qualify you for head of household filing status.
- ² Any one of the relationships listed above that were established when the taxpayer married or entered into a registered domestic partnership are not ended if the taxpayer divorces or terminates the registered domestic partnership, or his or her spouse/RDP dies.
- ³ An uncle or aunt may qualify you only if he or she is the brother or sister of your father or mother.
- ⁴ A nephew or niece may qualify you only if he or she is the child of your brother or sister.

- **Gross Income Test.** To qualify for head of household filing status, your qualifying relative's gross income must be less than the federal exemption amount for the year in question. In addition, you are not entitled to a Dependent Exemption Credit for a qualifying relative whose gross income was equal to or more than the federal allowable dependent exemption amount for that

particular year. If your qualifying relative was married or an RDP, you must consider your qualifying relative's community interest in his or her spouse's/RDP's income in applying the gross income test. For the federal allowable exemption amount, see the federal instruction booklet for that particular tax year. For more information, go to irs.gov and search for **Publication 17, Your Personal Income Tax**.

- **Support Test.** You must provide more than half of a person's total support during the calendar year to meet the support test. To determine whether you have provided more than half the support, compare the amount you contributed for the person's support to the entire amount of support the person received from all sources. All sources include tax-exempt income, such as social security benefits and Temporary Assistance for Needy Families (formerly Aid to Families with Dependent Children), and the person's own funds used for support.

Your contribution may not include any part of the person's support that was paid by the person with the person's own wages, even if you paid the wages. The person's own funds are not support unless they are actually spent for support. Also, see Multiple Support Agreement. For more information, go to irs.gov and search for **Publication 501, Exemptions, Standard Deduction, and Filing Information**.

To qualify for head of household filing status, you must be entitled to a Dependent Exemption Credit for your qualifying relative. Therefore, the qualifying relative must also meet the two additional tests for dependency (joint return test and citizenship test.) See Dependent Exemption Credit in this publication for more information.

Registered Domestic Partner (RDP)

A registered domestic partner is a person who has filed a Declaration of Domestic Partnership with the California Secretary of State. Your RDP cannot be your qualifying person for head of household filing status.

For more information on RDPs, go to irs.gov and search for **Pub. 737, Tax Information for Registered Domestic Partners**.

Spouse

A spouse is a married person. Your spouse cannot be your qualifying person for head of household filing status.

Stepchild

A stepchild is not your birth child but is the birth child or adopted child of your spouse/RDP. To have a stepchild, you must have at some time been married to, or in a registered domestic partnership with, the child's birth parent. You are treated as the child's stepparent if you are in a registered domestic partnership with the child's birth parent.

Support

To determine whether you have provided more than half the support for a person, compare the amount you contributed for the person's support to the entire amount of support the person received from all sources. All sources include tax-exempt income such as social security and welfare benefits, as well as the person's own funds. Your contribution may not include any part of the person's support that was paid by the person with the person's own wages, even if you paid the wages. The person's own funds are not support unless they are actually spent for support. Also, see Multiple Support Agreement and the Support Test under Qualifying Relative.

Temporary Absence

A temporary absence may be due to illness, education, business, vacations, military service, and, in some cases, incarceration.

Even if you, your spouse/RDP, or your qualifying person were temporarily absent from your home, you are considered to have occupied the same household.

For an absence to be temporary, it must be reasonable to assume that you, your spouse or RDP, or your qualifying person will return to the household after the temporary absence, and you must have continued to maintain a household in anticipation of the return.

Unmarried and Not an RDP

You were unmarried and not an RDP if one of the following applied on the last day of the year:

- You were never married and never entered into a registered domestic partnership.
- You received a final decree of divorce, dissolution of registered domestic partnership, or you filed a Notice of Termination of Domestic Partnership with the California Secretary of State and the six-month waiting period for the notice to become final passed. A petition for divorce or dissolution of registered domestic partnership is not the same as a final decree. Until the final decree is issued, a taxpayer who is married or an RDP **remains** married or an RDP.
- You received a final decree of legal separation from your spouse/RDP. A petition for legal separation, an informal separation agreement, or just living apart from your spouse/RDP is not the same as being legally separated under a final decree.
- You received a final decree of annulment of your marriage or registered domestic partnership and you did not marry or enter into a registered domestic partnership after the annulment.
- Your spouse/RDP died in a prior year and you did not remarry or enter into another registered domestic partnership.

