



Legal Services for
Prisoners with Children

All of Us or None



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This guide provides legal information only, not legal advice or representation.

CARES Act Relief for Incarcerated People

10-8-20

IMPORTANT UPDATE: The deadline for mail-in claims was just extended to October 30, 2020. Please spread the word.

On September 24, 2020, Judge Phyllis J. Hamilton of the U.S. District Court for the Northern District of California issued an Order in *Scholl v. Mnuchin* certifying a nationwide class of people incarcerated in state and federal prisons, and granting a preliminary injunction requiring the U.S. government to **stop withholding CARES Act stimulus funds from plaintiffs or any class member on the sole basis of their incarcerated status**. The court ordered the defendants to reconsider prior denials of advance refund payments based on incarcerated status within 30 days. Incarcerated people can also **file new claims online by November 21, 2020, or by mail by October 30, 2020**. (Deadline for mail-in claims was extended from Oct. 15 to Oct. 30 by court order.) NOTE: Legislation was introduced in Congress to retroactively bar these payments, but as of October 6, 2020 the legislation appeared to be defeated.

The injunction was issued in a class action lawsuit filed on August 1, 2020 by the Lief Cabraser law firm and the Equal Justice Society on behalf of a nationwide class of **people incarcerated (i.e., serving a sentence in a federal, state or county facility) at any time from March 27, 2020 to the present**. NOTE: pretrial detainees are not included because the federal government never denied them CARES Act payments.

Frequently Asked Questions About CARES Act Relief for Incarcerated People

1. What are the benefits available?

Eligible individuals can receive up to \$1,200 per person, or \$2,400 for married couples filing jointly, plus \$500 per qualifying child (lived with you more than half of 2019 and was under 16 as of 12/31/16). Your benefit is reduced if you are high income.

2. Does it cost anything to file a claim with the IRS?

No. You will need to pay postage if you mail in the claim form.

3. Am I eligible?

You are eligible if all of the following is true:

You are a U.S. Citizen or Legal Permanent Resident.

You are not married to someone who lacks a social security number, or have a child who lacks one, UNLESS you or your spouse served in the Armed Forces in 2019.

You filed a tax return in 2018 or 2019 or you were exempt from doing so because your income in 2019 was below \$12,200 a year or, if married and filing jointly, below \$24,400.

You were not claimed as a dependent on another person's tax return.

4. What is the filing deadline?

The IRS has currently set a deadline of November 21, 2020 to file a claim online and October 30, 2020 (postmark date) to file a claim by mail. If you miss the deadline you may be able to seek a refund on your 2020

tax return that you will file in 2021. (See #7: How do I get paid?) Submit the claim for mailing even if you think prison mail delivery will be slow.

5. How do I file a claim?

If you filed a 2018 or 2019 tax return or receive Social Security Benefits or Railroad Retirement Board Benefits, you do not need to file a claim. However, if you did not file a 2018 or 2019 tax return and your income was below \$12,200 (or \$24,400 if filing jointly) in 2019, then you must file an online claim through the IRS's website (<https://www.irs.gov/coronavirus/non-filers-enter-payment-info-here>) or mail in a claim following the instructions in #6.

Online filing: To determine if a loved one can file an online claim on your behalf, call the IRS Hotline: 1-800-829-1040. If you did not file a 2018 return, enter \$0 where the form asks for your 2018 adjusted gross income.

6. Can I file a claim if I do not have a computer?

If you cannot file a claim online or have someone do so on your behalf, then you may file a claim through the mail by **using the attached "EPI2020" 1040 form.**

Filing status: If you are married and filing a joint return, you must enter both Social Security numbers. If you or your spouse was military any time in 2019, enter one spouse's Social Security number and other spouse's Social Security number or individual taxpayer identification number (ITIN).

Name, address: READ FIRST #7: How do I get paid? If you use your prison address, be sure to **include your CDCR number.** If you expect to be released soon, you may be able to list your address post-release. Call the IRS Hotline (1-800-829-1040) to confirm.

Standard Deduction: Check any box that applies. NOTE: If someone else can claim you as a dependent on their taxes, you don't qualify for an Economic Impact Payment.

Dependents: Enter the information for your children who were age 16 or younger on December 31, 2019, and who lived with you for more than half of 2019.

Dependents (4): Check the "child tax credit" box if your child has a Social Security number; Check the "credit for other dependents" box if your child has an Adoption Taxpayer Identification number.

Refund section: If you want your payment deposited to a bank account, put your account information in lines 21b through 21d (account must be in the name of the filer receiving the Payment); Leave the rest of this section blank. (READ FIRST #7. How do I get paid?)

Sign Here section: If you are married and filing jointly, your spouse needs to sign too.

If you reside in California, mail the form to: Department of the Treasury, Internal Revenue Service, Fresno, CA 93888-0002.

