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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12 **SOUTHERN DIVISION**

13 JANE DOE, individually and on behalf of  
14 others similarly situated,

15 Plaintiff,

16 v.

17 DONALD J. TRUMP, in his individual  
and official capacity as President of the  
18 United States; MITCH MCCONNELL, in  
his individual and official capacity as a  
19 Senator and Sponsor of S. 3548 CARES  
Act; and STEVEN MNUCHIN, in his  
20 individual and official capacity as the  
Acting Secretary of the U.S. Department  
21 of Treasury; CHARLES RETTIG, in his  
individual and official capacity as U.S.  
22 Commissioner of Internal Revenue; U.S.  
DEPARTMENT OF THE TREASURY;  
23 the U.S. INTERNAL REVENUE  
SERVICE; and the UNITED STATES OF  
24 AMERICA,

25 Defendants.

CASE NO: 8:20-cv-00858-SVW-JEM  
*Assigned to the Hon. Stephen V. Wilson*

**PLAINTIFF'S REPLY IN  
SUPPORT OF EX PARTE  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AS TO  
CARES ACT**

Action Filed: May 6, 2020

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\* Application for admission *pro hac vice* forthcoming

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## PROCEDURAL HISTORY

On May 6, 2020, Plaintiff filed a class action complaint (the “Complaint”) challenging the Coronavirus Aid, Economic Relief, and Security Act (the “CARES Act” or “Act”) and alleging violations of her constitutional rights. *See* Dkt. 1. Plaintiff subsequently filed her Emergency Motion (“Em. Mot.”). *See* Dkts. 9 & 11. Defendants filed their opposition to Plaintiff’s *Ex Parte* Application on May 11, 2020 and their memorandum in opposition to Plaintiff’s Emergency Motion (“Memo in Opp.”) on May 26, 2020. *See* Dkts 22 and 23.

The CARES Act creates a refundable tax credit for any eligible individual who holds a social security number (“SSN”) by adding 26 U.S.C. § 6428 to the Internal Revenue Code (“I.R.C.”); Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, Pub. L. No. 116-136, H.R. 748, 116th Cong. (2020). Section 6248 provides an Advance Payment to all eligible individuals on or before December 31, 2020 (the “Advance Payment”). I.R.C. § 6428(f)(3)(A). The Advance Payment should be made “as rapidly as possible,” and Congress directed the Secretary of the Treasury to conduct a public awareness campaign regarding “information about availability of the credit and rebate.” CARES Act, § 2201(e). However, under the exclusion provision found in § 6428(g)(1)(B) (the “Exclusion Provision”), Plaintiff and the Putative Class are not eligible for Advance Payments under the Act because they filed taxes jointly with their spouses, who do not hold SSNs. I.R.C. § 6428(g).

The “Advance Payment” **must be paid** *before* December 31, 2020, or not at all because Congress expressly forbid the Commissioner of Internal Revenue from issuing any Advance Payment later: “[n]o refund or credit shall be made or allowed under this subsection after December 31, 2020.” I.R.C. § 6428(f)(3)(A).

Defendants suggest that the proper procedure for challenging Plaintiff’s eligibility for the Advance Payment is to proceed under I.R.C. § 7422(a). *See* Memo in Opp. at 11. Defendants do not deny that Plaintiff has been denied equal access to



1 the Advance Payment. Instead, Defendants argue that Plaintiff has no standing, and  
 2 may proceed only through a refund suit under I.R.C. § 7422. *See* Memo in Opp. at 7-  
 3 8, 10. Defendants are patently incorrect. An injunction is the only adequate remedy to  
 4 provide Plaintiff equal treatment under the law.

5 As of the date of filing this Reply, Plaintiff continues to be denied  
 6 constitutional rights, as a citizen of the United States, to the Advance Payment that  
 7 has already been issued to over one hundred million Americans and – by its own  
 8 terms – must be issued on or before December 31, 2020, or not at all. I.R.C. §  
 9 6428(f)(3)(A). Injunctive relief must issue here to preserve those rights and prevent  
 10 irreparable harm.

### 11 **ARGUMENT**

12 The Memo in Opp. barely scratches the surface of the CARES Act’s  
 13 constitutional violations and seeks to distract this court’s attention with arguments as  
 14 to why jurisdiction and standing are lacking. This Court’s jurisdiction and Plaintiff’s  
 15 standing are both on firm footing, however, and Defendants’ arguments to the  
 16 contrary should be rejected. Furthermore, Plaintiff’s constitutionally protected rights  
 17 are clearly impacted by the Exclusion Provision. First, marriage is recognized as one  
 18 of the fundamental personal rights essential to the orderly pursuit of freedom and  
 19 happiness, with great importance in our society. *Boddie v. Connecticut*, 401 U.S. 371,  
 20 376 (1971), *citing Loving v. Virginia*, 388 U.S. 1 (1967); *Skinner v. Oklahoma*, 316  
 21 U.S. 535 (1942); *Meyer v. Nebraska*, 262 U.S. 390 (1923). The fundamental right of  
 22 marriage evokes the freedoms of association embodied in our First Amendment.  
 23 USCS Const. Amend. 1. *Roberts v. United States Jaycees*, 468 U.S. 609, 619-20  
 24 (1984). Moreover, the Supreme Court has further established a statute may be held  
 25 constitutionally invalid as applied when it operates to deprive an individual of a  
 26 protected right although its general validity as a measure enacted in the legitimate  
 27 exercise of power is beyond question. *Boddie, supra*, at 379. (“[T]his Court has often  
 28

1 held that a valid statute was unconstitutionally applied in particular circumstances  
 2 because it interfered with an individual's exercise of [First Amendment] Rights").  
 3 Equal Protection and Due Process are implicated when laws discriminate against  
 4 people for: whom they marry; alienage; for poverty; and for class. *Id.* at 385, *citing*  
 5 *Takahashi v. Fish & Game Com.*, 334 U.S. 410 (1948), *Griffin v. Illinois*, 351 U.S. 12  
 6 (1956), *Skinner v. Oklahoma*, 316 U.S. 535 (1942). Indeed, the right to equal  
 7 treatment guaranteed by the Constitution is paramount. As the Supreme Court  
 8 emphatically held in *Heckler*:

9 [W]e have repeatedly emphasized, discrimination itself, by  
 10 perpetuating 'archaic and stereotypic notions' or by stigmatizing  
 11 members of the disfavored group as 'innately inferior' and therefore  
 12 as less worthy participants in the political community, can cause  
 13 serious noneconomic injuries to those persons who are personally  
 14 denied equal treatment solely because of their membership in a  
 15 disfavored group.  
 16 *Heckler v. Mathews*, 465 U.S. 728, 738-40 (1984) (internal citations omitted). Here,  
 17 Plaintiff, because of her marriage to a non-U.S. Citizen, is being stigmatized and  
 18 treated as inferior. An injunction mandating equal treatment would provide redress.

# **I. This Court Has Jurisdiction Over Plaintiff's Claims.**

18 26 U.S.C. § 1331 ("Section 1331") confers jurisdiction over Plaintiff's claims  
 19 upon this Court, as they arise under the Constitution of the United States. Section  
 20 1331 provides "district courts shall have original jurisdiction of all civil actions  
 21 arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. §  
 22 1331. Section 1367 similarly allows jurisdiction over any supplemental claims "that  
 23 are so related to claims in the action within [the court's] original jurisdiction that they  
 24 form a part of the same case or controversy." 28 U.S.C. § 1367(a). Defendants  
 25 maintain that an administrative claim for refund provides Plaintiff's only and  
 26 adequate remedy. *See* Memo in Opp. at 8. Defendants are wrong.

1           **A. Congress Has Waived Sovereign Immunity in this Case.**

2           Where, as here, a plaintiff raises a valid claim that arises under federal law, the  
3 federal government is the defendant, and the suit does not seek money damages,  
4 “jurisdiction is secure.” *Blagojevich v. Gates*, 519 F.3d 370, 371 (7th Cir. 2008). The  
5 Administrative Procedure Act (“APA”), waives sovereign immunity for the kind of  
6 relief Plaintiff seeks, so long as the federal statute at issue authorizes review of  
7 agency action. *Id.* at 372. The APA provides an express waiver of sovereign  
8 immunity where, as here, the plaintiff seeks equitable relief. 5 U.S.C. § 702.<sup>1</sup> The  
9 relevant statute provides:

10           An action in a court of the United States seeking relief other than  
11 money damages and stating a claim that an agency [. . .] acted or  
12 failed to act [. . .] shall not be dismissed nor relief therein be denied on  
13 the ground that it is against the United States or that the United States  
is an indispensable party.

14           5 U.S.C. § 702.

15           In *Blagojevich v. Gates*, the then-governor of Illinois sued the Secretary of  
16 Defense under 28 U.S.C. §§ 1331 and 1346(a)(2). The District Court for the Central  
17 District of Illinois dismissed the suit *sua sponte* because the government had not  
18 waived sovereign immunity and thus, the court lacked jurisdiction. *Blagojevich*, 519  
19 F.3d at 370. The Seventh Circuit Court of Appeals reversed and remanded the case,  
20 holding Section 702 of the APA is generally applicable, regardless of whether a claim  
21 is “under the APA;” and Section 702 governs when “any federal statute authorizes  
22 review of agency action. *Id.* at 372 (citing *Bowen v. Massachusetts*, 487 U.S. 879  
23

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24           <sup>1</sup> Memo in Opp. at 13. “[A]n argument is not ‘new’ when it is made in response to an issue raised in an earlier briefing.  
25 *Baloch v. Norton*, 517 F. Supp. 2d 345 (D.D.C. 2007) (denying plaintiff leave to file a sur-reply when defendant’s  
26 allegedly new argument in the reply was made in response to an issue that plaintiff had raised in the opposition). *Great*  
27 *Am. Ins. Co. v. Berl*, No. CV 17-03767 SJO, 2017 U.S. Dist. LEXIS 222110, at \*3 (C.D. Cal. Oct. 23, 2017). While the  
28 original complaint adequately sets forth Plaintiff’s claims and basis for relief, as well as this Court’s basis for  
jurisdiction, counsel is amending the complaint to more clearly set forth the jurisdictional basis. The amended  
complaint, which is being filed instantaneously, is attached to the accompanying declaration of Joshua D. Boxer (“Boxer  
Decl.”) as Exhibit A.

