

Stimulus Checks for Incarcerated and Returning Citizens!

People who are currently or were recently incarcerated are **now eligible for CARES Act** stimulus checks, up to \$1,200 and an additional \$500 per qualifying child!

How to claim the stimulus check:

- If the currently/recently incarcerated person filed taxes in 2018 or 2019: you do not have to do anything. The IRS has been ordered to send a payment within 30 days to the address listed on the tax return.
- If the currently/recently incarcerated person already submitted an IRS Non-Filer claim and was denied because they were incarcerated: you do not have to do anything. The IRS has been ordered to send a payment within 30 days to the address submitted through the Non-Filer claim.
- If the currently/recently incarcerated person did not file a 2018 or 2019 tax return, and has not yet submitted the IRS Non-Filer claim yet, they MUST submit a claim by October 15, 2020. The Non-Filer claims can be submitted:
 1. Online at
 - https://www.freefilefillableforms.com/#/fd/EconomicImpactPayment, or
 - By filling out and mailing in a hard copy <u>1040 form</u> or <u>1040-SR form</u> if you are 65 or older, found at <u>https://www.irs.gov/newsroom/file-a-simplified-paper-tax-return</u>.

Background:

On September 24, 2020, a judge ordered the IRS to distribute stimulus checks to any eligible person who is incarcerated or recently released. The IRS had previously not issued payments to people who were listed as incarcerated in their system. The IRS now must automatically send stimulus payments to incarcerated people who filed a 2018 or 2019 tax return, or who submitted a claim using the IRS Non-Filer portal but were denied for being incarcerated. The court ordered the IRS to send the payments out within 30 days.

The IRS may appeal the court decision, which could delay the distribution of the stimulus checks, but eligible individuals should still **file by October 15**. Visit <u>https://www.lieffcabraser.com/cares-act-relief</u> for answers to other questions and free legal consultations on stimulus checks for people who are incarcerated.

Note: the October 15, 2020 deadline was extended to November 21, 2020 if using the internet to submit a claim. If submitting a claim by paper, your claim must be postmarked by November 4, 2020.

Lieff Cabraser Heimann& Bernstein

Attorneys at Law

CARES Act Relief for Incarcerated People

On September 24, 2020, Judge Phyllis J. Hamilton of the U.S. District Court for the Northern District of California issued an Order certifying a nationwide class of people incarcerated in state and federal prisons, and granting the plaintiffs' motion for preliminary injunction requiring the U.S. Department of Treasury, the U.S. Internal Revenue Service, and the United States of America to stop withholding CARES Act stimulus funds from plaintiffs or any class member on the sole basis of their incarcerated status.

Read the Frequently Asked Questions (and Answers) relating to this decision, including whether and how to make a claim.

The Judge's preliminary injunction further ordered the defendants to reconsider their prior denial of advance refund payments to any person based on incarcerated status within 30 days, whether the denial was based on a 2018 or 2019 tax return, or on claims filed through the IRS's online "Non-Filer" portal.

Earlier, on August 1, 2020, Lieff Cabraser and the Equal Justice Society filed a groundbreaking lawsuit against the United States Department of the Treasury and Internal Revenue Service on behalf of a nationwide class of people who were incarcerated at any time from March 27, 2020 to the present—that is, people serving a sentence in state or federal prison. The lawsuit seeks to have a court order the Defendants to issue CARES Act stimulus relief to all eligible incarcerated people, or up to \$1,200 per eligible person plus \$500 per qualifying child.

Frequently Asked Questions About CARES Act Relief for Incarcerated People

Please be aware that the deadline and **the entire process for how to get CARES Act relief funds was set by the government**. The Equal Justice Society and Lieff Cabraser's role was bringing a lawsuit to ensure that the government didn't prevent incarcerated people and their families from participating in a benefit intended for all Americans.

^{1.} What are the benefits available?

CARES Act Relief for Incarcerated People

Eligible individuals can receive up to \$1,200 per person, or \$2,400 for married couples filing jointly, plus \$500 per qualifying child. Your benefit is reduced by 5% of any income you earned in a qualifying tax year above \$150,000 if you filed a joint return, \$112,500 if you are the head of a household, or \$75,000 otherwise.

2. Does it cost anything to file a claim with the IRS?

No.

