

Part III - Administrative, Procedural, and Miscellaneous

2008 Economic Stimulus Payments: Filing Instructions for Certain Individuals Not Otherwise Required to File an Income Tax Return

Notice 2008-28

PURPOSE

This notice informs certain individuals not otherwise required to file an income tax return how to request the economic stimulus payment authorized by H.R. 5140, the Economic Stimulus Act of 2008.

BACKGROUND

The Economic Stimulus Act of 2008 (Act) amended § 6428 of the Internal Revenue Code (Code) to provide economic stimulus payments to eligible individuals. For this purpose, an eligible individual is any individual other than a nonresident alien, an estate or trust, or an individual who can be claimed as a dependent under § 151 of the Code for the taxable year. Section 6428(g) authorizes advance refunds and credits of the economic stimulus payments to be made in 2008.

In general, the amount of the 2008 economic stimulus payment is the lesser of: (1) the individual's net income tax liability for 2007, or (2) \$600 (\$1,200 in the case of a joint return). However, as provided in § 6428(b), an individual (or married couple filing jointly) with at least \$3,000 of "qualifying income" in 2007 may receive a minimum

payment of \$300 (\$600 in the case of a joint return), even though the individual (or married couple) has no net income tax liability for 2007. Qualifying income for purposes of § 6428(b) means: (1) earned income includible in gross income for federal income tax purposes; (2) social security benefits (including monthly retirement, survivor and disability benefits, but not including supplemental security income (SSI) payments) and Tier 1 railroad retirement benefits described in § 86(d) of the Code; and (3) disability compensation, disability pension and survivor benefits from the Department of Veterans Affairs pursuant to Chapters 11, 13, or 15 of Title 38 of the United States Code.

In order to receive an economic stimulus payment in 2008, an eligible individual must file an income tax return for 2007. Most eligible individuals are required by § 6012(a) of the Code to file an income tax return because their gross income for 2007 exceeds the sum of their exemption amount plus the applicable standard deduction, or are required by § 6017 of the Code to file an income tax return with respect to self-employment tax on net earnings from self-employment of \$400 or more. Additionally, some eligible individuals who are not required by § 6012(a) or § 6017 to file an income tax return nevertheless file to obtain refunds of withheld tax (e.g., tax withheld on wages under § 31 of the Code).

Eligibility for the 2008 economic stimulus payment, and the amount of that payment, is based on information reported on the taxpayer's filed income tax return for 2007. See § 6428(g). Thus, individuals who are required by § 6012(a) or § 6017 to file an income tax return, or who file to obtain a refund of withheld tax, will not need to file any extra forms or call the Service to request the payment in 2008.

Many individuals with low earned income or other qualifying income (e.g., social security benefits, Tier 1 railroad retirement benefits, and certain disability or survivor benefits from the Department of Veterans Affairs) may not be required by § 6012(a) to file an income tax return and may not file an income tax return to receive a refund of withheld taxes. This notice informs these individuals of the minimum filing necessary to obtain the economic stimulus payment in 2008.

DISCUSSION

Section 6428(g)(1) of the Code treats an eligible individual as having made a payment in 2007 against the income tax in an amount equal to the amount of the economic stimulus payment. Thus, the amount of the 2008 economic stimulus payment is treated as an overpayment of tax for 2007 which, as provided in § 6428(g)(3), the Service is directed to refund or credit to the eligible individual.

Section 6402 of the Code and § 301.6402-3 of the Regulations on Procedure and Administration authorize taxpayers to seek a refund or credit of overpaid income tax by filing a properly executed individual income tax return. In the case of an eligible individual (or married couple filing jointly) who is not required by § 6012(a) or § 6017 to file an income tax return, but who had qualifying income in 2007 that equals or exceeds \$3,000, the Service will treat a Form 1040A prepared in the following manner as a valid claim for refund in the amount of the 2008 economic stimulus payment:

1. In the blank space at the top of page 1 of Form 1040A, eligible individuals should write the words “Stimulus Payment” above the title of the form.
2. Eligible individuals should enter names, mailing address, and social security

numbers on the appropriate lines of Form 1040A and should enter filing status and exemption information on lines 1 through 6d of the form.

3. Eligible individuals should enter wages and other compensation (including net earnings from self-employment) received in 2007 on line 7 of Form 1040A.

4. Eligible individuals should enter qualifying income received in 2007 in the form of social security benefits, Tier 1 railroad retirement benefits and certain veterans' disability or survivor benefits on line 14a of Form 1040A. Individuals who do not have documentation of the exact amount of these government-provided benefits may estimate their annual benefit by multiplying their monthly benefit, prior to any deductions for withheld taxes or Medicare premiums, by the number of months during 2007 that they received the benefit.

5. Eligible individuals who are members of the Armed Forces of the United States should enter any nontaxable combat zone compensation received in 2007 that they elect to treat as earned income on line 40b of Form 1040A.

6. Eligible individuals who request direct deposit of their economic stimulus payment into their account at a bank or other financial institution should complete lines 44b through 44d of Form 1040A. Eligible individuals may not request a deposit of the stimulus payment into an account that is not in the eligible individual's name.

7. Eligible individuals should sign and date the form under the penalties of perjury statement, and should enter the identifying information of any third party designee or paid preparer, if applicable, at the bottom of page 2 of Form 1040A.

Based on the information provided on Form 1040A, the Service will compute the

amount of the stimulus payment that will be refunded or credited.

DRAFTING INFORMATION

The principal author of this notice is Andrew J. Keyso of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact Mr. Keyso at (202) 622-4800 (not a toll-free call).