(1988)) (emphasis in original). The Court of Appeals for the Ninth Circuit reached a similar conclusion when, in *The Presbyterian Church (U.S.A.) v. United States* the court reversed and remanded a case to the District Court of Arizona. 870 F.2d 518 (9th Cir. 1989). The Ninth Circuit rejected an attempt by INS to limit section 702 to agency action, holding, “nothing in the language of the [1976] amendment to [section 702] suggest that the waiver of sovereign immunity is limited to claim challenging conduct falling within the narrow definition of ‘agency action.’” *Id.* at 525.<sup>2</sup>

Provisions such as “5 U.S.C. § 701(a), and § 706(2)(A) allow[] a court to set aside agency action that is ‘not in accordance with law,’” and that law is not limited to “another portion of the APA.” *Id.* The Court of Appeals for the District of Columbia has reached the same conclusion. In *Trudeau v. Federal Trade Commission*, the Federal Trade Commission sought to dismiss a lawsuit for lack of jurisdiction, arguing that the court had no jurisdiction over the infomercial producer plaintiff’s First Amendment claims against the FTC. *Trudeau v. Federal Trade Com’n*, 456 F.3d 178, 184-185 (D.C. Cir. 2006). The Court of Appeals held that Section 1331 provided jurisdiction. *Id.* at 185. The APA’s “waiver of sovereign immunity applies to any suit whether under the APA or not.” *Id.* at 186. *See also Delano Farms Co. v. California Table Grape Com’n*, 655 F.3d 1337, 1334 (Fed. Cir. 2011) (“We hold that section 702 of the APA waives sovereign immunity for non-monetary claims against federal agencies, subject to the limitations in subsections (1) and (2). It is not limited to “agency action” or “final agency action,” as those terms are defined in the APA.); *Michigan v. United States Army Corps of Engineers*, 667 F.3d 765 (7th Cir. 2011) (702 waives sovereign immunity when “any federal statute authorizes review of agency action, as well as in cases involving constitutional law.”).

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<sup>2</sup> Although agency action is not required, it is alleged in the FAC at ¶35

Claims challenging Department of Treasury and Internal Revenue Service action – such as distributing billions of dollars of Advance Payments to United States persons but unconstitutionally excluding U.S. persons who are married to individuals who do not have SSNs – have fared the same. For example, in *Freedom from Religion Foundation, Inc. v. Schulman*, the District Court for the Western District of Wisconsin held that the APA waived sovereign immunity when the Plaintiff challenged IRS policy “pursuant to the Fifth Amendment’s equal-protection clause and the Establishment Clause.” 961 F.Supp.2d 947, 954 (W.D. Wis. 2013). Despite the plaintiff’s lack of identifying final agency action or action that was committed to agency discretion, the court held “the second sentence of § 702 still waives the United States’s [*sic*] sovereign immunity ... because that sentence is not limited to claims brought under the APA itself but **is generally applicable to any action for prospective relief, including an action involving a constitutional challenge.**” *Id.* (emphasis added). Section 702 applies here, because the Treasury Department, has issued Advance Payments to over one hundred million Americans pursuant to the CARES Act, but Plaintiff and the Putative class are ineligible to receive the Advance Payment due to the unconstitutional Exclusion Provision.

**B. Neither the Anti-Injunction Act Nor the Declaratory Judgment Act Bar Plaintiff’s Claims.**

Defendants correctly point out that that the CARES Act creates a “refundable tax credit.” *See* Memo in Opp. at 8. It is precisely for that reason – that the CARES Act created a refundable tax *credit* and not a *tax* – that neither the Anti-Injunction Act (“AIA”) nor the Declaratory Judgment Act (“DJA”) bar this Court’s review of Plaintiff and the Putative Class’s claims. Both the AIA’s text and its prior conclusive judicial interpretation make clear that Plaintiff’s claims cannot be construed as an attempt to “restrain[] the assessment and collection of any tax [...]” within the

1 meaning of the statute, thereby removing the predicate that is essential for applying  
2 the AIA.

3 The AIA does not bar this suit because Plaintiff and the Putative Class do not  
4 seek to restrain assessment or collection of tax. The Anti-Injunction Act provides:

5 Except as provided [...] no suit for the purpose of restraining the  
6 assessment or collection of any tax shall be maintained in any court by  
7 any person, whether or not such person is the person against whom  
such tax was assessed.

8 I.R.C. § 7421(a). The CARES Act creates a refundable tax credit to be  
9 distributed as an Advance Payment. Providing equal access to the Advance Payment  
10 to Plaintiff and the Putative Class will not restrain assessment or collection of tax.  
11 I.R.C. § 6428(f)(3(A). The DJA, 28 U.S.C. § 2201(a), which generally bars federal  
12 courts from granting declaratory judgments “with respect to Federal taxes,” has been  
13 deemed to be “coterminous” with the AIA. *Fla. Bankers Ass’n v. U.S. Dep’t of the*  
14 *Treasury*, 799 F.3d 1065, 1067 (D.C. Cir. 2015) (citing *Cohen v. United States*, 650  
15 F.3d 717, 730-31 (D.C. Cir. 2011) (*en banc*)); see also *Bob Jones Univ. v. Simon*, 416  
16 U.S. 725, 733 n.7 (1974). Accordingly, neither the AIA or the DJA inhibit this  
17 Court’s jurisdiction or the APA’s waiver of sovereign immunity.

18 The Advance Payment is not a tax. The AIA’s text denies a court’s jurisdiction  
19 from maintaining a “suit for the purpose of restraining the assessment or collection of  
20 any tax.” I.R.C. § 7421 (emphasis added). The Supreme Court emphasized the term  
21 “tax” in AIA’s text in *National Federation of Independent Business v. Sebelius*, 567  
22 U.S. 519, 543-46 (2012) (“*NFIB*”), as it considered whether the AIA precluded the  
23 Court from considering the merits of a constitutional challenge to the Affordable Care  
24 Act before payment of the shared responsibility payment. The Court noted that  
25 “Congress’s decision to label this exaction a ‘penalty’ rather than a ‘tax’ is  
26 significant.” *NFIB*, 567 U.S. at 544.  
27  
28



1 The AIA applies only when the item at issue is an “exaction,” i.e., an amount  
 2 due the Government, when Congress chooses to call that exaction a “tax.” The D.C.  
 3 Circuit took that rationale to its logical conclusion in *Florida Bankers Association v.*  
 4 *U.S. Department of the Treasury*, 799 F.3d 1065, 1067 (D.C. Cir. 2015), declining to  
 5 reach the merits of a challenge to a regulation imposing reporting requirements on  
 6 banks, a “penalty” codified at 26 U.S.C. § 6721(a). Then-Judge Kavanaugh stated  
 7 that “any reference in this title to ‘tax’ imposed by this title shall be deemed also to  
 8 refer to the penalties and liabilities provided by this subchapter.” *Id.* at 1068. He  
 9 explained, “[i]f the penalty here were not itself a tax, the Anti-Injunction Act would  
 10 not bar this suit.” *Id.* at 1069.<sup>3</sup>

11 Defendants correctly compare the Earned Income Tax Credit (“EITC”) to the  
 12 CARES Act Advance Payment. *See* Memo in Opp. at 8. The EITC is a refundable tax  
 13 credit intended “to negate the disincentive to work caused by Social Security taxes.”  
 14 *Sorenson v. Sec’y of Treasury of U.S.*, 475 U.S. 851, 858 (1986). It is precisely for  
 15 that reason – that the EITC is a refundable tax credit **and not a tax** – that courts have  
 16 unequivocally held that the AIA and the DJA do not apply to bar class action lawsuits  
 17 based upon refundable tax credits. For example, in *Nelson v. Regan*, 731 F.2d 105 (2d  
 18 Cir. 1984), a certified class sought declaratory and injunctive relief because  
 19 refundable portions of the EITC were being intercepted pursuant to section 6402(c) of  
 20 the I.R.C. to satisfy past due child support obligations. On appeal, the Second Circuit  
 21 held that neither the AIA nor the DJA barred a hearing on the merits, because “the tax  
 22  
 23

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24 <sup>3</sup> By comparison, and as Defendants agree (Memo in Opp. at 8), the Advance Payment under section 6428 is a  
 25 refundable credit—the inverse of an exaction or a tax. In other words, unlike in *Florida Bankers Association*, where  
 26 section 6671(a) deemed the payment at issue a tax for all “purposes of title 26,” section 6211(b)(4) requires that the  
 27 payment at issue here be considered “negative amounts of tax” only for defining a deficiency. Because a section 6428  
 28 refundable credit is the opposite of an exaction, and no provision of the Code deems it a negative amount of tax for all  
 purposes of title 26, or at least for purposes of section 7421, by its terms the latter does not apply. Thus, the Advance  
 Payment is not a tax and there is no bar to Plaintiff’s claims being before this Court.



1 intercept program [seizing past due child support] does not apply to refunds or  
2 payments of earned income credits.” *Id.* at 110-12.

3 A circuit split developed on the issue when the Ninth Circuit came out the  
4 other way in *Sorenson v. Sec’y of Treasury of U.S.*, 752 F.2d 1433 (9th Cir. 1985),  
5 holding that ETICs *were* subject to being intercepted under section 6402(c). The  
6 Ninth’s Circuit’s holding was premised on the conclusion that the EITC was  
7 “*undisputedly owed to petitioner* and undisputedly not owed to the United States *as*  
8 *taxes.*” *Sorenson*, 752 F.2d at 1437 (emphasis added). Eventually, the Supreme Court  
9 resolved that circuit split by siding with the Ninth Circuit in *Sorenson v. Sec’y of*  
10 *Treasury of U.S.*, 475 U.S. 851 (1986), holding that the EITC was subject to the past  
11 due child support intercept program. Critically, however, the Government raised  
12 neither the AIA nor the DJA at the Supreme Court. Thus, every court to hear a  
13 challenge to the propriety of including refundable EITCs in tax refunds intercepted  
14 and directed toward back child-support obligations was able to proceed to the merits  
15 of the challenge, notwithstanding the AIA or DJA.

16 Refundable tax credits like the Advance Payment are “undisputedly not owed  
17 to the United States *as taxes*” (*Sorenson*, 752 F.2d at 1437) and do not implicate the  
18 AIA or the DJA.<sup>4</sup> Sovereign immunity is unequivocally waived by the APA, and  
19 neither the AIA nor the DJA create any additional jurisdictional hurdles.

