

CARES Act Stimulus Relief for Incarcerated Recipients

On September 24, 2020, Judge Phyllis J. Hamilton of the U.S. District Court for the Northern District of California issued an Order certifying a nationwide class of people incarcerated in state and federal prisons, and granting the plaintiffs' motion for preliminary injunction requiring the U.S. Department of Treasury, the U.S. Internal Revenue Service, and the United States of America to stop withholding CARES Act stimulus funds from plaintiffs or any class member on the sole basis of their incarcerated status.

On October 15, 2020, the U.S. District Court ordered the IRS to apply an extension of the filing deadline for paper claims to November 4, 2020 so that it would also apply to the claims of the incarcerated in the U.S. The Court thus extended the deadline for postmarked paper claims to November 4, 2020.

The Court also ordered the IRS to immediately correct misinformation on its website, issue accurate and updated guidance to its own employees on claimant eligibility, alert prison officials to the new extensions and other policy rulings, and send direct notice to incarcerated people about this now-expanded claims process.

On October 5, 2020, the IRS announced it was **extending the deadline for filing online claims to November 21, 2020.**

Please note that the IRS has not agreed to approve electronic claims submitted by loved ones and third parties for people currently incarcerated. [Please continue to check this web page for further updates.](#)

The Judge's preliminary injunction further ordered the defendants to reconsider their prior denial of advance refund payments to any person based on incarcerated status within 30 days, whether the denial was based on a 2018 or 2019 tax return, or on claims filed through the IRS's online "Non-Filer" portal.

Earlier, on August 1, 2020, Lief Cabraser and the Equal Justice Society filed a groundbreaking lawsuit against the United States Department of the Treasury and Internal Revenue Service on behalf of a nationwide class of people who were incarcerated at any time from March 27, 2020 to the present—that is, people serving a sentence in state or federal prison. The lawsuit seeks to have a court order the Defendants to issue CARES Act stimulus relief to all eligible incarcerated people, or up to \$1,200 per eligible person plus \$500 per qualifying child.

Note: This case also benefits people who were incarcerated both before and after March 27, 2020. If they were incarcerated both prior to March 27 and at least some time afterward, then the IRS may have denied them an Economic Impact Payment based on their incarcerated status. The Court's preliminary injunction establishes that the IRS should not have done that. If they were only incarcerated before March 27, then they were unaffected by the IRS's policy of denying benefits to incarcerated people, and should have received a stimulus check. If they have not, they can file the same steps below to file a claim with the IRS, if eligible.

Frequently Asked Questions About CARES Act Relief for Incarcerated People

Please be aware that the deadline and the entire process for how to get CARES Act relief funds was set by the government. The Equal Justice Society and Lief Cabraser's role was bringing a lawsuit to ensure that the government didn't prevent incarcerated people and their families from participating in a benefit intended for all Americans.

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. Your benefit is reduced by 5% of any income you earned in a qualifying tax year above \$150,000 if you filed a joint return, \$112,500 if you are the head of a household, or \$75,000 otherwise.

2. How do I know if my children qualify as dependents for purposes of the claim form?

According to the IRS, your children only qualify for a payment if they were age 16 or younger on December 31, 2019, and if they lived with you for more than half of 2019.

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

No. And the lawyers who brought the lawsuit are not asking for or taking any money from class members or their families.

4. Am I eligible?

You are eligible to file a claim if you satisfy all of the following requirements:

- 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

5. What if I entered prison before ever holding a paid job or filing any tax documents on the outside – am I still eligible?

Yes, so long as you meet the other general eligibility requirements listed above in Question 4.

6. If I am on parole, supervised release, released from all restrictions, and/or my record has been expunged, can I make a claim?

Yes. If you meet the other requirements set forth in Questions 4 and 5 above.

7. My loved one is incarcerated and has authorized me to file a claim – is that ok?

Update 10/10/20: We are aware that IRS representatives have been giving conflicting information in response to this question. It has been reported widely that an IRS official advised California correctional authorities (CDCR) that families may file online for their loved ones inside. IRS separately advised counsel that it believes that all claims should be filed by claimants themselves, but despite our requests for clarification IRS has not disagreed that it told CDCR to encourage online filings. We think the IRS is making this unnecessarily confusing, and we will of course update this information if/when we are able. We recommend the use of paper claims, signed by the claimant, as the safest course of action where possible.

Prior: So far, the IRS has rejected our requests to permit friends, family, or lawyers from signing claim forms for incarcerated people, even with documented power of attorney. We do not agree with this position, and think it is unfair and extremely burdensome. We will keep trying to make progress on this request, but in the meantime, please assume that claims must be signed and/or filed by the claimants themselves.

8. What is the filing deadline?

The IRS has set a **deadline of November 4, 2020 to file a paper claim**. This means that claims must be postmarked by November 4. If you have access to a computer, you may file electronically (online) on or by November 21. Please see Question #9 below for more claims filing instructions.