7. How do I get paid?

IRS deductions: The IRS will deduct child support debt owed to states and counties from your check.

CDCR deductions: If you list your prison address and do not ask for the check to be deposited directly to a bank account, the check will be sent to the prison and CDCR will deduct restitution, restitution fines, federal court filing fees, and administrative fees like it does with all trust account deposits.

Bank account deposits: If you have a bank account *in your own name*, you can provide that information in the Refund section and the check will be deposited to the account rather than sent to the prison.

CAUTION: before providing information for another person's account, you should call the IRS hotline (1-800-829-1040) to make sure it will not be flagged as fraudulent. (IRS has software that checks all returns against a database of incarcerated people.)

Refund on 2020 taxes: Alternatively, you could not file a claim now and instead claim the CARES Act payment as a refund on your 2020 tax return filed in 2021. Instructions will be available later this year.

8. Can I file a claim if I had no earnings?

Yes. You are eligible for an advanced payment even if you had zero income in 2019.

9. What do I do if I did not file a tax return in 2018 or 2019 and my income was higher than \$12,200 (individually) or \$24,400 (jointly)?

The IRS does not currently have a mechanism in place to offer you an advanced refund if you did not file a 2018 or 2019 tax return but were required to do so because your qualifying income was higher than the amounts above. However, you may still be eligible for a CARES Act credit on your 2020 tax return. You should consult a tax professional for further advice on whether to file a belated 2018 or 2019 tax return, but it is unclear whether doing so at this time will result in issuance of an advance refund to you.

10. Will I hear from the IRS about the status of my claim?

If you file a claim electronically through the online portal, you should receive an email from the IRS advising you when the claim is “approved”. The IRS has also set up a claim tracking system that attempts to provide information about the status of claims within 2 weeks of receiving a claim. IRS states that you can find out the status of your claim by going to: [IRS.gov/getmypayment](https://www.irs.gov/getmypayment).

11. What if I filed a claim but have not received a deposit or a check from the IRS?

The IRS has advised that it is currently taking 4-6 weeks to process claims, from the time the claims “are approved” by the IRS. Please be advised that longer delays may be possible especially for delivery to incarcerated people.

However, once a payment goes out, the IRS has indicated that it will let claimants know by letter that the payment was made: “For security reasons, the IRS plans to mail a letter about the economic impact payment to the taxpayer’s last known address within 15 days after the payment is paid. The letter will provide information on how the payment was made and how to report any failure to receive the payment. If a taxpayer is unsure they’re receiving a legitimate letter, the IRS urges taxpayers to visit [IRS.gov](https://www.irs.gov) first to protect against scams.

If you receive a notice from the IRS that it sent you a payment but you did not receive it, you can call the [IRS help line at 800-919-9835](https://www.irs.gov) to speak with a live person about the issue. The IRS also provides a number of resource links at [IRS.gov](https://www.irs.gov).

12. What do I do if I think that my check was stolen by an identity thief?

You can report it to two government watchdogs (the Federal Trade Commission and the Internal Revenue Service) at the same time. According to their published guidance, here is what to do: Visit [IdentityTheft.gov](https://www.IdentityTheft.gov). Click “Get started.” The next page asks, “Which statement best describes our situation?” Click the line that says, “Someone filed a Federal tax return – or claimed an economic stimulus payment – using my information.” IdentityTheft.gov will ask you some questions so that it can complete an IRS Identity Theft Affidavit (IRS Form 14039) for you, and submit it electronically to the IRS. You can include a personal statement too, to tell the IRS details about how your identity was misused to claim your economic impact payment. **Alternatively, write to FTC Consumer Response Center, 600 Pennsylvania Ave, N.W., Washington, DC 20580 or call 1 (877) ID THEFT (438-4338).**

Whether you’re waiting for your payment, or even if it’s already arrived, keep alert for scammers trying to steal your personal information, your money, or both. **Remember, the IRS will not call, text you, email you, or contact you on social media asking for personal or bank account information – even related to the stimulus payments.** Also, watch out for emails and texts with attachments or links claiming to have special information about the payments. They’re fake, and they may be phishing for your personal information or might download malware to your computer, tablet, or phone.

Lawyers at Lief Cabraser working on the case: Kelly M. Dermody, Yaman Salahi, Jallé Dafa
Lief Cabraser Heimann & Bernstein, LLP, 275 Battery Street, 29th Floor, San Francisco, CA 94111

Form **1040**

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return

(99) **2019**

OMB No. 1545-0074

IRS Use Only—Do not write or staple in this space.