## 20 **II. Plaintiff has Standing.**

21 Plaintiff and the Putative Class, all of whom have suffered and continue to  
22 suffer an actual injury that is directly traceable to Defendants’ conduct and will  
23 unequivocally be redressed by a favorable decision here, have standing. Defendants  
24 make two arguments in their attempt to support the fatally flawed conclusion that  
25

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26 <sup>4</sup> On May 4, 2020, the Supreme Court granted certiorari to *CIC Services, LLC v. Internal Revenue Service*, Docket No.  
27 19-930 (Sup. Ct. 2020) to resolve an apparent Circuit Split between the Sixth, Seventh and Tenth Circuits on the  
28 question of whether the Anti-Injunction Act bars challenges to unlawful regulatory mandates issued by administrative  
agencies when those mandates are not taxes.

1 Plaintiff lacks standing. First, that Plaintiff has not been denied the CARES Act  
 2 Credit (*see* Memo in Opp. at 11) and second, that Plaintiff may be, or may become,  
 3 eligible for the CARES Act Credit. *See* Memo in Opp. at 12. Both arguments  
 4 misconstrue the facts of this case and applicable law, which plainly put Plaintiff's  
 5 injuries on solid ground before this Court.

6 To satisfy the "case" or "controversy" requirement of Article III,  
 7 which is the "irreducible constitutional minimum" of standing, a  
 8 plaintiff must, generally speaking, demonstrate that he  
 9 has suffered "injury in fact," that the injury is "fairly traceable" to the  
 actions of the defendant, and that the injury will likely be redressed by  
 a favorable decision.

10 *Bennett v. Spear*, 520 U.S. 154, 162 (1997) (*citing Lujan v. Defenders of*  
 11 *Wildlife*, 504 U.S. 555, 560-561 (1992); *Valley Forge Christian College v. Americans*  
 12 *United for Separation of Church and State, Inc.*, 454 U.S. 464, 471-472 (1982)).

13 **A. Plaintiff has Suffered, and Continues to Suffer, an Injury in Fact, by**  
 14 **Being Rendered Ineligible to Receive the Advance Payment that has**  
 15 **Already Been Distributed to Over One Hundred Million Americans.**

16 Plaintiff's injury in fact is easily and readily discernible. The CARES Act,  
 17 enacted in response to a global pandemic the likes of which this generation has never  
 18 seen,<sup>5</sup> created a refundable tax credit. I.R.C. § 6428. The Secretary of the Treasury is  
 19 directed to issue the credit as an Advance Payment, I.R.C. § 6428(f)(3)(A), "as  
 20 rapidly as possible," and to conduct a public awareness campaign to provide the  
 21 public "information about availability of the credit and rebate." CARES Act, §  
 22 2201(e). Plaintiff has not and will not ever receive the emergency Advance Payment  
 23 absent this Court's intervention. The IRS has issued Advance Payments to  
 24 152,167,600 Americans, including almost 750,000 Americans residing outside of the  
 25 United States, totaling over \$257,954,545,196.00. *See* IR-2020-101, May 22, 2020,

26  
 27 <sup>5</sup> *Statement by Secretary Steven T. Mnuchin on the Passage of the CARES Act*, U.S. Department of the Treasury (March  
 28 27, 2020), <https://home.treasury.gov/index.php/news/press-releases/sm959> (last visited May 29, 2020).

1 attached hereto and incorporated herein as Exhibit B, to Boxer Decl. It is true that  
 2 Plaintiff is permitted to (though not required to) someday file a claim for refund and  
 3 dispute the constitutionality of the Exclusion Provision. *See* discussion *infra* Part II.B.  
 4 Doing so will not obviate the immediate need for this Court’s intervention or redress  
 5 Plaintiff’s ongoing injury, denying her the Advance Payment unlike the 152,167,600  
 6 Americans who have already received such a payment. None of the cases cited by  
 7 Defendants for the mistaken proposition that Plaintiff must apply and be denied for  
 8 benefits before her claim is ripe apply to the situation here.<sup>6</sup> *See* Memo in Opp. at 11.  
 9 Plaintiff’s harm is not speculative, it is not conjectural, and it is not hypothetical. The  
 10 harm is real, it is now, and it is continuing so long as she remains ineligible by virtue  
 11 of the Exclusion Provision. I.R.C. § 6428(g)(1)(B).

12 While the CARES Act does create a refundable tax credit operating as an  
 13 Advance Payment from eligible individuals’ 2020 tax returns, Defendants  
 14 misconstrue the statute in arguing that it does not provide “any right to immediate  
 15 advance refund.” *See* Memo in Opp. at 22. The CARES Act *expressly provides* for an  
 16 Advance Payment, provides that the payment should be made “as rapidly as  
 17 possible,” and Congress directed the Secretary of the Treasury to conduct a public  
 18 awareness campaign to provide the public “information about availability of the  
 19 credit and rebate.” CARES Act, § 2201(e). Congress wanted this Advance Payment  
 20 pushed into the hands of Americans, at once, as evidenced by the statute’s directive  
 21 that the Advance Payment **must be made before the end of the year**. No future  
 22

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23 <sup>6</sup> Defendants cite cases, Memo in Opp. at 11, in support of their argument that courts may entertain  
 24 constitutional challenges to tax benefits only after taxpayers have “actually sought the tax benefit from the  
 25 taxing authority and then litigated their own tax liability”: *Droz v. Commissioner*, 48 F.3d 1120 (9th Cir.  
 26 1995) (exemption from self-employment tax); *Moritz v. Commissioner*, 469 F.2d 466 (10th Cir. 1972)  
 27 (dependent-care expense deduction); *Gaylor v. Mnuchin*, 919 F.3d 420 (7th Cir. 2019) (parsonage  
 28 exclusion); and *Warnke v. United States*, 641 F. Supp. 1083 (E.D. Ky. 1986) (same). It is well-established  
 that tax *deductions*, unlike *credits*, are granted by legislative grace and the two are not apt comparisons. *See*,  
*e.g.*, *Northern California Small Business Assistance, Inc. v. Commissioner*, 153 T.C. 65, 70 (2019).

1 action on the part of Plaintiff will change eligibility to receive the Advance Payment,  
 2 which must be issued before the end of 2020 or not at all. Here, because Defendants  
 3 have issued over one hundred million Advance Payments to other United States  
 4 citizens, Plaintiff and the Putative Class have not received an Advance Payment, and  
 5 they **will not receive one** under the current law, they have already personally been  
 6 denied equal treatment. Finally, while section 6248(e) requires a “truing up” of the  
 7 Advance Payment with the actual amount of the 2020 credit (computed based on  
 8 2020 status and liability), *it does not require repayment*. Section 6248(e) provides,  
 9 “The amount of credit which would (but for this paragraph) be allowable under this  
 10 section shall be reduced (but not below zero) by the aggregate refunds and credits  
 11 made or allowed to the taxpayer under subsection (f).” I.R.C. § 6428(e) (emphasis  
 12 added). In other words, the Advance Payment is a gift conferred on United States  
 13 citizens who meet certain income eligibility requirements, *unless* they happen to be  
 14 married to someone who does not have an SSN.

15 Defendants incorrectly assert Plaintiff lacks an “injury in fact.” *See* Memo in  
 16 Opp. at 6,15. An injury sufficient to satisfy Article III must be “concrete and  
 17 particularized” and “actual or imminent, not ‘conjectural’ or  
 18 ‘hypothetical.’” *Lujan, supra*, at 560 (some internal quotation marks omitted). An  
 19 allegation of future injury may suffice if the threatened injury is “certainly  
 20 impending,” or there is a “‘substantial risk’ that the harm will occur.” *Susan B.*  
 21 *Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (citing *Clapper v. Amnesty Int’l*  
 22 *USA*, 568 U. S. 398, 409, 414, n.5 (2013)). Plaintiff undoubtedly has a personal stake  
 23 because she has been denied the Advance Payment during this pandemic.  
 24 Defendants’ assertion that Plaintiff’s claims are premature because she has not yet  
 25 applied for and been denied the benefit at issue is belied by the IRS Commissioner’s  
 26 contrary statements that the payments are being distributed “automatically” and there  
 27 is “no action required for most people” to receive the Advance Payment. *See* IR  
 28

2020-61, March 30, 2020, attached hereto and incorporated herein as Exhibit C, to Boxer Decl. The Advance Payment has been and will continue to be automatically distributed to eligible taxpayers. Defendants have launched an unprecedented public awareness campaign regarding the Advance Payment, and even issued prepaid debit cards to those eligible individuals for whom the IRS does not have bank account information.<sup>7</sup>

Plaintiff's exclusion from eligibility for the Advance Payment is ongoing, the injury is more than actual and imminent, as she is being deprived of equal treatment **right now**.<sup>8</sup> This injury is directly traceable to the actions of the Defendants. Only an injunction prohibiting the Defendants from continuing this policy of unequal treatment will prevent any further injury. *Freedom from Religion Found., Inc. v. Shulman*, 961 F. Supp. 2d 947, 951 (W.D. Wis. 2013). Accordingly, the far-fetched argument that Plaintiff's harm is anything but actual should be rejected.

Even if this Court were to engage in the mental gymnastics required to ignore the actual, ongoing injury at issue, the Supreme Court has permitted pre-enforcement review under circumstances that render the threatened enforcement sufficiently imminent. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014). Accordingly, the harm will occur with absolute certainty, absent this Court's

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<sup>7</sup> Defendant Mnuchin stated, "Treasury and the IRS have been working with unprecedented speed to issue Economic Impact Payments to American families. Prepaid debit cards [...] allow us to deliver Americans their money quickly." See *Treasury is Delivering Millions of Economic Impact Payments by Prepaid Debit Card*, May 18, 2020 attached hereto and incorporated herein as Exhibit C.

