



## Commission of Correction

ALLEN RILEY  
Chairman

THOMAS J. LOUGHREN  
Commissioner

### CHAIRMAN'S MEMORANDUM

**NO:** 8-2020

**DATE:** October 20, 2020

**TO:** SHERIFFS, COMMISSIONERS OF CORRECTION, JAIL ADMINISTRATORS, and WARDENS

**RE:** Eligibility of Incarcerated Individuals for CARES Act Economic Impact Payments

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As you may know, a federal court recently issued an [opinion](#) holding that an incarcerated person that is a U.S. Citizen or Legal Permanent Resident is eligible for the economic stimulus payment through the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The [deadline](#) is fast approaching: paper claims must be postmarked **by November 4, 2020**; and online claims must be made by November 21, 2020.

Attached please find a Prisoners' Legal Services of New York summary of eligibility and filing requirements for incarcerated individuals (in both English and Spanish), a Simplified Form 1040 for Economic Impact Payment (EIP), instructions for filing a Simplified Form 1040 for EIP, and a Legal Notice regarding the eligibility of incarcerated individuals for CARES Act EIPs. Please note that the last two documents reference the previous postmark deadline of October 30, 2020 which, as referenced above, has since been extended to November 4, 2020.

Pursuant to Correction Law §44(4), it is hereby requested that every local correctional facility in New York State immediately disseminate a copy of the attached documents to every individual currently incarcerated therein, and thereafter provide a copy to every individual admitted to the facility until November 21, 2020.

Thank you for your anticipated cooperation in this endeavor. If you have any questions, please reach out to the Commission's Office of Counsel at (518) 485-2464.

A handwritten signature in black ink that reads "Allen Riley".

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Allen Riley, Chairman

# PRISONERS' LEGAL SERVICES OF NEW YORK

## NOTICE OF RIGHT TO CARES ACT PAYMENTS

In a nationwide class action lawsuit, a federal court in Northern California has found that otherwise eligible incarcerated individuals and parolees are entitled to CARES Act payments.\*

### Who is Eligible for the Payment?

An **individual** is eligible for the full payment of \$1,200 under the federal CARES Act if he or she:

- Filed a tax return in 2018 or 2019 or was exempt from doing so because his or her 2019 income was under \$12,200;
- Is a U.S citizen or a Legal Permanent Resident;
- Had an income of up to \$75,000;\*\* and
- Was not claimed as a dependent on another person's tax return.

A **married couple filing jointly** is eligible for the full payment of \$2,400, plus \$500 for each qualifying child, if:

- You are a U.S. Citizen or Legal Permanent Resident;
- They filed a tax return in 2018 or 2019 or were exempt from doing so because their 2019 income was under \$24,400;
- They had an income up to \$150,000 if they filed a joint return and up to \$112,500 for a head of household filer;\*\*
- The children were under age 16 on December 31, 2019;
- Both spouses have social security numbers unless one spouse served in the U.S. Armed Forces in 2019; and
- The children have social security numbers unless one spouse served in the U.S. Armed Forces in 2019.

### What Do You need to Do to Get the Payment?

- If you filed a tax return in 2018 or 2019, you do not need to take any action. The payment should come in the mail.
- **If you did not file a tax return in 2018 or 2019 and you are filing by mail, your IRS Form 1040 must be postmarked no later than November 4, 2020.**
- **If you did not file a tax return in 2018 or 2019 and you are filing electronically you must submit IRS Form 1040 by November 21, 2020.**

### Where Do You Get a 2019 Form 1040 and Where Do You send it?

A paper copy of the 1040 form is attached to this Notice. The 1040 form should be sent to Department of the Treasury, Internal Revenue Service, Kansas City, MO 64999-0002

An electronic version of the form is available at: [https://www.lieffcabraser.com/pdf/EIP\\_Form\\_1040.pdf](https://www.lieffcabraser.com/pdf/EIP_Form_1040.pdf)

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\* This case is currently on appeal. Depending on the decision of the appellate court, although eligible to apply, you may not receive a check.