3. Am I eligible?

You are eligible to file a claim if you satisfy all of the following requirements:

- You are a U.S. Citizen or Legal Permanent Resident
- You are not married to someone who lacks a social security number, or have a child who lacks one, UNLESS you or your spouse served in the Armed Forces in 2019
- You filed a tax return in 2018 or 2019 or you were exempt from doing so because your income in 2019 was below \$12,200 a year or, if married and filing jointly, below \$24,400
- You were not claimed as a dependent on another person's tax return

4. What is the filing deadline?

The IRS has currently set a deadline of October 15, 2020 to file a claim. This means that claims must be postmarked (if mailed) or e-filed (if online) on or by October 15.

5. How do I file a claim?

If you filed a 2018 or 2019 tax return or receive Social Security Benefits or Railroad Retirement Board Benefits, you do not need to file a claim. However, if you did not file a 2018 or 2019 tax return and your income was below \$12,200 (or \$24,400 if filing jointly) in 2019, then you should **file an online claim through the IRS's website**.

6. Can I file a claim if I do not have a computer?

If you cannot file a claim online, then you may file a claim on paper and through the mail by following the instructions here.

6a. Where do I mail my completed form?

The address will vary depending on where you live. See the chart below.

If you live in	And you ARE NOT enclosing a payment use this address
Arkansas, Georgia, Indiana, Iowa, Kentucky, Missouri, New Jersey, Oklahoma, Tennessee, Virginia	Department of the Treasury Internal Revenue Service Kansas City, MO 64999-0002
Connecticut, District of Columbia, Maryland, Rhode Island, West Virginia	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0002

Florida, Louisiana, Mississippi, Texas	Department of the Treasury Internal Revenue Service Austin, TX 73301-0002
Alabama, North Carolina, South Carolina	Department of the Treasury Internal Revenue Service Kansas City, MO 64999-0002
Alaska, California, Hawaii, Washington	Department of the Treasury Internal Revenue Service Fresno, CA 93888-0002
Illinois, Michigan, Minnesota, Ohio, Wisconsin	Department of the Treasury Internal Revenue Service Fresno, CA 93888-0002
Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, Oregon, North Dakota, South Dakota, Utah, Wyoming	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0002
Delaware, Maine, Massachusetts, New Hampshire, New York, Vermont	Department of the Treasury Internal Revenue Service Kansas City, MO 64999-0002
Pennsylvania	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0002

More information is available on the IRS website.

7. Can I file a claim if I had no earnings?

Yes. You are eligible for an advanced payment even if you had zero income in 2019.

8. What do I do if I did not file a tax return in 2018 or 2019 and my income was higher than \$12,200 (individually) or \$24,400 (jointly)?

The IRS does not currently have a mechanism in place to offer you an advanced refund if you did not file a 2018 or 2019 tax return but were required to do so because your qualifying income was higher than the amounts above. However, you may still be eligible for a CARES Act credit on your 2020 tax return. You should consult a tax professional for further advice on whether to file a belated 2018 or 2019 tax return, but it is unclear whether doing so at this time will result in issuance of an advance refund to you.

9. Can I make a claim if I do not have a bank account?

Yes. Just leave blanks in the "refund" section (lines 20-22) on the claim form, which ask for routing and account numbers. The IRS has indicated it will mail checks to people without bank accounts.

10. What do I do if I get a refund check but I am incarcerated?

CARES Act Relief for Incarcerated People

Please check with your facility to understand its rules on how government tax refund checks will be distributed. For example, certain California rules provide that:

"Mailroom staff shall deliver all received. . . tax refund checks to the Inmate Trust Office. The Accounting Officer shall notify the facility representative that checks are being held pending determination of eligibility of the inmates to receive the checks. The facility representative shall notify the appropriate agency.

. . .

"Funds shall not be released for spending by the inmate for thirty (30) days from the date of deposit into the inmate trust account and must have cleared the bank upon which they were drawn. When any personal check, money order, cashier's check, certified check, or any other negotiable instrument is received, the face of the envelope in which the funds were received shall be imprinted with a stamp indicating the funds have been accepted at this time. This stamp is not intended to indicate that the funds are immediately available for inmate use, but only that the funds were accepted for processing by the department."