<sup>8</sup> See *Heckler v. Mathews*, 465 U.S. 728, 738–40 (1984) (victim of unequal treatment has standing to seek equal treatment); see also *Iowa-Des Moines Nat'l Bank v. Bennett*, 284 U.S. 239, 247 (1931) (cause of action for equal protection accrues as soon as the plaintiff is deprived of equal treatment). The Exclusion Provision deprives Plaintiff of the right to equal protection and procedural due process, which are "absolute" rights "in the sense that they do not depend upon the merits of Plaintiff's substantive assertions." *Carey v. Piphus*, 435 U.S. 247, 266 (1978), (citing *Boddie v. Connecticut*, 401 U.S. 371, 375 (1971)); *Anti-Fascist Committee v. McGrath*, 341 U.S., at 171-172 (Frankfurter, J., concurring)). The Fifth Amendment provides, in pertinent part, that no person shall "be deprived of life, liberty, or property, without due process of law." USCS Const. Amend. 5. See also *Boddie v. Connecticut*, 401 U.S. 371, 375 (1971). Although the Fifth Amendment contains no Equal Protection Clause as does the Fourteenth Amendment, the Fifth Amendment's Due Process Clause prohibits the Federal Government from engaging in discrimination that is "so unjustifiable as to be violative of due process." *Schlesinger v. Ballard*, 419 U.S. 498, 500 n.3 (1975), quoting *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954). See also, *Schneider v. Rusk*, 377 U.S. 163, 168 (1964).

1 intervention. *Id.* at 158. In *Heckler v. Matthews*, the Supreme Court articulated the  
 2 requirements for evaluating standing for purposes of the constitutional “case or  
 3 controversy requirement.” 465 U.S. 728 (1984). A “plaintiff must show that he  
 4 personally has suffered some actual or threatened injury as a result of the putatively  
 5 illegal conduct of the defendant and that the injury ‘is likely to be redressed by a  
 6 favorable decision.’” *Id.* at 738 (internal citations omitted). Here, when “the right  
 7 invoked is that of equal treatment, the appropriate remedy is a mandate of equal  
 8 treatment.” *Id.* at 740, (*quoting Iowa-Des Moines Nat’l Bank v. Bennett*, 284 U.S.  
 9 239, 247 (1931)).

10 **B. Neither Amending Filing Status nor Filing a Claim for Refund**  
 11 **Would Provide Plaintiff a Remedy, Let Alone an Adequate Remedy.**

12 Throughout the Memo in Opp., Defendants suggest Plaintiff may become  
 13 eligible for the CARES Act credit by filing a claim for refund or filing her 2020  
 14 return as “Married Filing Separately.” *See* Memo in Opp. at 6-8. Nothing suggested  
 15 addresses Plaintiff’s actual, realized injury: deprivation of the emergency Advance  
 16 Payment that has already been issued to over one hundred million Americans and  
 17 must be issued by December 31, 2020 or not at all. I.R.C. § 6428(f)(3)(A). There is  
 18 no action Plaintiff can take that will provide her with equal protection under the  
 19 CARES Act as it is written.

20 If Plaintiff is not provided with the Advance Payment, to claim the CARES  
 21 Credit, Plaintiff must file an income tax return sometime after filing season opens on  
 22 or about February 1, 2021. Plaintiff would either need to (A) file a tax return claiming  
 23 the credit and file a statement explaining she is not entitled to the credit but is  
 24 claiming it and contesting the unconstitutional aspects of the law, or (B) file a tax  
 25 return that does not claim the credit, pay her tax in full, and months later file an  
 26 amended return claiming the credit as a claim for refund following the procedures in  
 27 I.R.C. § 7422. If Plaintiff selects option A, she opens herself up to potential civil and  
 28



1 criminal liability, *see*, I.R.C. §§ 6662, 7201, and must litigate her right to the credit in  
2 United States Tax Court. I.R.C. § 6212. If Plaintiff selects option B, she will have to  
3 wait until at least November 2021 before she can even file suit against the United  
4 States. No matter what avenue Plaintiff chooses, she will ***never receive the***  
5 ***emergency Advance Payment***, which must be issued by December of 2020, and the  
6 earliest judicial intervention is years away. As the last date for any taxpayer to  
7 receive the Advance Payment is unequivocally set for December 31, 2020,  
8 Defendants’ contention that a refund suit under § 7422 provides Plaintiff an adequate  
9 – and sole – remedy would be laughable if Plaintiff and the Putative Class’s health,  
10 safety, and welfare were not so dire and the facial discriminatory intent and impact  
11 not so blatant. *See* Memo in Opp. at 8.

12 Defendants’ suggestion that Plaintiff file her 2020 tax return as “married filing  
13 separately” (*see* Memo in Opp. at 12-13) is equally unhelpful, but it does help  
14 illustrate the patent unfairness and unequal treatment accorded Plaintiff by the  
15 CARES Act. Plaintiff’s 2019 income tax return provides a helpful illustration. If  
16 Plaintiff had filed her 2019 income tax return as “married filing separately” instead of  
17 “married filing jointly” her federal income tax would have increased by ***over 100***  
18 ***percent***. *See* Affidavit of Harold Katz, CPA, attached hereto and incorporated herein  
19 as Exhibit D, to Boxer Decl. Taxpayers who file MFS instead of MFJ almost always  
20 owe more in tax. *Id.* Defendants cannot seriously contend that in order to receive  
21 equal treatment under the CARES Act, Plaintiff should self-select a more onerous tax  
22 treatment. Regardless of the availability of some future *possible* avenue to the  
23 CARES Act credit, Plaintiff has already been denied her emergency Advance  
24 Payment to the detriment of her health, safety, and welfare as a result of the  
25 discriminatory actions, and absent judicial intervention she will succumb to the very  
26 harm the CARES Act intended to prevent. Accordingly, there is no adequate remedy  
27 at law.



**III. Plaintiff's Constitutional Claims are Cogently Well-Pleaded, and She is Likely to Succeed on the Merits.**

Plaintiff is likely to succeed on the merits of her underlying claims that the Exclusion Provision of the CARES Act is unconstitutional.

**A. Plaintiff's Claims are Subject to Strict Scrutiny Review**

Statutory classifications will be strictly scrutinized when they include an impingement on a fundamental right and/or a "suspect class," including classifications based on race, *Loving v. Virginia*, 388 U.S. 1 (1967), alienage, *Graham v. Richardson*, 403 U.S. 365 (1971), ancestry or nationality, *Oyama v. California*, 323 U.S. 633 (1948), and sex, *Frontiero v. Richardson*, 411 U.S. 677 (1973). Plaintiff will be denied the Advance Payment she would otherwise qualify for, but for the constitutionally protected association with a person who does not have an SSN. *Oyama, supra*, at 640 (applying strict scrutiny: "there is absent the compelling justification which would be needed to sustain discrimination of that nature"). This deprivation is subject to strict scrutiny, and even if it wasn't, there is no rational basis for denying Plaintiff and the Putative Class the Advance Payment.

Both the fundamental right of U.S. Citizens and the invidious classification based on the alienage status of their spouse leaves no doubt that the Exclusion Provision is subject to strict scrutiny and thus is unconstitutional on its face and as applied. *Id.*

None of the cases cited by Defendants relating to alleged unconstitutional classifications in the I.R.C. based solely on marital status govern here. Statutes that interfere with the right to marry are subject to "rigorous scrutiny," but where Congress has imposed a higher rate of tax on *all married individuals*, the different treatment is permissible. *Drucker v. Comm'r*, 697 F.2d 46 (2d Cir. 1982). Similarly, a higher rate of tax imposed on *all married couples* survives review. *Mapes v. United*

1 *States*, 576 F.2d 896 (Ct. Cl. 1978). A federal food stamp provision that distinguished  
 2 between permanent resident aliens whose spouse met the work eligibility requirement  
 3 in a marriage ending in divorce and those ending in death also survives, even if it is  
 4 not a “model of legislative logic....” *Aleman v. Glickman*, 217 F.3d 1191, 1201 (9th  
 5 Cir. 2000). Unlike the instant case, there was no distinction drawn based strictly on  
 6 alienage. Finally, because bankruptcy is not a fundamental right, limiting married  
 7 debtors to a single exemption is permissible. *In re Talmadge*, 832 F.2d 1120, 1126 &  
 8 n.3 (9th Cir. 1987). The key distinction between these cases and the instant one is  
 9 this: *citizens* are denied the Advance Payment because of whom they married, not  
 10 because of the mere fact that they are married. Thus, the Exclusion Provision both  
 11 punishes citizens for having exercised a fundamental right and unjustly deprives them  
 12 of critical economic aid based solely on a suspect classification of their spouses.

13 *Schinasi v. Commissioner*, 53 T.C. 382 (1969), cited at Memo in Opp. at 16  
 14 and 18 bears further discussion. The taxpayer in *Schinasi* argued he should be  
 15 permitted to file a joint income tax return with his spouse, but was prohibited from  
 16 doing so based on her nonresident status. *Schinasi*, 53 T.C. at 383. The Tax Court  
 17 rightly pointed to the vastly different taxation scheme non-resident aliens adhere to in  
 18 rejecting a challenge to the different tax treatment afforded the petitioner in that case.  
 19 *Id.* at 383. United States persons are taxed on worldwide income. I.R.C. § 61.  
 20 Nonresident aliens, conversely, are generally taxed on United States income. I.R.C. §  
 21 871. Nonresident aliens do not file IRS Form 1040, U.S. Individual Income Tax  
 22 return, they file IRS Form 1040NR. Treas. Reg. § 1.6012-1(b)(1); *see also Abdel-*  
 23 *Fattah v. Commissioner*, 134 T.C. 190, 192 n.3 (2010) (noting that because  
 24 nonresident aliens are ineligible for certain credits available on Form 1040, they are  
 25 required to file Form 1040NR). It is neither surprising nor relevant to this case that  
 26 the Tax Court rejected a challenge to the petitioner’s inability to file married filing  
 27 jointly with a nonresident alien spouse. However, the *Schinasi* court itself forecasted  
 28

1 the problem directly at issue here: “[i]t seems clear that the different tax treatment of  
 2 nonresident aliens would raise problems if one of them filed a joint return with a  
 3 citizen or resident.” *Schinasi*, 53 T.C. at 383.

