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Frequently Asked Questions: Eligibility and Access to IRS Economic Impact Payments for ORR Populations of Concern

For resettlement partners who are helping clients who are members of ORR populations of concern or others to navigate eligibility and access to the Internal Revenue Service (IRS) Economic Impact Payment (EIP), we share the following information. **It is meant to be educational and informational, not legal advice.**

What are the key terms to understand in order to tell who gets CARES Act stimulus payments from IRS?

Economic Impact Payments (EIP) is the name IRS has given to the stimulus payments from the CARES Act.

Resident Alien for IRS purposes is an IRS term for certain noncitizen taxpayers, not a Homeland Security term.

Green Card Test is one of the tests to determine if a noncitizen has become a resident alien for IRS purposes.

Substantial Presence is the alternative test of whether a noncitizen has become a resident alien for IRS purposes.

Dual-status alien for IRS purposes is a noncitizen who is a nonresident alien part of a year and a resident alien part of the year (for people we serve they generally have this dual-status in their first year admitted to the US).

Resident Alien for a calendar year means the year a person is admitted with a green card or completes accrual of sufficient days to have “substantial presence” to be a “resident alien” (January 1-December 31)

Who qualifies for an IRS EIP, a stimulus payment?

To qualify for an IRS EIP, the stimulus check authorized by the CARES Act, you must:

- have a social security number
- be either
 - a US citizen **OR**
 - a “qualifying resident alien” by Internal Revenue Service (IRS) definition, that is:
 - a resident alien for IRS is anyone with a green card **OR**
 - a resident alien for IRS is someone who has “substantial presence” in US
 - “Substantial presence” means you have spent
 - 31 days in the United States during the current year, and
 - 183 days during the 3-year period that includes the current year
 - And each day in those three years count in the following ways
 - Each day of the present year counts as a full day
 - Each day of the year before the present year counts as a 1/3 day
 - Each day of the year before that only counts as a 1/6 day
- not be someone another taxpayer can claim as a dependent; and
- have an adjusted gross income of less than \$75,000 for an individual filer; less than \$112,500 for a head of household filing; or less than \$150,000 for a couple filing.
 - Note: With incomes below the levels listed above, you would receive the full amount of the stimulus check of \$1200/individual; \$2400/couple; \$500/child (under 17); however, an adjusted share of the EIP goes to incomes up to \$99,000/individual, \$136,500 household head or \$198,000/couple.

If I meet the above eligibility requirements, will IRS automatically send me the EIP?

No. Beyond the above requirements, the person must be part of one of several actions, sharing information with IRS on status, time in the U.S., income, children, etc., that become the basis for IRS to decide whether the person is “a qualified resident alien” and whether to issue an EIP and how much. The actions include:

- file a tax return 1040 or 1040-SR as a “resident alien” with IRS for 2018 or 2019 (Note: IRS advises that if you are eligible to file tax form 1040 or 1040-SR like a U.S. citizen for 2019, you can file it with the IRS for 2019, even if your income level for 2019 does not require you to file a return. This can be the basis for them to send an EIP. See #33, <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>) **OR**
- receive benefits in 2019 from Social Security (that is, retirement, disability, survivor benefits, or supplemental security income), Veterans Administration Compensation and Pension, or Railroad Retirement (Note: IRS says that it will use the information it has from those benefits given in 2019 to direct EIPs to beneficiaries. See question #4, <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>) **OR**
- file an online non-filer form on the IRS website (Note: IRS instructs that non-filer online tool be used only by US Citizens and Legal Permanent Residents who are not required to file [that is, a US citizen or LPR who has an adjusted gross income of less than \$12,200/individual or \$24,400/couple] and do not plan to file their 2018 or 2019 return. See <https://www.irs.gov/coronavirus/non-filers-enter-payment-info-here>). **OR**
- file a tax return 1040 or 1040-SR as a “resident alien” with IRS for 2020 and (if you have not otherwise received the EIP based on being involved in one of the above three actions), claim the EIP as a credit against your 2020 tax obligation. (Notes: IRS confirms that “If you are considered a U.S. resident alien for 2020, but not for 2019, you can claim the Payment when you file Form 1040 or Form 1040-SR with the IRS for tax year 2020.” See #33, <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>)

If someone meets all the eligibility requirements and is known by IRS to be a “qualified resident alien” for online filing of a 2018 or 2019 1040 or 1040SR return or through their 2019 Social Security or Veteran Affairs benefits or Railroad Retirement processes, that person should be automatically receiving his/her check into his/her bank account. The progress of the check payment can be tracked on an IRS tool called “get my payment.” IRS provides guidance for people about whether and how to use the “get my payment” tool, or for those not required to file tax returns or not a beneficiary of certain Social Security, Veterans Administration, or Railroad benefits, whether and how to use the “non-filer tool.” IRS instructs so far that the non-filer tool is for USCAs and qualifying LPRs only. (See <https://www.irs.gov/newsroom/how-to-use-the-tools-on-irs-gov-to-get-your-economic-impact-payment>).