Read the text of the applicable regulation for California, 15 CA ADC § 3140.

11. What information do I need to have before filling out a claim?

You will need:

Full name Mailing address Email address Date of birth Valid Social Security number (unless you have an Individual Taxpayer Identification Number (ITIN) and are married to a military member) Bank account and routing number

For each qualifying child:

Name

Social Security Number or Adoption Taxpayer Identification Number Relationship of child to you or your spouse

11. How can I help people learn about stimulus money and making a claim?

We have created 3 forms that may be useful for printing and sharing:

- Brief flyer about this benefit
- If the claimant did not file a tax return in 2018 or 2019, use this form
- Blank claim form with income information as directed by the IRS for all claimants who in 2019 earned less than \$12,200 (individually) or \$24,400 (if filing jointly)
- Sample claim form with blanks filled in

12. Will I hear from the IRS about the status of my claim?

CARES Act Relief for Incarcerated People

If you filed a claim electronically through the online portal, you should receive an email from the IRS advising you when the claim is "approved". The IRS has also set up a claim tracking system that attempts to provide information about the status of claims within 2 weeks of receiving a claim. IRS states that you can find out the status of your claim by going to: IRS.gov/getmypayment

13. What if I filed a claim but have not received a deposit or a check from the IRS?

The IRS has advised that it is currently taking 4-6 weeks to process claims, from the time the claims "are approved" by the IRS. Please be advised that longer delays may be possible.

However, once a payment goes out, the IRS has indicated that it will let claimants know by letter that the payment was made: "For security reasons, the IRS plans to mail a letter about the economic impact payment to the taxpayer's last known address within 15 days after the payment is paid. The letter will provide information on how the payment was made and how to report any failure to receive the payment. If a taxpayer is unsure they're receiving a legitimate letter, the IRS urges taxpayers to visit IRS.gov first to protect against scam artists."

Payment Eligibility & General Information (Q.A.4)

In the event that you receive a notice from the IRS that it sent you a payment but you did not receive it, you can also call the **IRS help line at 800-919-9835** to speak with a live person about the issue. The IRS also provides a number of resource links at **IRS.gov**

Persons receiving checks inside correctional facilities may experience additional delays in receiving funds, or a reduction of funds depending on the rules of the facility. Please note that the IRS has indicated it, too, will divert payments when there are outstanding debts, such as unpaid child support.

14. What is a "class action" or "class action lawsuit"?

A "class action" or "class action lawsuit" is a lawsuit in which a few individuals (plaintiffs) file a law suit against a defendant to protect the interests of a larger group of similar people (the class) affected by the same actions of the defendant. In this case, the plaintiffs are Colin Scholl and Lisa Strawn. The plaintiffs are representing themselves and a national class of incarcerated people who were illegally denied CARES Act ("stimulus") payments by the Internal Revenue Service (IRS) on the basis of their incarcerated status. A victory in this case means that the IRS has to stop discriminating against people who are incarcerated and award them a CARES Act ("stimulus") payment if the incarcerated person meets other basic eligibility requirements (described above, in these Frequently Asked Questions).

The eligibility requirements for CARES Act payments were established earlier this year by the United States Congress, and these requirements are **not** the subject of the lawsuit. Likewise, the US government decided the methods through which payments would be made (by direct deposit into bank accounts or by checks mailed to the claimants), and those methods are **not** the subject of the lawsuit. Finally, the case was filed against the IRS and Treasury Department challenging misconduct by those agencies, and the case is **not** against correctional authorities, meaning that the case does **not** affect correctional polices about mail or income received by people who are incarcerated.

A copy of the complaint is linked below.

15. Can I read the official court documents relating to the case?

Yes, see the list below.

- Class Action Complaint
- Preliminary Approval Motion
- Amicus Brief
- Order

16. Can you tell me more about The Equal Justice Society and Lieff Cabraser, who initiated the lawsuit discussed here?

About Lieff Cabraser Heimann & Bernstein, LLP

Lieff Cabraser Heimann & Bernstein, LLP, is a 100-plus attorney AV-rated law firm founded in 1972 with offices in San Francisco, New York, Nashville, and Munich. Described by *The American Lawyer* as "one of the nation's premier plaintiffs' firms," Lieff Cabraser has litigated some of the most important civil cases in the United States and assisted clients in recovering over \$124 billion in verdicts and settlements. In March of 2020, *Benchmark Litigation* named Lieff Cabraser its "California Plaintiff Firm of the Year." Lieff Cabraser is committed to access to justice for all.