\*\* The payments to individuals with income above these amounts will be reduced according to a formula used by the IRS.

PLS can only verify the accuracy of the information in this Notice through October 19, 2020.

## **PRISONERS' LEGAL SERVICES OF NEW YORK**

### **NOTIFICACIÓN DEL DERECHO A LOS PAGOS DE LA LEY DE CUIDADOS**

En una demanda colectiva de ámbito nacional, un tribunal federal del norte de California ha determinado que los individuos encarcelados y en libertad condicional que reúnan los requisitos necesarios tienen derecho a los pagos de la Ley CARES\*.

#### **¿Quién es elegible para el pago?**

Un **individuo** es elegible para el pago completo de \$1,200 bajo la ley federal CARES si él o ella:

- Presentó una declaración de impuestos en 2018 o 2019 o estaba exento de hacerlo porque sus ingresos en 2019 eran inferiores a \$12,200 dólares;
- Es ciudadano estadounidense o residente legal permanente;
- Tenía un ingreso de hasta \$75.000;\*\*
- No fue reclamado como dependiente en la declaración de impuestos de otra persona.

Una **pareja casada que se presenta en conjunto** es elegible para el pago completo de \$2,400, más \$500 por cada hijo que califique, si:

- Usted es un ciudadano estadounidense o un residente permanente legal;
- Presentaron una declaración de impuestos en 2018 o 2019 o estuvieron exentos de hacerlo porque sus ingresos en 2019 fueron inferiores a 24.400 dólares;
- Tenían un ingreso de hasta \$150,00 si presentaban una declaración conjunta y hasta \$112,500 para un jefe de familia que la presentaba;\*\*
- Los niños eran menores de 16 años el 31 de diciembre de 2019;
- Ambos cónyuges tienen número de seguro social a menos que uno de ellos haya servido en las Fuerzas Armadas de EE.UU. en 2019; y
- Los niños tienen número de seguro social a menos que uno de los cónyuges haya servido en las Fuerzas Armadas de los Estados Unidos en 2019.

#### **¿Qué tiene que hacer para obtener el pago?**

- Si presentó una declaración de impuestos en 2018 o 2019, no necesita tomar ninguna medida. El pago debe llegar por correo.
- **Si no presentó una declaración de impuestos en el 2018 o 2019 y la está presentando por correo, su formulario 1040 del IRS debe tener un sello postal no posterior el 4 de noviembre de 2020.**
- **Si no presentó una declaración de impuestos en 2018 o 2019 y la está presentando electrónicamente, debe presentar el formulario 1040 del IRS a más tardar el 21 de noviembre de 2020.**

#### **¿Dónde se obtiene el formulario 1040 del 2019 y dónde se envía?**

Se adjunta una copia en papel del formulario 1040. El formulario 1040 debe enviarse al Departamento del Tesoro, Servicio de Impuestos Internos, (Department of the Treasury, Internal Revenue Service), Kansas City, MO 64999-0002

Una versión electrónica del formulario está disponible en:

[https://www.lieffcabraser.com/pdf/EIP\\_Form\\_1040.pdf](https://www.lieffcabraser.com/pdf/EIP_Form_1040.pdf)

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\* Este caso está actualmente en apelación. Dependiendo de la decisión de la corte de apelación, aunque sea elegible para solicitarlo, puede que no reciba un cheque.

\*\* Los pagos a personas con ingresos superiores a estas cantidades se reducirán según una fórmula utilizada por el IRS.

PLS sólo puede verificar la exactitud de la información en este aviso hasta el 19 de octubre de 2020.

**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).		<b>Presidential Election Campaign</b> 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):

(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) ✓ if qualifies for (see instructions):	
				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.

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

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

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

**Refund**

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

Direct deposit? See instructions.

