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## How to Get and Protect Your Stimulus Payments

(Updated January 11, 2021)

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## Common Eligibility Issues

I am an adult. Someone claimed me as a dependent on their tax returns in 2019 and 2018, and so I did not receive a stimulus payment. Is there anything I can do to receive a stimulus payment at this time?

I have minor children, but I did not receive the additional \$500 or \$600 per child in stimulus funds. Why did this happen?

Which parent is legally entitled to claim the children as dependents?

As the custodial parent, is there anything I can do to obtain the additional dependent child stimulus funds that the non-custodial parent received?

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Will the additional \$500 stimulus payment I am entitled to receive for a minor child in my household be garnished for back child support payments that I owe for another child?

## Additional Information and Resources

### **What are Stimulus Payments?**

Stimulus (or economic impact) payments were authorized by Congress to provide financial help to people during the COVID pandemic. Congress provided money for two rounds of stimulus payments.

- **First Round.** These payments started in April 2020. They were based on your 2018 or 2019 tax filings and/or your 2020 receipt of Social Security or other federal benefits. Most persons received their first round payments automatically because they: (1) filed a tax return in 2018 or 2019; (2) receive Social Security or other federal benefits; or (3) registered for a payment through an IRS online system.
- **Second Round.** These payments started in late December 2020 and are continuing through January 2021. If you do not receive a second round payment automatically and you believe you are eligible (see below), you can **claim a Recovery Rebate Credit by filing a 2020 tax return.** The credit can be claimed on Line 30 of IRS Form 1040. You can get IRS information about claiming the credit [here](#).

## **The Second Round of Payments**

**I received a payment in the first round. What do I need to do to obtain the additional payment in the second round?**

**Nothing.** All persons who received a first round payment should receive the second round payment **automatically** through the same channel (direct deposit, paper check, or debit card) by which they received the first round payment.

**How much are the second round payments?**

The additional payments in the second round are up to \$600 for each eligible adult and up to \$600 for each qualifying child (depending on income).

**Who is a qualifying child, for the purposes of the second round of stimulus relief?**

A qualifying child is one who was 16 or younger as of December 31, 2019. Thus, neither children who were 17 or older in 2019, nor children born in 2020 are included in the second round of stimulus relief.

**When will I receive my second round payment and how will it be paid?**

The IRS has already sent out most direct deposit payments. The agency says there will be more payments issued in the next week or so.

If the IRS does not have direct deposit information for you, it will either issue a paper check or a debit card called an EIP card. If you received an EIP card in the first round, you will get a new card for the new payment (and not additional value on the old card).

### **What if I never got my stimulus payment in the first round or what if I don't receive my second round payment?**

For a variety of reasons, some potentially eligible persons did not receive first round payments. There also have been glitches in making the second round payments to some persons who received payments in the first round.

But both rounds of payments were made under a system for making advance payments against what is actually a refundable tax credit for Tax Year 2020 called the Recovery Rebate Credit.

*This means that any eligible person who did not receive either a first or second round payment for themselves or for a qualifying child can claim the Recovery Rebate Credit by filing a 2020 tax return. The credit can be claimed on Line 30 of IRS Form 1040. You can get IRS information about claiming the credit [here](#).*

If you need help filing for the Form 1040, you can contact the Financial Stability Network (FSN). They will be helping low and moderate income persons in a remote VITA site operation for the 2020 tax season. You can ask for their help by sending an email to [ccvirtualvita@gmail.com](mailto:ccvirtualvita@gmail.com).

### **What if the bank account where I received my first round payment is now closed? Or what if that account was a temporary account set up by my tax preparation service?**

Unfortunately, if the bank account on file with the IRS is closed, the bank will return the funds to the IRS and you will have to obtain the second round payment by filing a 2020 tax return and claiming a Recovery Rebate Credit.

### **Can I be eligible for a second round payment if I wasn't eligible for a first round payment?**

**Yes, for some people!** Originally, if one spouse in a married couple did not have a Social Security number or was not work eligible, neither spouse could obtain a payment. Congress has changed that and made it retroactive. Now, the spouse who has a Social Security number can obtain payments from both rounds (including payments for qualifying children) by filing a 2020 tax return and claiming a Recovery Rebate Credit.