About The Equal Justice Society

The Equal Justice Society is transforming the nation's consciousness on race through law, social science, and the arts. Led by President Eva Paterson, its legal strategy aims to broaden conceptions of present-day discrimination to include unconscious and structural bias by using social science, structural analysis, and real-life experience. Currently, EJS targets its advocacy efforts on school discipline, special education, and the school-to-prison pipeline, raceconscious remedies, and inequities in the criminal justice system.

Contact a Lawyer at Lieff Cabraser

Partners Kelly M. Dermody and Yaman Salahi and Associate Jallé Dafa are the Lieff Cabraser attorneys working on this case.

If you or your loved one is currently serving time in a state or federal facility or was recently released, please contact us for more information about your rights by filling out the form below. Your inquiries in pursuit of legal advice are privileged and confidential, and you will not be charged a fee to speak with us. The information you provide may help us hold the government accountable for its unlawful actions.

First Name (required)

Last Name (required)

Email address (required)

Telephone
Street Address
City
State
*
Zip
In the box below, please describe whether you or a loved one are currently incarcerated, where the incarcerated individual is currently located, and whether or not they have received a CARES Act payment. We will review your message and contact you as soon as possible.
SEND

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Note: The form, instructions, or publication you are looking for begins after this coversheet.

Please review the updated information below.

Reporting Excess Deductions on Termination of an Estate or Trust on Forms 1040, 1040-SR, and 1040-NR for Tax Year 2018 and Tax Year 2019

Under Proposed Regulations 113295-18, an excess deduction on termination of an estate or trust allowed in arriving at adjusted gross income (Internal Revenue Code (IRC) section 67(e) expenses) is reported as an adjustment to income on Forms 1040, 1040-SR, and 1040-NR; non-miscellaneous itemized deductions are reported, as applicable, on Schedule A (Form 1040 or 1040-SR) or Schedule A (Form 1040-NR); and miscellaneous itemized deductions are not deductible. Taxpayers may rely on the proposed regulations for tax years of beneficiaries beginning after 2017 and before the final regulations are published.

For tax year 2019, an excess deduction for IRC section 67(e) expenses is reported as a write-in on Schedule 1 (Form 1040 or 1040-SR), Part II, line 22, or Form 1040-NR, line 34. On the dotted line next to line 22 or line 34 (depending on which form is filed), enter the amount of the adjustment and identify it using the code "ED67(e)". Include the amount of the adjustment in the total amount reported on line 22 or line 34.

For tax year 2018, an excess deduction for IRC section 67(e) expenses is reported as a write-in on Schedule 1 (Form 1040), line 36, or Form 1040-NR, line 34. On the dotted line next to line 36 or line 34, (depending on which form is filed), enter the amount of the adjustment and identify it using the code "ED67(e)". Include the amount of the adjustment in the total amount reported on line 36 or line 34.

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Form 1040 (2019	9)										Page 2		
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Fill in Sections 2b, 7b, 8b, and 11b as instructed above. Do NOT fill in any other line items.

