

Updates March 30, 2020 12:00 PM

INDIVIDUAL STIMULUS PAYMENTS AND RETIREMENT PLAN CHANGES:

Excerpts from Forbes.com Tax Aspects of CARES Act 03/25 9:41 PM

<https://www.forbes.com/sites/anthonymitti/2020/03/25/congress-reaches-agreement-on-a-coronavirus-relief-package-tax-aspects-of-the-cares-act/amp/>

INDIVIDUAL STIMULUS PAYMENTS:

Here's how it will work:

The IRS is going to take a look at your 2019 tax return. Fear not, if your 2019 return has not yet been filed, the Service will grab your 2018 return instead. And even better: if you haven't filed a return for EITHER year — for example, you collected Social Security, but did not have enough taxable income to necessitate the filing of a return — the IRS will determine that you are eligible for a check based on your Form SSA-1099, Social Security Benefit Statement.

Once the IRS has either your 2019 return, 2018 return, or Social Security statement, it's going to cut you a check for \$1,200 (if single/\$2,400 if married filing jointly) PLUS \$500 for each child under the age of 17. Unlike the initial version of the bill, the payment is in no way limited to your tax liability or dependent on you having earned a minimum amount of "qualifying income."

Example. A is a single taxpayer. On A's 2019 tax return, A had gross income of \$50,000 and an income tax liability of \$1,000. Despite the fact that A's tax liability for 2019 A was only \$1,000, A is entitled to receive a check for \$1,200.

Example. B is a single taxpayer who has not yet filed a 2019 return. In 2018, he had Social Security income of \$10,000. As a result, he did not file a tax return because his income was less than the \$12,000 standard deduction. The IRS will access B's Social Security statement for 2018, and issue a check to B for \$1,200.

Example. H & W are married with three children. On their 2019 tax return, they reported taxable income of \$60,000 and had a tax liability of \$5,000 before withholding and credits fully eliminated the liability and gave rise to a \$3,000 refund. Nevertheless, H & W will receive a check for \$3,900 from the government as part of the 2020 stimulus payment.

Not *everyone* gets a check, however. You'll need to have provided a valid social security number for yourself, your spouse and any qualifying children on your tax returns, and those who are claimed as a dependent on another's tax return also won't be receiving a payment.

Finally, those on the higher end of the income scale will be shut out of the program because the payment phases out once your "adjusted gross income (AGI)" — think: total income minus a handful of deductions — exceeds \$75,000 (if single, \$150,000 if married). Once over those thresholds, you'll lose \$5 of your payment for every \$100 your AGI exceeds those thresholds. So...

If you are single with no kids and would be due a payment of \$1,200, it will be wiped out completely if your AGI exceeded \$99,000 ($(\$99,000 - \$75,000) * 5\% = \$1,200$).

If you are married with no kids and are due a payment of \$2,400, it will be gone if your AGI exceeded \$198,000 ($(\$198,000 - \$150,000) * 5\% = \$2,400$).

If you've got kids, then obviously, it will take more income before all of the payment is wiped out. For example, a married couple with two children who is eligible for the maximum payment of \$3,400 wouldn't lose all of their payment until AGI exceeded \$218,000.

The payments will be made between now and December 31, 2020 — in many cases, it will be paid electronically if you have provided direct deposit information to the IRS on your 2018 or 2019 tax returns — but it's important to understand that any payment you receive acts as an *advance payment* of a credit you will compute AGAIN on your 2020 tax return.

What that means is that when 2021 rolls around and you prepare your 2020 tax return, you'll have to recompute the amount you're owed *based on 2020 data*. Now, a lot of things may be different in 2020 when compared to 2019 or 2018: you may have more income or less tax liability or fewer kids under age 17...you get the idea. In any event, you'll have to compute the payment owed to you based on 2020 data, and compare it to the advance payment you actually received. If the advance payment was less than what you are owed in 2020 — for example, you were phased out in 2019 but not 2020 or you had another child — the excess will be treated as a credit that reduces your 2020 tax liability.