*For example:* Assume a married couple with two citizen children. Only one spouse has a Social Security Number. That spouse can file a 2020 tax return, claim the Recovery Rebate Credit and should be able to receive \$1,800 (first round payment of \$1,200 and second round payment of \$600) for themselves **and** \$2,200 for their children (\$500 first round payment per child and \$600 in second round payment per child).

In addition, Congress clarified that incarcerated persons are eligible.

## **Who Qualifies for a Stimulus Payment (Either Round)**

### **Who is eligible for a stimulus payment?**

These payments (also known as Economic Impact Payments and Recovery Rebate Credits) are intended for all U.S. [residents](#) (individuals who are either citizens, lawful permanent residents, or persons who reside primarily in the U.S.), who are not dependents of another taxpayer, and who have income under certain amounts.

“[Nonresident aliens](#)” are not eligible to receive payments.

### **Can non-citizens receive these payments?**

Yes, non-citizens with a Social Security number who can prove that they reside primarily in the United States under the IRS "[substantial presence test](#)" are eligible to receive these payments. ***As a result of a recent legislative change, such persons can obtain a payment for both themselves and their dependent children even if a spouse is not eligible (see above).***

For more information on immigrant eligibility for stimulus payments, see the [National Immigration Law Center](#) analysis of the first round stimulus legislation.

## How much are the payments?

There were two rounds of payments.

- In the first round, the amount was up to \$1,200 for each person. A married couple could receive up to \$2,400. There was an additional \$500 for each child under 17 years old.
- The second round added \$600 for each person and another \$600 for each child.

*For example, a couple with two children under 17 could be eligible for a total of up to \$5,800 if they meet all of the other eligibility requirements.*

## What are the income limits to get the full amount of stimulus payments?

It depends on your tax filing status and adjusted gross income. You will get the full amount of the stimulus payment in the following situations:

- **Single filers:** adjusted gross income is at or below \$75,000
- **Heads of household:** adjusted gross income is at or below \$112,500
- **Married persons filing jointly:** adjusted gross income is at or below \$150,000

## What if my income is above these amounts?

Stimulus payments are reduced by \$5 for each \$100 of income above the income limits.

## Will these stimulus payments affect my benefits (like TANF, SNAP, SSI and Medicaid)?

**No.** These payments will not be counted as income or assets for these programs. They will not reduce the amount of benefits you get or cause you to be over income.

## **What if I receive Social Security, SSDI, or SSI and have a representative payee? Where did my advance payment go?**

***If you filed a tax return*** for 2018 or 2019, the payment should have gone to the bank account provided with your request for a refund. If you didn't request a refund or didn't provide your bank account information when you filed, the payment should have been mailed to the address on your tax return.

***If you did not file a tax return*** for 2018 or 2019, ***and*** your representative payee is an individual, the IRS should have sent your payment to the same bank account or Direct Express card where you receive your monthly benefits.

Regardless, this money belongs to you and not to your representative payee!

## **Common Eligibility Issues**

Here are some other reasons why you may not have received an advance stimulus payment for yourself or a child:

- Your adjusted gross income in 2019 was more than \$99,000 for individuals, \$136,500 for head of household filers, or \$198,000 for married couples filing joint returns. ***But if your income was lower in 2020 you may still be able to obtain a payment by claiming a Recovery Rebate Credit on your 2020 tax return.***
- You were claimed as a dependent on someone else's tax return. ***But you may still be able to obtain a Recovery Rebate Credit if you were no longer someone else's dependent in 2020.***
- You don't have a work eligible Social Security number.
- Your spouse does not have a Social Security number so you did not receive a first round payment for yourself or your children. ***But the law has changed so that you may be able to obtain your***

***payments and payments for your children by claiming a Recovery Rebate Credit on your 2020 tax return.***

**I am an adult. Someone claimed me as a dependent on their tax returns in 2019 and 2018. Can I get a stimulus payment at this time?**

**Possibly. If no one claims you as a dependent for the 2020 tax year.** You must file your own 2020 tax return and claim the Recovery Rebate Credit in order to receive stimulus funds based on your eligibility as of 2020.

