

The Child Support Federal Tax Offset of CARES Act Economic Impact Payments

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The Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136, enacted March 27, 2020) includes [direct payments to individuals in 2020](#)—referred to by the Internal Revenue Service (IRS) as “[economic impact payments](#)” (\$1,200 per adult/\$2,400 per couple filing a joint return; \$500 for dependent children). These payments are structured as tax credits automatically advanced to households that meet certain criteria. Receiving a recovery rebate in 2020 will not affect a taxpayer’s 2020 income tax liability or tax refund, and taxpayers will generally not need to repay the rebate.

[Section 2201\(d\)](#) of the CARES Act provides that these payments cannot be offset for past due debts to federal agencies, past due state income tax debt, or unemployment compensation debt, but it does not exempt those payments from offset for past-due child support for cases enforced by the [Child Support Enforcement \(CSE\) program](#). This Insight briefly summarizes how the CSE federal tax refund offset mechanism generally operates and the guidance provided by the [Office of Child Support Enforcement \(OCSE\)](#) and the [Department of the Treasury](#) for the offset of these direct payments.

Overview of the CSE Federal Tax Offset

All 50 states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and 60 tribal nations [operate CSE programs](#) pursuant to [Title IV-D of the Social Security Act](#). The program is federally administered by OCSE in the [Administration for Children and Families \(Department of Health and Human Services\)](#). The program is estimated to handle [the majority of all child support cases](#); the remaining cases are handled by private attorneys, collection agencies, or through mutual agreements between parents. In FY2018, the program served [14.7 million children](#) (about 20% of children in the United States) and collected an estimated [\\$34 billion in child support](#), of which [\\$7.7 billion](#) was for obligations that were past-due (“arrear”). The amount of arrears paid were about 7% of the [\\$118.1 billion](#) in cumulative arrears owed to cases enforced by the program.

One of the [enforcement methods](#) available to the CSE program for collecting past-due support is intercepting federal income tax refunds pursuant to [Section 464 of the Social Security Act](#), and [Section 6402\(c\) of the Internal Revenue Code](#). For a refund to be [subject to the “tax offset,”](#) the child support arrears owed by a child support obligor (which may be combined from multiple cases for the same obligor) must be at least

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- \$150 for cases where the custodial family receives [cash payments under the Temporary Assistance for Needy Families \(TANF\) program](#) or where the child [receives assistance through the IV-E foster care program](#), or
- \$500 for all other types of child support cases (“non-TANF” or “Medicaid-only”).

In FY2018, the tax offset mechanism is estimated to have yielded [\\$1.6 billion](#) in collections.

The tax offset mechanism, which is part of the [Federal Collections and Enforcement Program](#), operates through a partnership between OCSE and the Department of the Treasury. [According to OCSE](#), after it transmits to the Treasury information on qualifying obligors, those obligors are sent a Pre-Offset Notice that includes the amount of arrears that are owed at that time of the notice and how to contest that amount. When the Treasury ultimately processes the refund and intercepts the past-due support, it notifies the obligor of the offset and sends the funds to the relevant state child support program via OCSE. The amount that is offset may be based on more up-to-date information about the arrears that are owed than the amount listed in the Pre-Offset Notice.

When the state CSE program receives the offset—usually within two or three weeks of the intercept—it may wait to disburse the funds for up to six months from when they were withheld from a joint tax return because the portion of the refund owed to the “non-obligated” spouse may be recouped. ([Non-obligated spouses](#) may file an [Injured Spouse Allocation Form 8379](#) with the IRS, either with the tax return or after the offset has occurred.)

Collections from the tax offset are subject to the [normal distribution rules](#) that apply to CSE collections. For custodial families that have never received TANF cash assistance, the funds generally go to the family. Collections made on behalf of current TANF families are [assigned](#) to the state and generally [retained](#) to reimburse the state and federal government for the cost of assistance. For former TANF families where past-due support is owed both to the family and the state (from the time that the family received TANF benefits), a state may opt to pay support owed to the family prior to recouping any amount owed to the state ([referred to as “family first” rules](#)). [According to the National Child Support Enforcement Association](#), only a few states and territories distribute tax refund collections for former TANF families under this option, meaning that “nearly all states and territories continue to apply such refunds to any state-assigned debt before past-due support owed to the family.”

CARES Act Economic Impact Payments

[OCSE](#) and [the Treasury](#) have confirmed that these payments are generally subject to CSE tax offset procedures, including the [minimum amount of past-due support](#) that is required for the offset to occur (see above). [The entire economic impact payment](#) may be offset up to the amount of the child support debt owed.

[Additional guidance](#) has been provided for situations where the Economic Impact Payment is received jointly with a spouse who does not owe the child support debt. In such cases, in order to receive their portion of the payment, those spouses may [file an Injured Spouse Allocation Form 8379](#). In cases where individuals who are married filing jointly already included Form 8379 with their 2019 tax filing (or 2018 filing if the 2019 return has not been filed), half of the total Economic Impact Payment will be sent to the non-obligated spouse; only the obligated spouse’s half of the payment will be offset for the past-due support. In these cases, [the Treasury directs](#) “there is no need to file another injured spouse claim for the payment.”

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