If the advance payment is GREATER than what you're owed on your 2020 tax return, however, the question becomes: what then? The CARES Act does not explicitly require income recognition for any excess, as was required by its counterpart in the House. Nor is there a mechanism for a taxpayer to repay any excess advance payment. Thus it is entirely possible a taxpayer could, for example, receive an advance payment in 2020 based on 2019 or 2018 income, only to find themselves ABOVE the phase out threshold in 2020, giving rise to no credit on the 2020 return, and yet still not have to repay the excess amount to the IRS.

Putting it all together, there are some people who will NOT receive an immediate check — because they did not file a 2018 or 2019 return and do not receive a Form SSA-1099, Social Security Statement. If that taxpayer files a 2020 return, however, he or she will receive a credit equal to that payment, provided income, filing status and family size haven't significantly changed. In other words, as long as you file a return in ANY ONE of 2018, 2019, or 2020 and don't have income in excess of the phase-out threshold, you'll be getting either an advance payment or a credit.

Example. A is single and 30 years old. In 2017, A decided to go to graduate school full-time. A goes to school in 2018 and 2019, earns no income, and files no tax return. As a result, A does not receive a check for \$1,200 as part of the stimulus package in 2020. If A files a 2020 tax return, however, A will receive a credit against her tax liability in 2020, effectively putting an extra \$1,200 into A's pocket.

RETIREMENT PLAN CHANGES:

Excerpts from Forbes.com Retirement Related Provisions CARES Act 03/26 2:37 PM

<https://www.forbes.com/sites/ebauer/2020/03/26/a-guide-to-the-retirement-related-provisions-in-the-senate-coronavirus-stimulusrelief-bill/amp/>

Individuals affected by the coronavirus will be permitted to take a withdrawal from their retirement accounts (IRAs, 401(k)s, etc.) of up to \$100,000, without paying the usual early-withdrawal penalty. In addition, the sum withdrawn may be recontributed to a retirement account within three years, without being subject to the usual annual contribution caps.

If it's not repaid, the withdrawal will be taxed at ordinary income tax rates over a three-year period. Notably, the definition of eligibility for penalty free early withdrawals is rather expansive, encompassing anyone experiencing any economic effects due to the virus.

In addition, the limit on loans from retirement plans is increased from its existing \$50,000 to \$100,000 and the existing limitation that loans may not exceed half the vested account balance has been removed. Due dates for new loans or loans already outstanding are also to be extended by one year.

Note: the legislation waives the required minimum distributions for IRAs and other individual retirement accounts for calendar year 2020.

Resources (Check for Updates):

Trade Groups:

<https://www.nysra.org/>

<https://www.thenycalliance.org/>

<https://restaurant.org/covid19>

Industry Attorney's:

<https://helbraunlevey.com/coronavirus/>

<https://www.jacksonlewis.com/practice/coronaviruscovid-19>

<https://www.foxrothschild.com/coronavirus-resources/>

Legislation:

<https://www.jacksonlewis.com/publication/new-employer-obligations-under-slightly-revised-families-first-coronavirus-act-hr-6201>

Government:

<https://www.cdc.gov/coronavirus/2019-nCoV/index.html>

<https://www.usa.gov/coronavirus>

<https://www.sba.gov/disaster-assistance/coronavirus-covid-19>

<https://www.tax.ny.gov/press/alerts/nys-tax-response-to-covid-19.htm>

<https://esd.ny.gov/covid-19-help>

<https://www1.nyc.gov/nycbusiness/article/nyc-employee-retention-grant-program>

<https://www.irs.gov/coronavirus>

<https://www1.nyc.gov/site/sbs/businesses/covid19-business-outreach.page>

<https://www.consumerfinance.gov/about-us/blog/protect-yourself-financially-from-impact-of-coronavirus/>