**Amount You Owe**

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

**Third Party Designee**

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 <input type="text"/>	Phone no. <input type="text"/>	Personal identification number (PIN) <input type="text"/>
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**Sign Here**

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, <b>both</b> 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"/>		

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

**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"/>			

## Instructions for filing Simplified Form 1040 for purposes of obtaining an Economic Impact Payment

Use these instructions to complete a simplified paper tax return for 2019 for purposes of registering with the IRS for an **economic impact payment (EIP)** under the CARES Act. Pursuant to a court order entered by a court in Scholl v. Mnuchin, No. 20-cv-05309 (N.D. Cal. Oct. 7, 2020), you may register for the EIP by mailing a return that follows these instructions to the IRS no later than **Friday, October 30, 2020**. Alternatively, if you have access to the internet, you may enter your information on the “Non-Filers: Enter Payment Info Here” tool at [www.irs.gov/EIP](http://www.irs.gov/EIP) by **Saturday, November 21, 2020**.

You may use this simplified return filing procedure to request an EIP only if all of the following are true:

1. You are a U.S. Citizen or resident alien,
2. You could not be claimed as a dependent on another person’s tax return,
3. You have a Social Security Number (SSN) that is valid for employment in the United States and was issued before July 15, 2020, and
4. Your income is less than \$12,200 (\$24,400 if you’re married and filing jointly).

Once you complete and sign the return, mail it to the following address: **IRS, Austin, TX 73301-0003**.

### Instructions

- (1) Enter only the information described in these instructions on your Form 1040 or Form 1040-SR.
- (2) Write “EIP2020” on the top of your form if it is not already printed there.

### Filing Status Section

- (3) Check the filing status that applies to you as of December 31, 2019.
- (4) Enter your name, mailing address, and SSN, and the name and SSN of your spouse if filing a joint return. If you or your spouse was a member of the U.S. Armed Forces at any time during 2019, you may enter an SSN for one spouse and either an SSN or an IRS individual taxpayer identification number (that is, an ITIN) for the other spouse.

### Standard Deduction Section

- (5) Check any of the boxes that apply to you (and your spouse if filing a joint return). Remember that if someone else can claim you as a dependent on their taxes, you don't qualify for an EIP.
- (6) If applicable, provide information regarding each of your children who qualify for the EIP. Your child only qualifies for a payment if the child was age 16 or younger on December 31, 2019, and lived with you for more than half of 2019. For each child, provide the name, SSN or Adoption Taxpayer Identification Number (ATIN), and relationship to you. Check the "Child tax credit" box in Column (4) for each child with an SSN. Check the “Credit for other dependents” box for each child with an ATIN.

### Income and Tax sections (Lines 1-11)

- (7) Enter \$1 on lines 2b, 7b, and 8b.
- (8) Enter \$0.00 on line 11b.
- (9) Leave every other line in this section blank.

### Refund section

- (10) If you want your payment deposited directly into your bank, put your bank account information in lines 21b through 21d. The account must be in the name of the filer who is receiving the EIP.
- (11) If you do not enter bank information, we will mail a check to the address you provided on the form.

### Sign Here section

- (12) Sign your name. If you are married and filing jointly, your spouse needs to sign too. By signing, you are saying that everything on the form is true, and you will face a penalty if you have lied.
- (13) If you have an identity protection personal identification number (also called an IP PIN), enter it. If you don't have an IP PIN, you can leave that space blank.
- (14) In addition, you may enter the identifying information of any third-party designee, if applicable.

## LEGAL NOTICE

*A federal court ordered this notice. It is not an advertisement.*

**You are receiving this notice because a federal court has ordered that the IRS may not deny CARES Act Economic Impact Payments to anyone solely because they are incarcerated. If you were incarcerated at any point in 2020, the IRS may not have sent you a payment, and you may need to take action by October 30, 2020 to receive a payment if you are eligible.**

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act,” “Act”). The Act provides emergency relief to eligible individuals in the form of a tax credit for 2020. The Act instructs the IRS to issue advance refunds of 2020 recovery rebate credits to eligible individuals as rapidly as possible, but no later than December 31, 2020.