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structions.	d	Schedule	3, line 14				18d							
	е	Add lines	18a through 18d. The	se are your total o	ther payments	and refundable cre	dits		.)	► <u>1</u>	8e			
	19	Add lines	17 and 18e. These are	e your total payme	ents				.)		19			
lefund	20	If line 19 i	s more than line 16, s	ubtract line 16 from	line 19. This is	the amount you ove	rpaid			. 1	20			
	21a	Amount o	of line 20 you want ref	unded to you. If Fo	orm 8888 is attac	hed, check here				2	1a <mark>B</mark>	ANK ACC	COUNT:	
rect deposit?	►b	Routing n	umber			► c Type:	Checking	🗌 s	aving	s		you have		
e instructions.	►d	Account r	number									at inform rough d.		
	22	Amount o	of line 20 you want app	blied to your 2020	estimated tax	🕨	22				b	ank accou		
mount	23	Amount y	you owe. Subtract line	e 19 from line 16. F	or details on how	v to pay, see instruc	tions			• 2	23 ^{b.}	ank.		
ou Owe	24	Estimated	d tax penalty (see instr	uctions)		🕨	24							
hird Party	Do	you want to	o allow another perso	n (other than your p	oaid preparer) to	discuss this return v	with the IRS	? See inst	tructio	ns.	Y	es. Comp	lete belo	w.
esignee											N	D		
her than id preparer)		signee's			Phone			Persona		ificatio				
		ne 🕨						number	· /					
ign			of perjury, I declare that pplete. Declaration of prep							my knov	vledge	and belief,	they are t	true,
lere	Yo	ur signature	e		Date	Your occupation			lf	the IRS	3 sent	you an lo	lentity	
		J										, enter it	here	_
int return?						Unemployed			(5	see inst	inst.)			
e instructions.	Sp	ouse's sign	nature. If a joint return,	both must sign.	Date	Spouse's occupat	tion					your spo tion PIN,		oro
our records.										see inst				
	Phone no.				Email address						<u> </u>			_
		eparer's nar	me	Preparer's signa			Date		PTIN		(Check if:		-
aid			-									_	arty Desigi	nee
reparer		m'o nome 1		1			Dhono 70					=		
	FIL	m's name I				Phone no.					Self-employed			
se Only	C ¹ -1	m's address								irm's E				

1040	-S	R Department of t	he Treasury—Internal Rever	nue Servi Enior	ice (99) 'S	201	9	OMB No. 15	45-0074	IRS Use Onl	y—Do not v	vrite or stap	le in this space.
Filing Status		Single Head of house	ehold (HOH)		Marr Qual	ied filing jo ifying wido	ow(er) (QW)		Married filin	U .		,
Check only one box.			MFS box, enter th ng person is a chile						HOH	or QW box,	enter tr	ne child	S
Your first nam			· ·	Last na							Your s	ocial sec	urity number
If joint return,	spous	se's first name ar	d middle initial	Last na	ame						Spouse	's social s	ecurity number
Home addres	s (nun	nber and street).	If you have a P.O. bo	ox, see	instruc	ctions.				Apt. no.	Check her	re if you, or y	tion Campaign
City, town or p	post of	fice, state, and ZI	P code. If you have a	foreigr	n addre	ss, also com	olete s	paces below	v (see ii	nstructions).		_	o this fund. will not change you /ou
Foreign country name					reign p	rovince/state	e/coun	ity	Foreig	n postal code			dependents,
Standard Deduction			aim: 🗌 You as a tes on a separate					oouse as al-status a		endent			
	You	II 🗌 Were b	orn before Janua	any 2	1955	- Π Δr	e blir	nd					
Age/Blindness			born before Jan	-			blind						
Dependen (1) First name	t s (se	ee instruction Last name	s):	(2) S	ocial sec	curity number	(3) R	elationship to	you	(4) ↓ Child tax c		es for (see Credit for o	inst.): other dependents
	1	Wages, sala	ries, tips, etc. At	tach	Form(s) W-2 .					. 1		
Attach Schedule B if required.	2a	•	interest	2a		()	k	b Taxable	e inter	rest	. 2k		
	3a	Qualified div	ridends	3a	a		k	o Ordinai	ry divi	dends .	. 3t	5	
J	4a	IRA distribut	ions	4a			1		-	ount		b	
	с	Pensions an	d annuities	4c			6	d Taxable	e amc	ount	. 40	ł	
	5a	Social securi	ty benefits	5a			k	b Taxable	e amc	ount	. 5t	b	
	6	Capital gain c	or (loss). Attach Sch	chedule D if required. If not required, check here . ► □						6			
	7a	Other incom	e from Schedule	e 1, lir	ne 9 .						. 7a	a	
	b	Add lines 1,	2b, 3b, 4b, 4d, 5	5b, 6,	and 7	7a. This is	your	total inc	ome		► 7k	0	
	8a	Adjustments	to income from	Sche	edule	1, line 22					. 8a	a 📃	
Standard	b	Subtract line	e 8a from line 7b.	. This	is yo	ur adjuste	d gr	oss inco	me		► 8k	0	
Deduction	9	Standard de	duction or itemiz	ed de	ducti	ons (from S	Schec	lule A)	9				
See Standard Deduction Chart	10	Qualified busin	ess income deduction	on. Att	ach Fo	orm 8995 or l	Form 8	8995-A	10				
below.	11a	Add lines 9	and 10								. 11	а	
)	b	Taxable inc	ome. Subtract li	ne 11	a fror	n line 8b.	lf zer	o or less,	enter	-0	. 11	b	
Standard	Ad	dd the numbe	r of boxes check	ked in	the "	Age/Blind	ness'	" section	of Sta	andard De	duction	1	. 🕨
Deduction Chart*		your filing atus is	AND the number boxes checked is		-	our standard ction is		our filing		AND the nur boxes check			our standard ction is
Juli	Sir	ngle	1			3,850		ad of		1			0,000
		arried	2			5,500 5,700	nou	usehold		2			3 500
	filir	arried ng jointly	2			27,000 27,000	Ma	rried filing		2			3,500 4,800
	or Qu	alifying	3			28,300		parately		3			6,100
	wie	dow(er)	4			9,600				4			7,400
			chart if someone s on a separate r										our