4 **B. The Exclusion Provision Disproportionately Impacts Plaintiff Based**  
 5 **on Whom She Chose to Marry.**

6 Section 6428(g)(1) disproportionately impacts a taxpayer who chooses to  
 7 marry someone who does not have an SSN. In *United States v. Windsor*, the Supreme  
 8 Court held that the Defense of Marriage Act (“DOMA”), which denied same sex  
 9 couples the right to marry, “violated the basic due process and equal protection  
 10 principles applicable to the Federal Government” under the Fifth Amendment. 570  
 11 U.S. 744, 769-70 (2013). *Windsor* was a tax case in which a widow was ineligible for  
 12 the same benefit that would have been afforded her if she were married to a man  
 13 instead of a woman. *Id.* at 749. The Supreme Court held that she established standing  
 14 and jurisdiction to challenge her unequal treatment under the tax code and the  
 15 DOMA.<sup>9</sup> *Id.* The right to marry confers “a dignity and status of immense import.”  
 16 *Id.* at 768. Marriage is “more than a routine classification for purposes of certain  
 17 statutory benefits,” and is “subject to constitutional guarantees.” *Id.* The Court held  
 18 that DOMA’s “principal effect is to identify a subset of state-sanctioned marriages  
 19 and make them unequal. The principal purpose is to impose inequality[.]” *Id.* at 772.  
 20 The same is true of the Exclusion Provision, which identifies a subset of state-  
 21 sanctioned marriages and makes them unequal by – as in *Windsor* – “den[ying] or  
 22 reduces benefits allowed to families.” *Id.* at 773. Here, as in *Windsor*, this Court can  
 23 only conclude that while “Congress has great authority to design laws to fit its own  
 24 conception of sound national policy, it cannot deny the liberty protected by [...] Fifth  
 25 Amendment.” *Id.* at 774. The right to marry is directly implicated by Section

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26  
 27 <sup>9</sup> The plaintiff in *Windsor*, which dealt with estate tax, did not have the benefit of a tax credit allowing her to get into  
 28 court without paying the tax in full and filing a claim for refund, and so she followed the procedures under I.R.C. §  
 7422. 570 U.S. at 753.

1 6428(g)(1), and the principal effect of that Section, just like DOMA, is to identify a  
 2 subset of state-sanctioned marriages and make them unequal. *See also Zablocki v.*  
 3 *Redhail*, 434 U.S. 374 (1978) (“When a statutory classification significantly  
 4 interferes with the exercise of a fundamental right [like the right to marriage] it  
 5 cannot be upheld unless it is supported by sufficiently important [...] interests and is  
 6 closely tailored to effectuate only those interests.”).

7       Importantly, in addition to the higher marginal tax rate described above, MFJ  
 8 and MFS filing status can have a significant effect on persons who have recently  
 9 immigrated to the U.S. through marriage to a U.S. citizen or permanent resident.  
 10 Individuals who are in the U.S. and applying to adjust their status to a permanent  
 11 resident through their U.S. citizen spouse (and for those arriving to the U.S. as a K-1  
 12 fiancé or spouse) must submit evidence proving the existence of a bona fide marriage  
 13 when filing Form I-485. *Matter of Velarde*, 23 I&N Dec. 253 (BIA 2002). In *Wen*  
 14 *Yuan Chan v. Lynch*, the Court of Appeals for the First Circuit held that the petitioner  
 15 “lacked proof” of intention to make a life together, when she only filed jointly with  
 16 her husband for one of the several years prior to the petition. *Wen Yuan Chan v.*  
 17 *Lynch*, 843 F.3d 539, 546 (1st Cir. 2016); *see also Agyeman v. INS*, 296 F.3d 871,  
 18 882–83 (9th Cir.2002) (“Evidence of the marriage’s bona fides may include: jointly-  
 19 filed tax return [...]”); *Brown v. Napolitano*, 391 Fed. Appx. 346, 347 (5th Cir. 2010)  
 20 (holding United States Citizenship and Immigration Services (“USCIS”) correctly  
 21 considered taxes in denying immigration status) (unpublished opinion). The  
 22 regulations expressly provide that joint tax returns are evidence of bona-fide  
 23 marriage. 8 C.F.R. § 204.2(a)(1)(3)(iii)(B). USCIS has a long history of carefully  
 24 reviewing tax returns for all relevant years to confirm that they were filed jointly. *See*  
 25 Instructions for Form I-130, Petition for Alien Relative, and Form I-130A,  
 26 Supplemental Information for Spouse Beneficiary at 6-7, Section 5, attached hereto  
 27 and incorporated herein as Exhibit E, to Boxer Decl.; *see also* Dkt. 11 at Exhibit C.

1 Filing separate returns (or failure to file) raises the presumption that the marriage may  
2 not be legitimate, resulting in extensive delay and difficulties in the adjudication of  
3 the application, creating instability and hardship. *Id.*

4 Many applications for permanent residency (submitted by couples married for  
5 less than two years at the time they are granted) are granted conditionally for a period  
6 of two years. After two years, an alien must file Form I-751, Petition to Remove  
7 Conditions on Residence, attached hereto and incorporated herein as Exhibit F, to  
8 Boxer Decl. Again, applicants must establish bona fide marriage with their spouse.  
9 Jointly filed returns are essential to be included with the I-751 petition. 8 USCS §  
10 1186a(b).

11 Permanent residents who obtained their status through marriage to a U.S.  
12 citizen are eligible to apply for naturalization three years after obtaining permanent  
13 residency (as opposed to five years). In order to take advantage of this shortened  
14 period of eligibility, one must prove that they have been living in marital union with  
15 the U.S. citizen spouse for the entire three-year period. This proof again entails the  
16 filing of joint tax returns in order to meet USCIS requirements. *See* Form N-400,  
17 Application for Naturalization attached hereto and incorporated herein as Exhibit G,  
18 to Boxer Decl.; *see also Agyeman v. INS*, 296 F.3d 871, 882-83 (9th Cir. 2002).

19 The injury to Plaintiff is not just the unlawful denial of the Advance Payment,  
20 but the harm to the legal immigration process. Defendants' encouragement of  
21 Plaintiff and those similarly situated to file tax returns separately, which can then  
22 detrimentally affect lawful immigration pathways for immigrant spouses, is nothing  
23 short of an appalling assault on legal immigration and the constitutional rights of U.S.  
24 citizens to marry whom they love, regardless of immigration status. *See* Dkt. 11 at 22.

25 Moreover, the Exclusion Provision violates Equal Protection. Defendants  
26 argue that eligibility for an Advance Payment is based on whether an individual has  
27 an SSN, and not on alienage. *See* Memo in Opp. at 17-18. This is simply untrue. In  
28

1 fact, no individuals who lack an SSN have received an Advance Payment, nor could  
 2 they. CARES Act, § 2101(a). Despite this fact, Defendants have denied and continue  
 3 to deny Plaintiff the right to receive an Advance Payment based upon whether her  
 4 spouse - not Plaintiff - possesses an SSN. *Id.*

5 Further, Defendants' reliance on *Arizona v. United States*, 567 U.S. 387  
 6 (2012), cited in Memo in Opp. at 19, is misplaced, as this Exclusion Provision  
 7 discriminates based on the alienage of Plaintiff's spouse, not Plaintiff herself.  
 8 Moreover, the Court in that case, which concerned federal preemption of state anti-  
 9 immigrant laws, was based on Congress' broad authority "to 'establish an uniform  
 10 Rule of Naturalization'" and "its inherent power as sovereign to control and conduct  
 11 relations with foreign nations." *Id.* at 394. The Court did not address whether strict  
 12 scrutiny or the rational basis test applied. Defendants' likewise miss the mark in their  
 13 citation to *Mathews v. Diaz*, 426 U.S. 67, 82 (1976). *Mathews* concerned "eligibility  
 14 for participation in a federal medical insurance program [conditioned] on continuous  
 15 residence in the United States for a five-year period and admission for permanent  
 16 residence." *Id.* at 69. While the Court declined to question Congress' choice of  
 17 providing certain benefits to certain aliens and not others, the Court was not asked to  
 18 consider a law akin to the Exclusion Provision which discriminates against U.S.  
 19 citizens based on the alienage of her or his chosen spouse.

20 **C. The Exclusion Provision Directly Infringes on Plaintiff's First**  
 21 **Amendment Right.**

22 The Exclusion Provision of the CARES Act directly violates the First  
 23 Amendment of the United States Constitution. In *Griswold v. Connecticut*, the Court  
 24 stressed the sanctity of marriage lying within the zone of privacy created by several  
 25 fundamental constitutional guarantees. *Griswold v. Connecticut*, 381 U.S. 479, 485  
 26 (1965). The Exclusion Provision discriminates against Plaintiff on the basis of the  
 27 protected sanctity of marriage--a fundamental right. As a result of the disparate



1 treatment, Plaintiff is denied an Advance Payment. I.R.C. § 6428(g)(1)(B) also  
 2 infringes on Plaintiff's right to enjoy all the benefits of marriage afforded to other  
 3 married persons. *See* Dkt. 1 ¶ 89.

4 The Constitution undoubtedly imposes constraints on the State's power to  
 5 control the selection of one's spouse. *Roberts v. United States Jaycees*, 468 U.S. 609,  
 6 620 (1984). The Exclusion Provision does just that. The fundamental right to  
 7 marriage is the freedom of intimate association and must be secured against undue  
 8 intrusion by the State. *Id.* at 618. In this respect, freedom of association receives  
 9 protection as a fundamental element of personal liberty. *Id.* Accordingly, denying a  
 10 privilege to Plaintiff based solely on her selection of spouse unduly intrudes on the  
 11 intimate association of marriage and should be struck down as unconstitutional.

#### 12 **IV. Plaintiff Will Suffer Irreparable Injury Absent a Preliminary Injunction.**

13 Plaintiff will suffer irreparable injury in the absence of a preliminary injunction  
 14 in two ways. First, she will be unable to meet her family's financial obligations for  
 15 the minimum necessities of life, including the ability to put food on her family's  
 16 table, and pay her rent, insurance, and health insurance deductibles. *See* Dkt. 11 at  
 17 Exhibit A ¶¶ 7-8. Second, the CARES Act has an irreparable harmful effect on the  
 18 lawful immigration process, because families seeking a path to obtaining lawful  
 19 citizenship for their spouses are encouraged during the desperation of the pandemic to  
 20 use the filing status of Married Filing Separately and are, as a result, denied the equal  
 21 treatment, as all other married individuals.