The IRS has taken the position that people who are incarcerated are not eligible for advance refunds. On September 24, 2020, a federal court ruled that the IRS’s position was likely unlawful. The case is *Scholl v. Mnuchin*, No. 4:20-cv-5309-PJH (N.D. Cal.), *appeal docketed*, No. 20-16915 (9th Cir.). The court ordered the IRS to stop denying payments to people solely because they are incarcerated and ordered the IRS by October 24, 2020 to reconsider making advance refund payments to people who previously filed a 2018 or 2019 tax return or submitted their information through the non-filers portal but did not receive one because they were incarcerated. On October 7, 2020, the court further ordered the IRS to take other actions, including extending the deadline to register for an advance payment on paper from October 15, 2020, to October 30, 2020.

**Who is eligible for an Economic Impact Payment?** Under the Order and CARES Act (as interpreted by the Order), you are eligible if all of the following are true: (1) You are a U.S. Citizen or resident alien; (2) You were not claimed as a dependent on another person’s tax return; and, (3) You have a Social Security Number that is valid for employment in the United States. If you are married and file a joint return, you and your spouse must both have a valid Social Security Number. Only one spouse must have a Social Security Number if you or your spouse served in the Armed Forces in 2019.

**If I am eligible, how much will my payment be?** If you meet the criteria above, your payment will be up to \$1,200 (or \$2,400 if you filed jointly a joint return with your spouse), plus up to \$500 per qualifying child. Your payment will be reduced by 5% of income you received in 2018 or 2019 above: \$150,000 for joint filers, \$112,500 for a head of household, and \$75,000 in all other cases. To issue the advance payment, the IRS will look to information you submitted on a 2019 tax return, a 2018 tax return, certain Federal benefits information (if applicable), or information you submitted on the Non-Filers portal or on a simplified tax return to obtain an advance payment.

**What do I need to do to receive a payment?**

**If you filed a 2018 or 2019 tax return, received Social Security Benefits or Railroad Retirement Benefits in 2019, or previously registered with the IRS through the Non-Filers portal or otherwise to receive a payment,** you do not need to take any action and should receive an automatic payment in the mail or by direct deposit, absent legal developments otherwise (such as a potential reversal of the Order on appeal).

**If you did not file a 2018 or 2019 tax return and your income was below \$12,200 (or \$24,400 if filing a joint return),** but you are an eligible individual as defined above, you must take action quickly to receive an advance payment.

If you have access to the Internet, you can enter information about yourself to register for an advance payment at the following URL by November 21, 2020: <https://www.irs.gov/coronavirus/non-filers-enter-payment-info-here>.

If you do not have access to the Internet, you can register for an advance payment by mailing a Form 1040 to the IRS by October 30, 2020, using abbreviated procedures at the following URL: <https://www.irs.gov/newsroom/file-a-simplified-paper-tax-return>. Mail the Form 1040 submitted under the abbreviated procedures to the following address: **IRS, Austin, TX 73301-0003**.

If you do not meet these deadlines, the IRS may not be able to process your information and issue an advance refund by the end of the year.

If you do not meet these current deadlines, the IRS may not be able to process your claim and issue an advance refund before the end of the year. If you do not file a timely claim, you may not be able to receive a payment unless and until you file a tax return using the Form 1040, *U.S. Individual Income Tax Return* for the 2020 tax year. This form can be filed electronically or by mail when the tax filing season begins in 2021. The IRS has not yet determined whether a simpler process will be available in 2021 for people who are exempt from tax filing requirements. To potentially receive a payment before next year, you should file a claim before the deadlines above.

If you have any question about the payment, call the IRS EIP hotline at (800) 919-9835.