No Exceptions for Child Tax Credit Age Limit

Cross References

• *Polsky,* 3rd Circuit Court of Appeals, December 15, 2016

The Child Tax Credit is allowed under IRC section 24 for each qualifying child of the taxpayer provided the taxpayer's modified AGI is below a certain phaseout range. The IRC section for the Child Tax Credit defines a qualifying child as a child described in IRC section 152(c), who has not attained age 17. IRC section 152(c)(3)(B) provides a special rule for disabled persons. Under this rule, an individual who is permanently and totally disabled shall be treated as meeting the age requirements of IRC section 152(c).

The taxpayers were the parents of a permanently disabled daughter who met the exception for the age limitation described under IRC section 152(c)(3). As a result, they claimed their daughter as a dependent. The taxpayers also claimed the Child Tax Credit for their disabled daughter, but the IRS disallowed the credit on the grounds that she was over age 16 during the relevant tax years.

In court, the taxpayers argued that the Child Tax Credit's definition of a qualifying child, which has an age cap, incorporates by reference a different section of the Internal Revenue Code that has no age cap at all for a person who is permanently disabled. The taxpayers contended that this second definition of a qualifying child in IRC section 152(c)(3) overrides the age cap in IRC section 24(c).

The court said the taxpayers are not entitled to the Child Tax Credit for their disabled daughter. The age-cap exception in IRC section 152(c)(3) does not supplant the separate age limitation in IRC section 24(c)(1). Under the plain and unambiguous language of that code section, the age limitation for the Child Tax Credit in IRC section 24(c)(1) effectively overrides the age requirements and exception for claiming a child as a dependent that are found in IRC section 152(c)(3).

IRC section 24 imports the basic qualifications from IRC section 152(c), and adds an age limitation of 17 years. The age restriction is intended to end the tax credit when the child reaches 17 years of age. In contrast, the special rule applicable to permanently and totally disabled dependents under IRC section 152(c)(3)(B) is calculated to extend the dependency deduction as long as the child is disabled. Therefore, the taxpayer can take a dependent deduction regardless of the child's age as long as the child is permanently and totally disabled, but cannot receive a tax credit for a disabled child who, by the close of the taxable year, was 17 years of age. In other words, the Child Tax Credit is available only when the qualifying child meets the non-age-related requirements of IRC section 152(c) and has not attained age 17.