Economic Stimulus Payments Eligibility and Public Charge Determination

Second Round of Economic Stimulus Payments:

In late December 2020, the US government passed an act which authorized the IRS to begin delivering a new round of pandemic Economic Impact (Stimulus) Payments. The Coronavirus Response and Relief Supplemental Appropriations Act provides a one-time payment of up to $600 per eligible person.

Eligibility
Eligibility for these payments depends on a number of circumstances. To be eligible for the payment, as was the case with the previous stimulus payment, you must be a U.S. resident for tax purposes for the 2020 tax year, you must have a Social Security number, and your income cannot exceed a certain level. The Internal Revenue Service (IRS) has posted FAQs explaining eligibility for the second round of economic stimulus payments. Note that you can be a resident alien for tax purposes but a non-resident for immigration purposes; consult these resources for determining tax residency for more details.

Receiving your payment
If you are eligible for the second round of stimulus payments, or economic impact payments, you should receive your payment automatically, either as a direct deposit to your bank account or by a check or debit card send to you by US Mail. There is no need to contact the IRS to request the payment. However, you can check the status of your payment using the IRS Get My Payment tool.

Public charge considerations
The economic stimulus payments are classified as “refundable tax credits,” i.e. a tax refund that you receive even if the refund is more than what you would have owed in taxes. Because these payments are deemed tax credits, and because the public charge rule specifically does not include consideration of any tax-related cash benefits, receipt of these payments should not factor into the public charge determination. Note that, effective 3/9/2021, USCIS is no longer applying the 2019 Public Charge rule and will apply the more lenient 1999 guidance.

Stimulus Payment Received in Error
If you are not eligible for the stimulus payments because you are a nonresident for U.S. tax purposes for the 2020 tax year, but received one or both economic stimulus payments anyway, you should follow these instructions to return the payment to the IRS. Be sure to keep a copy of the check and of anything else that you send to the IRS.
First Round of Economic Stimulus Payments:

On March 27, 2020 the CARES Act [10] was passed, which provides for the payment of certain economic stimulus payments. These stimulus payments, or economic impact payments [4], are usually provided via direct deposit to one’s bank account or may be sent as a check. Whether one is eligible to receive [11] these payments depends on a variety of factors, including one’s status in the US, and – if you are married and filing a joint tax return – whether your spouse has an ITIN instead of a SSN. Individuals in H-1B, TN and E-3 status (among other statuses) may be eligible to receive these payments if they are a “US resident alien” for tax purposes.

Note that one can be a resident alien for tax purposes but a non-resident for immigration purposes. To determine one’s “alien tax status,” please go here [12]. For more information on immigration-related eligibility criteria, please go here [13].

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If you have any specific questions about your individual eligibility for these economic stimulus payment or the impact of receipt of these payments on your immigration status, please consult with an immigration attorney and/or your tax professional.

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