22 Congress expressed the immediacy of the need for the payment stating it  
 23 should be made "as rapidly as possible." I.R.C. § 6428(f)(3). Plaintiff's injury is  
 24 irreparable because the harm the CARES Act seeks to remedy will befall her if she  
 25 continues to be denied the relief that the emergency Advance Payment seeks to avoid.  
 26 If Plaintiff and the Putative Class are denied immediate injunctive relief, their  
 27 families will continue to struggle to meet their financial obligations for the basic  
 28



1 necessities of human life, including but not limited to ***avoiding starvation*** for them  
 2 and their children, ***homelessness***, and other dire consequences affecting their ***liberty***  
 3 and ***safety***, all of which the CARES Act was designed to address for qualifying  
 4 Americans as a result of the Pandemic. *See* Dkt. No. 11 at 20, Exhibit A, and Exhibit  
 5 B (emphasis added). Defendants completely ignore these injuries. Instead, they repeat  
 6 that if the Plaintiff is eventually successful, she will receive a credit (which will never  
 7 occur with the law as written). *See* Memo in Opp. at 21. Even if that were true, by  
 8 that time Plaintiff will have succumbed to dire consequences affecting her liberty and  
 9 safety, the very consequences the CARES Act was designed to avoid. *See*,  
 10 *Optinrealbig.com, LLC v. Ironport Systems, Inc.*, 323 F.Supp.2d 1037, 1050 (N.D.  
 11 Cal. 2004) (citing *Public Util. Comm'n v. FERC*, 814 F.2d 560, 562 (9th Cir.  
 12 1987) (“An irreparable harm is one that cannot be redressed by a legal or equitable  
 13 remedy following trial.”). Surely Defendants do not contend that starvation,  
 14 homelessness, and adverse impacts on liberty and safety do not constitute irreparable  
 15 harm.

16 Finally, as described above, while “income tax forms” are but one  
 17 consideration in evaluating whether a marriage is valid for immigration purposes, the  
 18 failure to file a joint return with your immigrant spouse is a reason often used to deny  
 19 immigrant spouses citizenship. *In Matter of Laureano*, 19 I & N. Dec. 1, 1 (B.I.A.  
 20 Dec. 12, 1983). *See* Dkt. No. 11 at Exhibit C ¶ 6(d-f). The intentional carve out of the  
 21 Putative Class in the CARES Act is effectively a bar to a U.S. Citizen’s path to  
 22 obtaining lawful citizenship for their spouse, as envisioned in the Immigration and  
 23 Nationality Act. *See* 66 Stat. 163 at Sec. 319(a). Accordingly, Plaintiff and the  
 24 Putative Class will be irreparably harmed if interim relief is not granted. For all these  
 25 reasons Plaintiff and the Putative Class have no adequate remedy at law.  
 26  
 27  
 28

**V. The Balance of the Hardships and Public Interest Favor Granting Injunctive Relief.**

As established above, Plaintiff has met the threshold eligibility for an injunction. The balance of the hardships and public interest factors tip sharply in favor of Plaintiff. The harms the Exclusion Provision inflicts are immediate and severe and the public interest is clearly served by this Court acting to order recognition of U.S. Citizens and their children consistent with the manner in which the Federal Government treats similarly situated U.S. Citizens, without regard to their marital statuses. Only prompt action by ordering declaratory and injunctive relief will serve the public interest. *Heckler v. Mathews*, 465 U.S. 728, 738-40 (1984) (internal citations omitted).

Due to her marriage to a non-US citizen, Plaintiff is being stigmatized and treated as inferior under the CARES Act and an injunction mandating equal treatment would provide redress. Finally, Defendants argument that they will be harmed by the orderly administration of the tax laws unless Plaintiff waits until 2021 to claim a CARES Act credit is non-sensical for all the reasons stated above. *See* Memo in Opp. at 23

Accordingly, there is no doubt the balance of hardships and public interest favor granting injunctive relief.

**VI. Class Certification Should Be Granted Now.**

Defendants argue that it is premature to grant class certification. *See* Memo in Opp. at 24. Importantly, Defendants cite no authority for this conclusion, nor do they contemplate Plaintiff's alternative request for conditional class certification. Federal Rule of Civil Procedure 23(b)(2) "does not restrict class certification to instances when final injunctive relief issues" and permits certification of a conditional class for the purpose of granting preliminary injunctive relief. *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1036, 1043 (9th Cir. 2012); *see also* *Howe v. Varity Corp*,

1 896 F.2d 1107, 1112 (8th Cir. 1990) (affirming grant of a preliminary injunction to a  
 2 conditional class); *See also J.L. v. Cissna*, 341 F. Supp. 3d 1048, 1070 (N.D. Cal.  
 3 2018); *Chhoeun v. Marin*, 306 F. Supp. 3d 1147, 1164 (C.D. Cal. 2018) (granting a  
 4 classwide injunction before certification when “an injunction is necessary to forestall  
 5 harm to putative class members that is likely to transpire before the parties can  
 6 litigate a motion for class certification.” *Doe v. Trump*, 418 F. Supp. 3d 573, 603 (D.  
 7 Or. 2019).

8 If it were not for the Exclusion Provision, Plaintiff would qualify for the  
 9 Advance Payment. *See* Exhibit D. The government itself is in possession of the  
 10 information Defendants claim to need discovery to gather – filing status, adjusted  
 11 gross income, etc. The Treasury Department relied on historical data to issue over  
 12 one hundred million Advance Payments to Americans, and can do the same for  
 13 Plaintiff and the Putative Class so long as this Court finds the Exclusion Provision  
 14 unconstitutional. The Putative Class is well defined in the Complaint, easily  
 15 discernable, and desperate for this Court’s relief.

16 Accordingly, Class Certification should be granted or, *in the alternative*,  
 17 conditionally granted for purposes of the Emergency Motion.

18  
 19 DATED: June 2, 2020

Respectfully submitted,

JANE DOE, individually and on behalf of  
 others similarly situated.

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17 forthcoming  
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8 JANE DOE, INDIVIDUALLY AND  
9 ON BEHALF OF OTHERS SIMILARLY SITUATED

10 [Additional counsel listed on the next page]

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **SOUTHERN DIVISION**

14 JANE DOE, individually and on behalf of  
15 others similarly situated,

16 Plaintiff,

17 v.

18 DONALD J. TRUMP, in his individual  
19 and official capacity as President of the  
20 United States; MITCH MCCONNELL, in  
21 his individual and official capacity as a  
22 Senator and Sponsor of S. 3548 CARES  
23 Act; and STEVEN MNUCHIN, in his  
24 individual and official capacity as the  
25 Acting Secretary of the U.S. Department  
of Treasury; CHARLES RETTIG, in his  
individual and official capacity as U.S.  
Commissioner of Internal Revenue; U.S.  
DEPARTMENT OF THE TREASURY;  
the U.S. INTERNAL REVENUE  
SERVICE; and the UNITED STATES OF  
AMERICA,

Defendants.

CASE NO: 8:20-cv-00858-SVW-JEM  
*Assigned to the Hon. Stephen V. Wilson*

**DECLARATION OF JOSHUA D.  
BOXER IN SUPPORT OF  
PLAINTIFF'S REPLY IN  
SUPPORT OF EX PARTE  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AS TO  
CARES ACT**

Action Filed: May 6, 2020

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28 \* Application for admission *pro hac vice* forthcoming

1 I, JOSHUA D. BOXER, declare as follows:

2 1. I am an attorney at law duly licensed to practice in the State of  
3 California and am admitted to practice before this Court. I am a senior associate at  
4 the Matern Law Group (“MLG”), counsel of record for Plaintiffs in the above-  
5 entitled action. I make this declaration on the basis of personal knowledge unless  
6 another source of information or belief clearly appears from the context, and as to all  
7 such matters I believe them to be true. If called as a witness, I could and would  
8 readily and competently testify to all matters stated within.

9 2. I make this declaration in support of Plaintiffs’ Reply in Support of Ex  
10 Parte Application for Temporary Restraining Order.

11 3. Attached hereto as **EXHIBIT A** is a true and correct copy of Plaintiff’s  
12 proposed First Amended Complaint.

13 4. Attached hereto as **EXHIBIT B** is a true and correct copy of IR-2020-  
14 101, May 22, 2020.

15 5. Attached hereto as **EXHIBIT C** is a true and correct copy of IR 2020-  
16 61, March 30, 2020.

17 6. Attached hereto as **EXHIBIT D** is a true and correct copy of the  
18 Affidavit of Harold Katz, CPA

19 7. Attached hereto as **EXHIBIT E** is a true and correct copy of the  
20 Instructions for Form I-130, Petition for Alien Relative, and Form I-130A,  
21 Supplemental Information for Spouse Beneficiary.

22 8. Attached hereto as **EXHIBIT F** is a true and correct copy of Form I-  
23 751, Petition to Remove Conditions on Residence.

24 9. Attached hereto as **EXHIBIT G** is a true and correct copy of Form N-  
25 400, Application for Naturalization.

26 \\  
27

1 I declare under penalty of perjury under the laws of the United States that the  
2 foregoing is true and correct.

3 Executed on June 2, 2020 at Redondo Beach, California.  
4

5 /s/ Joshua D. Boxer

6 Joshua D. Boxer  
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8 JANE DOE, INDIVIDUALLY AND  
9 ON BEHALF OF OTHERS SIMILARLY SITUATED

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

JANE DOE, and JOHN DOE, individually  
and on behalf of others similarly situated,

Plaintiff,

v.

DONALD J. TRUMP, in his individual  
and official capacity as President of the  
United States; MITCH MCCONNELL, in  
his individual and official capacity as a  
Senator and Sponsor of S. 3548 CARES  
Act; and STEVEN MNUCHIN, in his  
individual and official capacity as the  
Acting Secretary of the U.S. Department  
of Treasury; CHARLES RETTIG, in his  
individual and official capacity as U.S.  
Commissioner of Internal Revenue; U.S.  
DEPARTMENT OF THE TREASURY;  
the U.S. INTERNAL REVENUE  
SERVICE; and the UNITED STATES OF  
AMERICA,

Defendants.