**I have minor children, but I did not receive the additional \$500 or \$600 per child in stimulus funds. Why did this happen?**

There are at least three reasons this might have happened:

- You did not claim your children as dependents on your most recent tax return; or
- Your child's other parent filed a tax return claiming your children as dependents before you had a chance to do so.
- You received your own payment automatically because you are a Social Security, SSDI, SSI, VA, or Railroad Retirement beneficiary and you did not register your dependents for the additional \$500 payments by the IRS deadline.

In any of these instances, you may be able to obtain the additional payments for your qualifying children by claiming a Recovery Rebate Credit on your 2020 tax return.

**Which parent is legally entitled to claim the children as dependents?**

The custodial parent (*i.e.* the parent with whom the children reside for more than half of a given tax year) has the right to either claim the minor children as dependents on their own tax return, or give the non-custodial parent permission to claim the children as dependents by executing [IRS Form 8332](#) each year.

**As the custodial parent, is there anything I can do to obtain the additional dependent child stimulus funds that the non-custodial parent received?**

**Possibly.** Custodial parents who were not able to receive additional payments for their dependent children during either the first or second round of relief can apply for the Recovery Rebate Credit when they file their 2020 tax returns. There are two important things to remember, however:

- The Recovery Rebate Credit is awarded based on the actual circumstances that were in place in 2020.
  - So if your dependent child was living with you in 2019, but not in 2020, you cannot claim the Recovery Rebate Credit, even if you did not receive the additional dependent stimulus payment for your child last year.
  - Similarly, if you did not receive the dependent child payment last year because someone else claimed your child on their 2019 taxes, **and** your child turned 17 in 2020, you are not able to receive the Recovery Rebate Credit for that child, because the child is no longer a qualifying child as of 2020.
- Even if your dependent children were living with you in 2020, you may not receive the Recovery Rebate Credit if someone else claims the children as dependents on their 2020 tax returns *before* you have had a chance to do so.
  - If you attempt to electronically file your 2020 tax returns claiming dependent children who have already been claimed on someone else's 2020 tax returns, your electronic return will be rejected. At that point, in order to file your 2020 tax return claiming your dependent children, you must file a paper return.
  - This will trigger an IRS audit to determine which parent was the custodial parent in 2020. To prepare for the audit, you should collect evidence that the children resided with you for more than half of the year. Examples of acceptable evidence are listed in [IRS Form 886-H-DEP](#).

- We do not have information on how soon the IRS will start conducting these audits once the paper return is filed.

**I claimed a dependent child on my 2019 tax return and received a \$500 stimulus payment for him in 2020, but that child never lived with me in 2020. Will I have to pay back the \$500 I received?**

No. The law does not require you to pay back money that you receive based on information contained in your 2019 or 2018 tax return, even if that information is no longer accurate in 2020.

**What if I received a payment by mistake or a payment went to someone who died before receiving it?**

The IRS has posted detailed instructions for returning payments made in error. Please see IRS Q&A No. 54 for that information, available here: [Economic Impact Payment Information Center](#).

One common situation is payments going to the account of a person who died before receiving it. There have been other types of mistakes in payments as well. If a person died prior to receipt, the IRS says the payment should be returned. But if a payment was for joint tax filers, only the portion of the payment for the deceased person needs to be returned.

**Protecting Stimulus Payments From Creditors (except for child support)**

**I owe money to the government or to private creditors. Can they take my stimulus payment?**

The government often has the right to keep money from your tax refund (an “offset”) to collect debts you owe them. But the stimulus payments are protected from most offsets for debts owed to federal and state governments.

The new legislation protects the second round of stimulus payments from both government and private creditors. It provides that the new stimulus payments to individuals (the additional \$600 payments) will not be reduced

to offset federal debts or to pay state child support enforcement orders and cannot be garnished by debt collectors.

- Second round relief payments **paid through direct deposit** will be coded in a way that banks can recognize them and automatically protect them if they receive a garnishment order.
- Payments received via paper checks may be subject to garnishment once the funds are deposited and comingled with other funds in a bank account. However, recipients of payments via paper check can request that their financial institution treat the amount of funds in their account (up to the amount of the paper check) as protected from garnishment.