Filing Status Single Married filing jointly Married filing separately (MFS) Head of household (HOH) Qualifying widow(er) (QW)
Check only one box. If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶

Your first name and middle initial		Last name	Your social security number
If joint return, spouse's first name and middle initial		Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions.			Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).			Presidential Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse
Foreign country name		Foreign province/state/county	Foreign postal code
			If more than four dependents, see instructions and ✓ here ▶ <input type="checkbox"/>

Standard Deduction Someone can claim: You as a dependent Your spouse as a dependent
 Spouse itemizes on a separate return or you were a dual-status alien

Age/Blindness You: Were born before January 2, 1955 Are blind Spouse: Was born before January 2, 1955 Is blind

Dependents (see instructions):		(2) Social security number	(3) Relationship to you	(4) ✓ If qualifies for (see instructions):	
(1) First name	Last name			Child tax credit	Credit for other dependents
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

Standard Deduction for—
• Single or Married filing separately, \$12,200
• Married filing jointly or Qualifying widow(er), \$24,400
• Head of household, \$18,350
• If you checked any box under Standard Deduction, see instructions.

1	Wages, salaries, tips, etc. Attach Form(s) W-2		1	
2a	Tax-exempt interest	2a	b	Taxable interest. Attach Sch. B if required
3a	Qualified dividends	3a	2b	\$1
4a	IRA distributions	4a	b	Ordinary dividends. Attach Sch. B if required
c	Pensions and annuities	4c	3b	
5a	Social security benefits	5a	b	Taxable amount
6	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ <input type="checkbox"/>		4b	
7a	Other income from Schedule 1, line 9		4d	
b	Add lines 1, 2b, 3b, 4b, 4d, 5b, 6, and 7a. This is your total income ▶		5b	
7b			6	
8a	Adjustments to income from Schedule 1, line 22		7a	
b	Subtract line 8a from line 7b. This is your adjusted gross income ▶		7b	\$1
9	Standard deduction or itemized deductions (from Schedule A)	9	8a	
10	Qualified business income deduction. Attach Form 8995 or Form 8995-A	10	b	Taxable amount
11a	Add lines 9 and 10		5b	
b	Taxable income. Subtract line 11a from line 8b. If zero or less, enter -0-		8b	\$1
			11a	
			11b	\$0.00

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 11320B

Form **1040** (2019)

12a	Tax (see inst.) Check if any from Form(s): 1 <input type="checkbox"/> 8814 2 <input type="checkbox"/> 4972 3 <input type="checkbox"/>	12a	
b	Add Schedule 2, line 3, and line 12a and enter the total		12b
13a	Child tax credit or credit for other dependents	13a	
b	Add Schedule 3, line 7, and line 13a and enter the total		13b
14	Subtract line 13b from line 12b. If zero or less, enter -0-		14
15	Other taxes, including self-employment tax, from Schedule 2, line 10		15
16	Add lines 14 and 15. This is your total tax		16
17	Federal income tax withheld from Forms W-2 and 1099		17
18	Other payments and refundable credits:		
a	Earned income credit (EIC)	18a	
b	Additional child tax credit. Attach Schedule 8812	18b	
c	American opportunity credit from Form 8863, line 8	18c	
d	Schedule 3, line 14	18d	
e	Add lines 18a through 18d. These are your total other payments and refundable credits		18e
19	Add lines 17 and 18e. These are your total payments		19

• If you have a qualifying child, attach Sch. EIC.
 • If you have nontaxable combat pay, see instructions.

Refund

Direct deposit?
See instructions.

20	If line 19 is more than line 16, subtract line 16 from line 19. This is the amount you overpaid		20
21a	Amount of line 20 you want refunded to you . If Form 8888 is attached, check here <input type="checkbox"/>		21a
b	Routing number <input type="text"/>	c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	
d	Account number <input type="text"/>		
22	Amount of line 20 you want applied to your 2020 estimated tax	22	

Amount You Owe

23	Amount you owe. Subtract line 19 from line 16. For details on how to pay, see instructions		23
24	Estimated tax penalty (see instructions)	24	

Third Party Designee

(Other than paid preparer)

Do you want to allow another person (other than your paid preparer) to discuss this return with the IRS? See instructions. Yes. Complete below. No

Designee's name Phone no. Personal identification number (PIN)

Sign Here

Joint return?
See instructions. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature <input type="text"/>	Date <input type="text"/>	Your occupation <input type="text"/>	If the IRS sent you an Identity Protection PIN, enter it here (see inst.) <input type="text"/>
Spouse's signature. If a joint return, both must sign. <input type="text"/>	Date <input type="text"/>	Spouse's occupation <input type="text"/>	If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.) <input type="text"/>
Phone no. <input type="text"/>	Email address <input type="text"/>		

Paid Preparer Use Only

Preparer's name <input type="text"/>	Preparer's signature <input type="text"/>	Date <input type="text"/>	PTIN <input type="text"/>	Check if: <input type="checkbox"/> 3rd Party Designee <input type="checkbox"/> Self-employed
Firm's name <input type="text"/>	Phone no. <input type="text"/>			
Firm's address <input type="text"/>	Firm's EIN <input type="text"/>			