9. 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 should [file an online claim through the IRS's website](#).

NOTE that if you file online, the IRS requires that you answer line 9 of the form, in addition to other required lines. (An answer to line 9 is not required for paper submissions.)

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

If you cannot file a claim online, then you may [file a claim on paper and through the mail by following the instructions here](#).

10a. Where do I mail my completed form?

The IRS has established a **special address for the claims of incarcerated people**:

**Department of the Treasury
Internal Revenue Service
Austin, TX 73301-0003**

However, the IRS will still process claims sent to any of its five EIP claims addresses as listed below.

If you live in...**...use this address**

Alabama, Arkansas, Delaware, Georgia, Indiana, Iowa, Kentucky, Maine, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, South Carolina, Tennessee, Vermont, Virginia

Department of the Treasury
Internal Revenue Service
Kansas City, MO 64999-0002

Arizona, Colorado, Connecticut, District of Columbia, Idaho, Kansas, Maryland, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, West Virginia, Wyoming

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201-0002

Florida, Louisiana, Mississippi, Texas

Department of the Treasury
Internal Revenue Service
Austin, TX 73301-0002

Alaska, California, Hawaii, Illinois, Michigan, Minnesota, Ohio, Washington, Wisconsin

Department of the Treasury
Internal Revenue Service
Fresno, CA 93888-0002

[More information is available on the IRS website.](#)

11. 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.

12. 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.

13. Can I make a claim if I do not have a bank account?

Yes. Just leave blanks in the "refund" section (lines 20-22) on the claim form, which ask for routing and account numbers. The IRS has indicated it will mail checks to people without bank accounts.

14. Can attorneys file online claims on behalf of people in prison?

Attorneys may file online claims for Economic Impact Payments through the IRS's online non-filer tool using the same process for Form 1040s generally. To do so, an individual in prison must complete, sign, and mail a Form 2848 to the IRS, which can be downloaded here (www.irs.gov/pub/irs-pdf/f2848.pdf). The IRS's instructions for filling the form are available here (www.irs.gov/instructions/i2848).

For your reference, we have prepared [an example that may be used as a guide \(click to download\)](#) by attorneys who are not charging a preparation fee and are only assisting an individual with filing a refund claim. After an individual in prison has completed and mailed the form, you may then use the IRS's online non-filer tool to file a refund claim on behalf of an incarcerated individual by the current deadline of November 21, 2020."

15. What do I do if I get a refund check but I am incarcerated? How can I be sure that a check sent to me inside will be allocated properly and not credited to someone else with a similar name?

Please check with your facility to understand its rules on how government tax refund checks will be distributed.

[Read the text of the applicable regulation for California](#), 15 CA ADC § 3140.

In order to be sure that your check is applied correctly once it is sent to a correctional facility, you must add your unique correctional identification number to the line of your claim form that contains your last name. (Please be assured that if you listed your number on a different line of the claim form, IRS will transcribe it

on the correct line before mailing.) Please use whatever shorthand is appropriate for your facility. For example, a correctional number for people in California state prisons is called a CDCR number, and it would be listed like this on your claim form:

John Smith CDCR # 12345
Name of Prison, street or P.O. Box address
City, California zip code

NOTE: Some checks must be sent to a specific prison P.O. box or trust account that is different from your current address of residence. **You are strongly advised to check with correctional authorities to make sure your payment will be properly deposited.**

16. What do I do if I applied for a stimulus check before September 24 and it was rejected, or what do I do if the check was intercepted or returned?

The [court order](#) directed the IRS to automatically re-process these claims by October 24, 2020. We expect that payments will be made on re-processed claims by November 13.

If you do not receive your check or direct deposit by November 13, please [check the IRS website to view the status of your claim: IRS.gov/getmypayment](#)

If you do not receive your payment by November 13, 2020, and do not see it scheduled on the IRS website, please let us know.

17. What information do I need to have before filling out a claim?

You will need:

Full name
Mailing address
Email address
Date of birth
Valid Social Security number (unless you have an Individual Taxpayer Identification Number (ITIN) and are married to a military member)
Bank account and routing number (if you are seeking direct deposit into your own account rather than a check)
Your department of corrections (“CDCR” or “DOC” or “Prison”) number, to be added to your last name line (only if the claimant is residing inside a correctional facility, to ensure check gets applied to the right person), so that your information reads: John Smith #123456

For each qualifying child:

Name
Social Security Number or Adoption Taxpayer Identification Number
Relationship of child to you or your spouse

18. How can I help people learn about stimulus money and making a claim?

We have created 3 forms that may be useful for printing and sharing:

- [Brief flyer about this benefit](#)
- [Claim form](#) for those who did not file tax returns in 2018 or 2019 and, in 2019, earned less than \$12,200 individually (or less than \$24,400 if filing jointly)
- [Claim form grayscale](#) (no color)
- [Sample claim form](#) with examples filled in (**do not submit this form**)
- [Presente una declaración de impuestos simplificada en papel](#)
- [IRS Update dated Oct. 22, 2020](#). Make sure the IRS can deliver your economic impact payment properly to you.
- [IRS Advisory to Prison Officials](#) dated Oct. 20, 2020
- [IRS Letter to Prisons re Eligibility](#) dated Oct. 8, 2020.