Funds received via the Recovery Rebate Credit claimed while filing your 2020 tax returns (as opposed to the second round of automatic payments) are likely subject to garnishment in the same manner as other tax refunds.

### **Garnishment for Child Support Arrears**

#### **Can my stimulus payment be taken if I owe back child support payments?**

All or part of your first round of stimulus relief was subject to being garnished and applied towards your child support arrears balance. The government has the right to garnish tax refunds of non-custodial parents' owing child support arrears through the Treasury Offset Program. The first round of stimulus relief checks were subject to garnishment under this program as well.

However, the second round of stimulus relief is expressly protected from being offset for child support arrears. Even if an otherwise eligible individual owes back child support in any amount, that individual will still receive the full amount of their second round stimulus relief.

**BUT** funds received via the Recovery Rebate Credit claimed while filing your 2020 tax returns (as opposed to the second round of automatic

payments) are likely subject to garnishment for child support arrears in the same manner as other tax refunds.

**Will the stimulus payments of every non-custodial parent who is behind on child support be taken or reduced?**

**No.** The government will only garnish the stimulus checks of the following individuals:

- Non-custodial parents who owe child support arrears of *at least \$150* for a child(ren) who receives TANF benefits or who is in foster care.
- Non-custodial parents who owe child support arrears of *at least \$500* for a child(ren) who does not receive TANF benefits and who is not in foster care.

**How much of my stimulus payment will be taken for child support arrears?**

If your total child support debt is equal to or greater than the stimulus payment, the government will take your entire payment for child support arrears.

If your total child support debt is less than your stimulus payment, your payment will be reduced by the amount of child support debt you owe.

**Who will receive my garnished stimulus payment?**

The money will be paid to whomever your child support arrears are owed.

The money will go to the custodial parent if the child(ren) at issue has never been in foster care or received TANF benefits (because the child support is owed directly to the custodial parent).

Some or all of the money might go to the District if the child(ren) is or was in foster care or was or is receiving TANF benefits (to repay the government for these benefits).

**Will all or part of my first round stimulus payment be taken if I am married to someone who is behind on child support payments for a child who is not mine?**

**Possibly.** Typically, if you and your spouse file a joint income tax return, your joint tax refund can be garnished for child support you owe. It is, therefore, possible that a married couple's joint stimulus payments will be garnished for the child support debt owed by one spouse.

When a married couple expects their refund to be garnished for the child support debt of one spouse, they can complete and submit [IRS Form 8379](#) (or an Injured Spouse Claim Form) with their joint income tax return. You use this form to ask the IRS to release the portion of the joint tax refund belonging to the spouse who does not owe back child support payments.

Similarly, you should plan to file an Injured Spouse Claim if your joint stimulus payment has been garnished for your spouse's child support debt.

**Will the additional \$500 stimulus payment I am entitled to receive for a minor child in my household be garnished for back child support payments that I owe for another child?**

Yes. All of the first round stimulus relief you receive is subject to garnishment for child support arrears.

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If you would like legal advice about your situation, you can contact Legal Aid. Our Northwest and Southeast offices are closed to the public, but we are open for telephone and online intake. You can apply for our services by calling (202) 628-1161 or [online](#).

**Additional Information and Resources**

**Financial Stability Network (FSN):** email to request assistance [ccvirtualvita@gmail.com](mailto:ccvirtualvita@gmail.com)

**IRS:** FAQs Regarding the First Round (<https://www.irs.gov/coronavirus/economic-impact-payment-information-center>) and the Second Round of Stimulus Payments (<https://www.irs.gov/coronavirus/second-eip-faqs>)

**Social Security Administration:** First Round  
(<https://www.ssa.gov/coronavirus/eip-cares-act/>) and Second Round of  
Stimulus Payments <https://www.ssa.gov/coronavirus/eip2/>

**National Consumer Law Center:** FAQs on Stimulus Payments:  
[https://drive.google.com/file/d/1dlpo\\_Jlb8K-2uAuJZGXYToaYy81EI-50/view](https://drive.google.com/file/d/1dlpo_Jlb8K-2uAuJZGXYToaYy81EI-50/view)