	12a	Tax (see instructions). Chec	k if any	from:						
		1 🗌 Form(s) 8814 2 🗌 F	orm 49	72 3		12a				
	b	Add Schedule 2, line 3, and	line 12a	a and enter	the total		🕨	▶ 12b		
	13a	Child tax credit or credit for	other de	ependents		13a				
	b	Add Schedule 3, line 7, and	line 13a	a and enter	the total		🕨	▶ 13b		
	14	Subtract line 13b from line 1	14							
	15	Other taxes, including self-e	mploym	nent tax, fro	m Schedule 2,	line 10 .		15		
	16	Add lines 14 and 15. This is	your to	tal tax .			🕨	16		
	17	Federal income tax withheld	from Fe	orms W-2 a	ind 1099			17		
	18	Other payments and refundation	able cre	dits:		1				
 If you have a qualifying child, attach 	а	Earned income credit (EIC)				18a		_		
Sch. EIC. • If you have	b	Additional child tax credit. A	ttach So	chedule 88 [.]	12	18b		_		
nontaxable combat pay,	с	American opportunity credit	from Fo	orm 8863, li	ne 8	18c		_		
see instructions.	d	Schedule 3, line 14				18d				
	е	Add lines 18a through 18d. Thes	e are you	ur total other	payments and i	refundable cre	edits 🕨	18e		
	19	Add lines 17 and 18e. These	are you	ur total pay	ments		🕨	19		
Refund	20	If line 19 is more than line 16, su	20							
	21 a	Amount of line 20 you want refu] 21a							
Direct deposit?	▶ b	Routing number	s							
See instructions.	► d	Account number								
	22	Amount of line 20 you want app	lied to y	our 2020 est	imated tax 🕨	22				
Amount You Owe	23	Amount you owe. Subtract line 1	19 from li	ne 16. For de	tails on how to pa	ay, see instruct	ions 🖡	23		
	24	Estimated tax penalty (see in	nstructio	ons)	🕨	24				
Third Party Designee	Do	you want to allow another person (other the	han your pa	aid preparer) to	discuss this return wi	th the IRS? See ir	structior		Yes. Complete No	below.
(Other than paid preparer)		signee's ne ▶		Phone no. ►			nal identi er (PIN)			
Sign	Under	penalties of perjury, I declare that I how here and belief, they are true, co		nined this retu		/ing schedules a	and stat			
Here	ofwhi	ch preparer has any knowledge.	nect, and			rer (other than t	. ,	,		
	Yo	ur signature		Date	Your occupation		Pr	rotection P	nt you an Identi IN, enter it here	
Joint return? See instructions.	Sp	ouse's signature. If a joint return, both m	ust sian.	Date	Spouse's occupa	tion	· ·	ee inst.) the IRS ser	nt your spouse a	 an
Keep a copy for your records.							ld		ection PIN, ente	
	Ph	one no.		Email address						
Paid	Pre	eparer's name Prep	parer's sig	gnature		Date	PTIN		Check if:	Decignee
Preparer									Self-employ	0
Use Only		n's name						none no. rm's EIN ▶		
Go to www.irs.g		n's address 1040SR for instructions and the latest info	ormation.						Form 1040-SI	R (2019)