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COVID-19 FAQ- Stimulus Checks and Child Support

Benefits Team April 16, 2020

COVID-19 PANDEMIC FAQS ON STIMULUS CHECKS AND CHILD SUPPORT

Last Updated: April 15, 2020

Q. Will my stimulus payment be reduced if I owe child support? YES.

Although the CARES Act exempts stimulus payments from some government tax offset programs, such as student loans, child support arrears are not exempt from tax offset.

Q. Will the intercepted child support arrears go to my children? Maybe.

If your children were on public assistance, and you owe child support arrears that were assigned to the social services district, the rule in New York is that tax offsets first go to the state to pay off these assigned arrears and then the family gets paid child support that it is due. This means that families may not get child support from intercepted taxes until the state is paid.

THIS COULD CHANGE. The federal government is considering whether this rule should be changed so that families could be paid first. We will update this Q and A as soon as we learn whether this rule will be applied.

Q. I am married and filed a joint tax return with my spouse. Our entire stimulus check was intercepted to pay child support arrears that my spouse owes to support children from a previous relationship. Is there anything that I can do to get my share of the stimulus payment back? YES.

You can file an "Injured Spouse" form with the Internal Revenue Service and to seek a refund of your share of the stimulus payment. If you have not filed your taxes yet you can submit it with your tax return, or you can file it afterwards, separately. The form can be found here: <https://www.irs.gov/pub/irs-pdf/f8379.pdf> (<https://www.irs.gov/pub/irs-pdf/f8379.pdf>) and the instructions for filing the form can be found here: <https://www.irs.gov/pub/irs-pdf/i8379.pdf> (<https://www.irs.gov/pub/irs-pdf/i8379.pdf>)

Q. I have lost my job, and have no income. I have not gotten my unemployment benefits or stimulus checks and have no way of paying the child support that I am obliged to pay on a weekly basis. What should I do?

Child support orders can only be modified downward effective as of the date of the filing of a petition seeking downward modification. This means that courts cannot reduce support owed prior to the date that you file your petition. When you lose your job, it is important to immediately file a petition in Family Court seeking a downward modification of child support.

However, at the current time Courts are open only to emergency and essential matters and child support is not considered essential. As a result, the Courts are not accepting petitions at the courthouse for filing. We do not know how the Courts will deal with "date of filing" rule under these circumstances. It may help your case if you fill out a petition for modification now, keep a copy and mail the petition to the Clerk of the Family Court where your current order is based, **with proof of mailing**. That way, when the Courts reopen, you will have proof that you did everything you could to modify your order in a timely way. You can find a modification petition form here:
<https://www.nycourts.gov/courthelp/diy/supportmodification.shtml>
 (https://www.nycourts.gov/courthelp/diy/supportmodification.shtml) We will update this Q and A as soon as we learn more definitively how the Courts will deal with this situation.

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