If your spouse/RDP was a nonresident alien at any time during the year, you are unmarried and not an RDP for head of household purposes. If you are unmarried and not an RDP, a wider range of relatives can qualify you for head of household filing status. However, if you chose to treat your nonresident alien spouse/RDP as a

resident alien, you remain married or an RDP for head of household purposes. Then, only your child can qualify you for the filing status.

You are considered to have chosen to treat your nonresident alien spouse/RDP as a resident alien if all the following conditions are met:

1. You and your nonresident alien spouse/RDP filed a joint return in a previous year.
2. You chose to treat your nonresident alien spouse/RDP as a resident so you could file the joint return.
3. You have not revoked that choice by the extended due date for filing the return at issue.

For more information, go to irs.gov and search for **Publication 519, U.S. Tax Guide for Aliens**.

Widow or Widower

For tax purposes, marital status is determined as of the last day of the tax year.

- **Death of a Spouse:**

- If your spouse died during the year, you were married at the end of the year.
- If your spouse died during the year and was a nonresident alien spouse at some time during the year, you were unmarried at the end of the year.
- If your spouse died in a prior year and you have not remarried, you are unmarried.

If your spouse died in 2008 or 2009 and you have not remarried or entered into a registered domestic partnership by the end of the year in 2010, you may be able to file as a qualifying widow(er) in 2010 if you have a child living with you whom you can claim as a dependent. The qualifying widow(er) filing status is generally more favorable than the head of household status. For more information, go to irs.gov and search for **Publication 501, Exemptions, Standard Deduction, and Filing Information**.

- **Death of your RDP:**

- If your RDP died during the year, you were an RDP at the end of the year.
- If your RDP died during the year and was a nonresident alien at some time during the year, you were not an RDP at the end of the year.
- If your RDP died in a prior year and you have not entered into another registered domestic partnership, you are not an RDP in the current year.

If your RDP died in 2008 or 2009 and you have not married or entered into another registered domestic partnership by the end of the year in 2010, you may be able to file as a qualifying widow(er) in 2010 if you have a child living with you whom you can claim as a dependent. The qualifying widow(er) filing status is generally more favorable than the head of household status. For more information, go to irs.gov and search for **Publication 501, Exemptions, Standard Deduction, and Filing Information**.

Internet and Telephone Assistance/Asistencia Por Internet y Teléfono Website/Sitio

Web: ftb.ca.gov
Telephone/Teléfono: 800.852.5711 from within the United States/dentro de los Estados Unidos
916.845.6500 from outside the United States/fuera de los Estados Unidos
TTY/TDD: 800.822.6268 for persons with hearing or speech impairments/para personas con discapacidades auditivas y del habla

Common Questions About The Head of Household (HOH) Filing Status

Remember to read the definitions of all of the underlined terms. The definitions of the terms used start on PAGE 7 in this publication. For more frequently asked questions, go to ftb.ca.gov and search for **hoh faq**.

1. I was married or an RDP at the end of the year. Can someone other than my child qualify me for HOH filing status?

No. Because you were married or an RDP, you must meet certain requirements to be considered unmarried or considered not in a registered domestic partnership. One of those requirements is that only your birth child, stepchild, adopted child, or an eligible foster child, who lived with you for more than half the year, can qualify you for HOH filing status.

2. Can I qualify for HOH filing status if the person I think qualifies me did not live with me during the year?

In general, your home must have been the main home for you and your qualifying person for more than half the year. But if you are unmarried and not an RDP, and your parent/stepparent (father or mother) is your qualifying person, your parent does not have to live with you for you to qualify. Also, if your qualifying person did not live with you because of a temporary absence, you may still qualify for the filing status.

3. I was married or an RDP at the end of the year. Can I qualify for HOH filing status if I lived with my spouse/RDP during part of the last six months of the year?

No. Because you were married or an RDP, you must meet certain requirements to be considered unmarried or considered not in a registered domestic partnership. One of those requirements is that you and your spouse/RDP must not have lived together at any time during the last six months of the year. If you and your spouse/RDP lived together during the last six months of the year, you cannot be considered unmarried or considered not in a registered domestic partnership and cannot qualify for HOH filing status.

4. Can I qualify for the HOH filing status even though the person I think qualifies me for the status is not my relative?

Generally, no. Only certain relatives can qualify you for the HOH filing status. However, an eligible foster child who is placed in your home by an authorized placement agency or a court, and for whom you are entitled to claim a Dependent Exemption Credit, can also qualify you for HOH filing status.