CASE NO: 8:20-cv-00858-SVW-JEM  
*Assigned to the Hon. Stephen V. Wilson*

**FIRST AMENDED CLASS ACTION  
COMPLAINT**

Action Filed: May 6, 2020

NOW COMES Plaintiffs JANE DOE (hereinafter “Jane Doe”) and JOHN DOE  
(hereinafter “John Doe,” collectively “Plaintiffs”)), individually and on behalf of the  
proposed class, by and through their attorneys, Blaise & Nitschke, P.C., and Matern  
Law Group, P.C., and submits their first amended class action complaint against

1 DONALD J. TRUMP, in his individual and official capacity as President of the  
2 United States; MITCH MCCONNELL, in his individual and official capacity as  
3 United States Senator and the Sponsor of S. 3548 CARES Act; STEVEN  
4 MNUCHIN, in his individual and official capacity as the Acting Secretary of the U.S.  
5 Department of Treasury, CHARLES RETTIG, in his individual and official capacity  
6 as U.S. Commissioner of Internal Revenue; U.S. DEPARTMENT OF TREASURY;  
7 the U.S. INTERNAL REVENUE SERVICE; and the UNITED STATES OF  
8 AMERICA, (hereinafter collectively referred to as “Defendants”). In furtherance  
9 whereof, Plaintiffs states as follows:

### 10 NATURE OF THE CASE

11 This is a class action based upon Defendants’ unconstitutional deprivation of  
12 the rights, privileges, benefits and/or protections provided to United States citizens,  
13 via the enactment and subsequent enforcement of the Coronavirus Aid, Relief, and  
14 Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (hereinafter the  
15 “CARES Act”).

### 16 PARTIES

17 1. Plaintiff JANE DOE is a U.S. citizen who at all times mentioned in this  
18 Complaint resided in the Central District of California.

19 2. Plaintiff JOHN DOE is a U.S. citizen who at all times mentioned in this  
20 Complaint resided in the Central District of California.

21 3. “Jane Doe” and “John Doe” are not Plaintiffs’ actual names, but rather  
22 fictitious names for actual persons as herein described, in order to protect their actual  
23 identities.

24 4. Defendant DONALD J. TRUMP, in his individual and official capacity  
25 as President of the United States, is the President of the United States who signed into  
26 law the CARES Act on March 27, 2020.

1           5. Defendant MITCH MCCONNELL, in his individual and official  
2 capacity as United States Senator, is the Sponsor of the CARES Act, introduced in  
3 the Senate as S. 3548 on March 19, 2020, and signed into law on March 27, 2020.

4           6. Defendant STEVEN MNUCHIN, in his individual and official capacity,  
5 is the Acting Secretary of the U.S. Department of Treasury. In that capacity, among  
6 other things, he oversees the collection of revenue, the preparation of plans for the  
7 improvement and management of the revenue and the preparation and report of  
8 estimates of the public revenue and public expenditures. As Secretary, Defendant  
9 Mnuchin exercises full authority to administer and enforce the internal revenue laws  
10 and has the power to create an agency to enforce these laws. As part of his duties,  
11 Defendant Mnuchin oversees the issuance of recovery payments to eligible  
12 individuals under the CARES Act.

13           7. Defendant CHARLES RETTIG, in his individual and official capacity is  
14 the United States Commissioner of Internal Revenue Service. In that capacity,  
15 Defendant Rettig administers the application of the internal revenue laws and tax  
16 conventions to which the United States is a party. 26 U.S.C. § 7803. Defendant Rettig  
17 reports to the Secretary of the Treasury Defendant Mnuchin. As part of his duties,  
18 Defendant Rettig oversees the issuance of recovery payments to eligible individuals  
19 under the CARES Act.

20           8. Defendant U.S. DEPARTMENT OF THE TREASURY is an agency of  
21 the U.S. government. The Department of the Treasury operates and maintains  
22 systems that are critical to the nation's financial infrastructure, such as the production  
23 of coin and currency, the disbursement of payments to the American public, revenue  
24 collection, and the borrowing of funds necessary to run the federal government.

25           9. Defendant U.S. INTERNAL REVENUE SERVICE is a bureau of the  
26 U.S. Department of the Treasury organized to carry out the responsibilities of the  
27 Secretary of the Treasury under 26 U.S.C. § 7801. The Internal Revenue Service was  
28



1 created based on the legislative grant of authority to the Secretary of the Treasury to  
2 enforce the internal revenue laws. The IRS calculates and sends recovery payments to  
3 those eligible under the CARES Act.

4 10. Defendant UNITED STATES OF AMERICA acted in respect to this  
5 matter through its agencies, U.S. DEPARTMENT OF THE TREASURY and U.S.  
6 INTERNAL REVENUE SERVICE.

7 11. That Defendants are each sued in their individual and official capacities  
8 and are the persons and/or offices most responsible for the conduct alleged herein.

9 12. Each of the Defendants had actual and/or constructive knowledge of the  
10 acts of the other Defendants as described herein, and ratified, approved, joined in,  
11 acquiesced in, and/or authorized the acts of the other, and/or retained the benefits of  
12 the said acts.

### 13 **JURISDICTION AND VENUE**

14 12. This Court has Federal Question Jurisdiction pursuant to 28 U.S.C. §  
15 1331 because the case arises under the Constitution, laws, or treaties of the United  
16 States.

17 13. Venue is appropriate in the United States District Court for the Central  
18 District of California pursuant to 28 U.S.C. §1391(b) because a substantial part of the  
19 events giving rise to the claims alleged herein occurred in this judicial district.

20 14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1367,  
21 which gives the district court supplemental jurisdiction over state law claims.

### 22 **STATEMENT OF FACTS**

23 15. This civil rights action challenges the CARES Act on constitutional  
24 grounds. The CARES Act denies tax-paying U.S. citizens their rights, privileges,  
25 benefits and/or protections embodied in section 2201 of the legislation, captioned  
26 “2020 Recovery Rebates for Individuals.”

1           16. The CARES Act was introduced in the United States Senate (the  
2 “Senate”) on March 19, 2020, as S. 3548, by Mitch McConnell (for himself,  
3 Mr. Alexander, Mr. Crapo, Mr. Grassley, Mr. Rubio, Mr. Shelby, and Mr. Wicker).  
4 166 Cong. Rec. S1828 (daily ed. Mar. 19, 2020).

5           17. The CARES Act was signed into law by President Donald J. Trump on  
6 March 27, 2020. *Statement by the President*, WHITEHOUSE.GOV (March 27, 2020)  
7 <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-38/>  
8 (last visited April 24, 2020).

9           18. Among other goals, the CARES Act seeks to provide “direct financial  
10 help for the American people” affected by the 2020 coronavirus pandemic (“COVID-  
11 19”). 166 Cong. Rec. S1828 (daily ed. Mar. 19, 2020).

12           19. The CARES Act payments are being distributed “automatically” and  
13 there is “no action required for most people” to receive the Advance Payment. *See* IR  
14 2020-61, March 30, 2020, attached hereto and incorporated herein as Exhibit A.

15           20. Section 2201 of the CARES Act aims to deliver on this goal by directing  
16 the Internal Revenue Service to disburse so-called 2020 recovery rebates (hereinafter  
17 “the Advance Payments”), with eligibility for and amounts of those Advance  
18 Payments determined based on recipients’ immigration status, filing status for  
19 Federal income tax purposes, and Federal income tax liability. The CARES Act’s  
20 sponsor, Mitch McConnell, spelled out the objective of sending out the Advance  
21 Payments: “to put cash in the hands of the American people” in an effort to “beat  
22 back this virus.” 166 Cong. Rec. S1818 (daily ed. Mar. 19, 2020).

23           21. To allow for the issuance of the Advance Payments, the CARES Act  
24 adds to the Internal Revenue Code of 1986 (“Code”) new section 6428, which  
25 provides for a refundable tax credit in the applicable amount of the Advance Payment  
26 against the given eligible individual’s 2020 Federal income tax liability. CARES Act,  
27 sec. 2201(a).

1           22. Ordinarily, a refundable tax credit in the Code would generate a payment  
2 to the taxpayer, if at all, only upon filing and processing of the return for the  
3 applicable year. That would, however, defer the issuance of the Advance Payments  
4 until 2021, at the earliest, and defeat the legislative intent for authorizing their  
5 issuance in the first place—immediate financial relief. Therefore, Code section  
6 6428(f) provides for the credit to be refunded even before the end of the 2020 tax  
7 year. In form, then, the Advance Payments constitute early payment of the section  
8 6428 refundable tax credit, which otherwise would have become available only in  
9 2021 or later.

10           23. Code section 6428(f)(3) urges the Internal Revenue Service to issue the  
11 Advance Payments “as rapidly as possible.”

12           24. Accordingly, Code section 6428(f)(1) authorizes the Internal Revenue  
13 Service to, in effect, determine eligibility for and applicable amount of the Advance  
14 Payment for an individual based on that individual’s immigration status, filing status,  
15 and tax liability for tax year 2019.

16           25. Moreover, for individuals who have not filed 2019 tax returns at the time  
17 the Internal Revenue Service makes determinations with respect to their Advance  
18 Payments, Code section 6428(f)(5) authorizes the agency to base that determination  
19 on those individuals’ immigration status, filing status, and tax liabilities for tax year  
20 2018.

21           26. An “eligible individual;” i.e., one entitled to receive the Advance  
22 Payment, is any individual other than someone who is a nonresident alien or someone  
23 who can be claimed as a dependent on another individual’s return. Code sec. 6428(d).

24           27. Code section 6428(a) sets the maximum amount of the Advance  
25 Payment equal to the sum of: (1) \$1,200 for each eligible individual (\$2,400 for two  
26 eligible individuals who together file a joint return); and (2) \$500 multiplied by the  
27 number of dependents under the age of 17 claimed on the eligible individual’s return.  
28

1        28. That maximum amount is to be reduced by 5 percent of the amount by  
2 which the given eligible individual's adjusted gross income exceeds a prespecified  
3 threshold, determined by that individual's filing status. That threshold is: \$150,000 if  
4 the individual files a joint return; \$112,500 if the individual files as head of  
5 household; and \$75,000 if the individual files as a single or is not required to file.  
6 Code sec. 6428(c).

7        29. Notwithstanding the preceding eligibility criteria and amount  
8 determinants for Advance Payments, Code section 6428(g) contains an exclusion  
9 provision. It excludes issuance of Advance Payments to any otherwise eligible  
10 individual without a "valid" Social Security number; i.e., one valid for employment  
11 purposes. It similarly excludes Advance Payments on account of dependents lacking  
12 valid Social Security numbers claimed on an eligible individual's return. For a joint  
13 return, the provision requires valid Social Security numbers for both spouses. The  
14 only exception is a joint return where at least one spouse was a member of the U.S.  
15 Armed Forces during "the taxable year," in which case only one spouse need have a  
16 valid Social Security number. Code sec. 6428(g)(3).