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

If you filed 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](#).

Note: Although the status of online claims should be accessible through this website, the IRS has indicated that it might not post any online updates on the status of paper claims.

20. 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.

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 first to protect against scam artists.”

[Payment Eligibility & General Information](#) (Q.A.4)

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

Persons receiving checks inside correctional facilities may experience additional delays in receiving funds, or a reduction of funds depending on the rules of the facility. Please note that the IRS has indicated it, too, will divert payments when there are outstanding debts, such as unpaid child support.

21. 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](#), the government’s one-stop resource for people to report identity theft and get a personal recovery plan. 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.” You’re on your way.

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. You also can download a copy of your completed Affidavit for your files. And, IdentityTheft.gov also will give you a recovery plan with steps you can take to help protect yourself from further identity theft.

Use IdentityTheft.gov to report suspected identity theft only. If you have other concerns about your economic impact payment, visit the [IRS’s Economic Impact Payment Information Center](#) and [Get My Payment Frequently Asked Questions](#) pages for detailed, and frequently-updated, answers to questions. You also can find information here about payments that the IRS may have deposited to an account you don’t recognize.

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.

See [“Did an ID Thief Steal Your Stimulus Payment?”](#) for more information.

22. What is a “class action” or “class action lawsuit”?

A “class action” or “class action lawsuit” is a lawsuit in which a few individuals (plaintiffs) file a law suit against a defendant to protect the interests of a larger group of similar people (the class) affected by the same actions of the defendant. In this case, the plaintiffs are Colin Scholl and Lisa Strawn. The plaintiffs are representing themselves and a national class of incarcerated people who were illegally denied CARES Act (“stimulus”) payments by the Internal Revenue Service (IRS) on the basis of their incarcerated status. A victory in this case means that the IRS has to stop discriminating against people who are incarcerated and award them a CARES Act (“stimulus”) payment if the incarcerated person meets other basic eligibility requirements (described above, in these Frequently Asked Questions).

The eligibility requirements for CARES Act payments were established earlier this year by the United States Congress, and these requirements are **not** the subject of the lawsuit. Likewise, the US government decided the methods through which payments would be made (by direct deposit into bank accounts or by checks

mailed to the claimants), and those methods are **not** the subject of the lawsuit. Finally, the case was filed against the IRS and Treasury Department challenging misconduct by those agencies, and the case is **not** against correctional authorities, meaning that the case does **not** affect correctional policies about mail or income received by people who are incarcerated.

A copy of the complaint is linked below.

23. Can I read the official court documents relating to the case?

Yes, see the list below.

- [Class Action Complaint](#)
- [Preliminary Approval Motion](#)
- [Amicus Brief](#)
- [Order Granting Injunction & Class Certification](#)
- [Order re Notice to Class Members](#)
- [Order dated 10/16/20 re Revised Notice Plan and Extended Claims Deadline](#)

24. Can you tell me more about The Equal Justice Society and Lief Cabraser, who initiated the lawsuit discussed here?

About Lief Cabraser Heimann & Bernstein, LLP

Lief Cabraser Heimann & Bernstein, LLP, is a 100-plus attorney AV-rated law firm founded in 1972 with offices in San Francisco, New York, Nashville, and Munich. Described by *The American Lawyer* as “one of the nation’s premier plaintiffs’ firms,” Lief Cabraser has litigated some of the most important civil cases in the United States and assisted clients in recovering over \$124 billion in verdicts and settlements. In March of 2020, *Benchmark Litigation* named Lief Cabraser its “California Plaintiff Firm of the Year.” Lief Cabraser is committed to access to justice for all.

About The Equal Justice Society

The Equal Justice Society is transforming the nation’s consciousness on race through law, social science, and the arts. Led by President Eva Paterson, its legal strategy aims to broaden conceptions of present-day discrimination to include unconscious and structural bias by using social science, structural analysis, and real-life experience. Currently, EJS targets its advocacy efforts on school discipline, special education, and the school-to-prison pipeline, race-conscious remedies, and inequities in the criminal justice system.

Contact a Lawyer at Lief Cabraser

Partners [Kelly M. Dermody](#) and [Yaman Salahi](#) and Associate [Jallé Dafa](#) are the Lief Cabraser attorneys working on this case.

If you or your loved one is currently serving time in a state or federal facility or was recently released, please contact us for more information about your rights by filling out the form below. Your inquiries in pursuit of legal advice are privileged and confidential, and you will not be charged a fee to speak with us. The information you provide can help us hold the government accountable for its unlawful actions. **NOTE: Please DO NOT submit your Social Security number if you use the online form to contact us.**