Will I receive an EIP for being part of one of the above actions as a dual-status alien for IRS purposes?

“The CARES Act does not provide a date by which a person must be determined to be a “resident alien” and does not specify the effect of someone changing status between years.” Also, the IRS has not issued any guidance on whether someone who files as a Dual-Status Alien whose U.S. presence began in 2019 will be issued and EIP based on that filing. Regarding being a Dual-Status Alien, for example, for a foreign-born person’s year of arrival to the United States, IRS will consider him/her to be a “Dual-Status Alien”, with some time that first year, prior to arrival, as a “nonresident alien” and the remaining time as a “resident alien.” For those who are considered “resident aliens” by meeting the “green card test”, residency begins on the date the person is admitted to the US as an LPR. For those who meet the “substantial presence test”, residency begins on the first day the person is present in the calendar year when their cumulative days in the United States are sufficient to meet the test. If a person meets both tests, the start date is the earlier of the two start dates. See [IRS.gov/Pub519](https://www.irs.gov/pub/519).

The CARES Act did not specify the date by which someone must meet the requirements for being a “resident alien” nor have they specified which actions a person is involved in as a “Dual-Status” Alien will be used by IRS as a basis for issuing an EIP and which ones will not. Because of this USCCB, RCUSA and others are urging Congress to clarify that refugees and other members of ORR populations of concern who arrive in CY2019 or CY2020 should be considered “resident aliens” for purposes of being eligible to receive a CARES Act EIP.

How do the above eligibility requirements and processes pertain to refugees and asylees?

A refugee or asylee has to have a social security number, must meet the “substantial presence test” to be considered a “resident alien” for IRS purposes for the calendar year, cannot be claimed as a dependent by another taxpayer, and must have an income below the range listed in the answer to question 1. Alternatively, one year after admission as a refugee or asylee, such individuals are eligible to file to adjust refugee or asylee status to legal permanent resident status (i.e., receive a green card). With such a green card, refugees or asylees can apply the “green card test” for “resident alien status”, giving them a second basis for being a “resident alien.”

In either case, a refugee or asylee also must be part of 1 of 4 actions described in question 3 above, sharing information with IRS on status, time in the U.S., income, children, etc., that become the basis for IRS to decide whether the person is “a qualified resident alien” and whether to issue an EIP and for how much.

How do the EIP requirements apply to Afghan/Iraqi SIVs?

Afghan or Iraqi SIVs are admitted to the United States with a green card, making them “resident aliens” for IRS purposes. They also need a social security number, they cannot be someone who can be claimed as a dependent by another taxpayer, and they must meet income requirements as detailed in the answer to question 2. Afghan or Iraqi SIVs also must be part of 1 of 4 actions described in question 3 above, sharing information with IRS on status, time in the US, income, children, etc., that become the basis for IRS to decide whether the person is “a qualified resident alien” and whether to issue an EIP and for how much.

How do the above eligibility requirements and processes pertain to Cuban/Haitian Entrants?

Many Cuban or Haitian Entrants secure a social security number. After one year in the United States, many Cubans adjust to legal permanent resident status, i.e., receive a green card, through the Cuban Adjustment Act. Haitian Entrants are not as likely to attain LPR status. A Cuban or Haitian Entrant, through “substantial presence” or a “green card” must meet the “resident alien” test. Beyond being a “resident alien” and meeting social security number requirements, the Entrant cannot be someone who can be claimed as a dependent by another taxpayer and must have an income below the range listed in response to question 1. Entrants also must participate in 1 of 4 actions described in question 3 above, sharing information with IRS on status, time in the U.S., income, children, etc., that become the basis for IRS to decide whether the person is “a qualified resident alien,” whether to issue an EIP, and for how much.

How do the above eligibility requirements and processes pertain to unaccompanied refugee minors, URM?

A URM must have a social security number, must meet the “green card test” or “substantial presence test” to be considered a “resident alien” for IRS purposes for the calendar year (January 1-December 31), **cannot be someone who could be claimed as a dependent by another taxpayer**, and must have an income below the range listed in the answer to question 2. For example, if a URM (17 or 18) is an independent adult, who can’t be claimed on someone’s tax forms as a dependent, and that URM has the required other eligibility, he/she can qualify for a \$1200/individual payment. Besides meeting these eligibility requirements, URM also must participate in 1 of 4 actions described in question 3, sharing information with IRS on status, time in the U.S., income, children, etc., that become the basis for IRS to decide whether the person is “a qualified resident alien”, whether they issue an EIP, and for how much.

Note that because URM come at various ages and are in various types of care arrangements through the Office of Refugee Resettlement, it would be advisable to get further guidance for URM themselves, URM caretakers, and URM-related social workers regarding questions of eligibility and access to the \$1200/individual payments for independent URM or the \$500/child dependent payments for URM caretakers.

IMPORTANT CAVEAT FOR ALL POPULATIONS: Please note IRS makes almost daily changes to its website explaining access to COVID-19 Economic Impact Payments and other CARES Act tax matters. Monitor IRS Updates: <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>