17        30. Even though the CARES Act structures the issuance of an Advance  
18 Payment as early payment of a 2020 refundable tax credit, it is evident from the  
19 legislative history as well as the text, context, and structure of the statute that  
20 Congress intended the Advance Payment itself, rather than the credit, as the  
21 substantive relief being provided to taxpayers "to beat back the virus." 166 Cong.  
22 Rec. S1818 (daily ed. Mar. 19, 2020).

23        31. First, as noted above, the CARES Act's sponsor, Mitch McConnell,  
24 underscored the importance of "put[ting] cash in the hands of the American people."

25        32. Second, and also as mentioned earlier, the statutory text charges the  
26 Internal Revenue Service with sending out the Advance Payments "as rapidly as  
27 possible," authorizing the agency to determine eligibility and amounts payable based  
28

1 on immigration status and tax filing information from, alternatively, tax years 2019  
2 and 2018. *See* Code sec. 6428(f)(1), (3), (5).

3 33. Third, the U.S. Department of Treasury stresses, “The CARES Act  
4 Works for All Americans.” U.S. Department of Treasury, *The CARES Act Works for*  
5 *All Americans*, TREASURY.GOV, <https://home.treasury.gov/policy-issues/cares> (last  
6 visited June 2, 2020).

7 34. Finally, Code section 6428(e) provides that if for a given individual,  
8 immigration status and tax filing information for tax year 2020 yield a higher amount  
9 payable than the Advance Payment actually paid out in the calendar year 2020, then  
10 the excess will continue to be available as a refundable credit to be applied against  
11 the individual’s tax liability for tax year 2020. More importantly, however, the  
12 converse does not apply. Therefore, if the Advance Payment actually paid out in  
13 calendar year 2020 exceeds the amount payable as determined by immigration status  
14 and tax filing information for tax year 2020, then the individual is entitled to retain  
15 the entirety of the Advance Payment and is not required to return any portion of the  
16 Advance Credit received. *See* Code sec. 6428(e)(2). In other words, a given  
17 individual’s Advance Payment amount represents the floor of the congressionally  
18 intended relief directed toward that individual.

19 35. The Internal Revenue Service’s determination of an individual’s  
20 eligibility for an Advance Payment and the amount of that Advance Payment  
21 constitutes “final agency action” within the meaning of the Administrative Procedure  
22 Act (APA), 5 U.S.C.A. § 704.

23 36. Congress has appropriated approximately \$300 billion for the payment  
24 of the Advance Payments. CARES Act, sec. 2201(f).

25 37. The Advance Payment has already been issued to one hundred million  
26 Americans.

1        38. There are 1.2 million Americans married to immigrants who do not hold  
2 Social Security numbers. *Profile of the Unauthorized Population: United States*,  
3 MIGRATION POLICY INSTITUTE, [https://www.migrationpolicy.org/data/unauthorized-](https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US)  
4 [immigrant-population/state/US](https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US) (last visited May 29, 2020).

5        39. Of these 1.2 million Americans, those who file joint tax returns and are  
6 not in the military are ineligible for an Advance Payment and deprived of the right(s),  
7 benefit(s) and/or privilege(s) conferred upon all other U.S. citizens who otherwise  
8 qualify.

9        40. Plaintiff Jane Doe is a U.S. citizen who earns less than \$75,000 in  
10 adjusted gross income, whose children, if any, are also U.S. citizens, and is excluded  
11 from the government's \$300 billion coronavirus financial relief package because she  
12 files her taxes jointly with her spouse, an immigrant who does not have a Social  
13 Security number.

14        41. Plaintiff Jane Doe is married to an immigrant who pays taxes and files  
15 tax returns with an Individual Taxpayer Identification Number. The couple file joint  
16 tax returns and neither is in the military.

17        42. Had Plaintiff Jane Doe not been married to an immigrant with an  
18 Individual Taxpayer Identification Number, Plaintiff and her children would have  
19 qualified for an Advance Payment.

20        43. Plaintiff John Doe is a U.S. citizen who earns less than \$75,000 in  
21 adjusted gross income, whose children, if any, are also U.S. citizens, and is excluded  
22 from the government's \$300 billion coronavirus financial relief package because he  
23 files his taxes jointly with his spouse, an immigrant who does not have a Social  
24 Security number.

25        44. Plaintiff John Doe is married to an immigrant who pays taxes and files  
26 tax returns with an Individual Taxpayer Identification Number. The couple file joint  
27 tax returns and neither is in the military.

28





- b. Whether and to what extent Defendants have deprived Class Members of their property interest;
- c. Whether and to what extent Defendants have deprived Class Members of their rights, privileges, and immunities secured by the Constitution of the United States;
- d. Whether Class members are entitled to actual damages, statutory damages, and/or punitive damages as a result of Defendants' wrongful conduct;
- e. Whether Class Members are entitled to injunctive relief to redress the imminent and currently ongoing harm faced as a result of their exclusion from the CARES Act; and
- f. Whether or not Class Members are entitled to Declaratory Judgment relating to their classification and exclusion, among others, under the CARES Act.

53. Plaintiffs will fairly and adequately represent the Class Members. Plaintiffs have no interests that conflict with the interests of Class Members. Plaintiffs have retained counsel experienced in handling civil rights cases, class actions, and tax litigation Neither Plaintiffs nor their counsel have any interests that might cause them not to pursue these claims vigorously.

54. This action should be maintained as a class action because the prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications with respect to individual members that would establish incompatible standards of conduct for the parties opposing the Class.

**COUNT I**  
**Violation(s) of United States Constitution**  
**(On Behalf of Plaintiffs and the Class)**

55. Plaintiffs re-allege and incorporate paragraphs 1-54 of this Complaint as though fully set forth herein.

1        56. The Defendants, in their individual and official capacities as President of  
2 the United States, Senator and Sponsor of the CARES Act in the United States, and  
3 Acting Secretary of the U.S. Department of Treasury, violated Plaintiffs' procedural  
4 and substantive due process rights and deprived Plaintiffs of their rights, privileges,  
5 and immunities secured by the Constitution of the United States.

6        57. The Defendants have engaged and continue to engage in behavior that  
7 violates Plaintiffs' constitutional property interest rights individually and as taxpayers  
8 in the United States and have thereby irreparably injured Plaintiffs.

9        58. Defendants, acting under color of law, have violated rights secured to  
10 Plaintiffs by the First, Fifth, and Fourteenth Amendments to the United States  
11 Constitution including the right of association, the right to due process of law, the  
12 right to equal protection under the law, and the penumbra of privacy rights created by  
13 the First, Third, Fourth, and Fifth Amendments that creates a fundamental right to  
14 marriage. Specifically, Defendants have failed, as applied to Plaintiffs, to treat them  
15 as equal to their fellow United States citizens based solely on whom they chose to  
16 marry.

17        59. Plaintiffs have lawfully filed taxes in the United States, yet they are  
18 being denied the rights and privileges under the CARES Act.

19        60. Similarly situated U.S. citizens who are not married to immigrants and  
20 who filed joint tax returns have not been denied such rights and privileges under the  
21 "CARES" Act.

22        61. Plaintiffs bring this action against Defendants in their individual and  
23 official capacities for purposes of seeking declaratory and injunctive relief and  
24 challenges the practices and policies of discrimination both facially and as applied to  
25 them, individually, and as the putative Class Plaintiffs.

26        62. The Fifth Amendment to the United States Constitution provides that no  
27 person shall be "deprived of life, liberty or property without due process of law." U.S.  
28

1 Const. amend. V.

2 63. The Fourteenth Amendment to the United States Constitution,  
3 enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall “deny to any  
4 person within its jurisdiction the equal protection of the laws.” U.S. Const. amend.  
5 XIV, § 1. In addition, the Privileges and Immunities Clause of the Fourteenth  
6 Amendment states that “the citizens of each state shall be entitled to all privileges and  
7 immunities of citizens in the several states.” U.S. Const. amend. XIV, § 1 Clause 2.  
8 Although the Fourteenth Amendment expressly applies to the State, it has been  
9 construed to apply to the Federal Government through the Reverse Incorporation  
10 Doctrine under *Bolling v. Sharpe*, 347 U.S. 497 (1954) and its progeny. *See Brown v.*  
11 *Board of Education of Topeka*, 347 U.S. 483 (1954); *Adarand Constructors, Inc. v.*  
12 *Peña* 515 U.S. 200 (1995) (applying strict scrutiny to the federal government based  
13 on equal protection grounds).

14 **Marriage as a Fundamental Right Emanating From**  
15 **Our First, Fifth, and Fourteenth Amendments**

16 64. The Supreme Court has reiterated in numerous contexts that the right to  
17 marry is a fundamental right under the Due Process Clause. *See, e.g., M. L. B. v. S. L.*  
18 *J.*, 519 U.S. 102, 116, 117 S. Ct. 555, 136 L. Ed. 2d 473 (1996); *Cleveland Bd. of*  
19 *Ed. v. LaFleur*, 414 U.S. 632, 639-640, 94 S. Ct. 791, 39 L. Ed. 2d 52  
20 (1974); *Griswold, supra*, at 486, 85 S. Ct. 1678, 14 L. Ed. 2d  
21 510; *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 541, 62 S. Ct. 1110, 86  
22 L. Ed. 1655 (1942); *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S. Ct. 625, 67 L. Ed.  
23 1042 (1923).

24 65. Discrimination based on the fundamental right to marry is presumptively  
25 unconstitutional and subject to strict scrutiny.

26 66. The First Amendment to the U.S. Constitution states: “Congress shall  
27 make no law respecting an establishment of religion, or prohibiting the free exercise  
28

1 thereof; or abridging the freedom of speech, or of the press; or the right of the people  
2 peaceably to assemble, and to petition the Government for a redress of grievances.”  
3 U.S. Const. amend. I.

4 67. Specific guarantees in the Bill of Rights have penumbras, formed by  
5 emanations from those guarantees that help give them life and substance. Various  
6 guarantees create zones of privacy. The right of association contained in the  
7 penumbra of the First Amendment is one of those fundamentally protected zones of  
8 privacy. *Griswold v. Connecticut*, 381 U.S. 479, 480, 85 S. Ct. 1678, 1679 (1965).

9 68. The right of privacy was first recognized as protected by the Constitution  
10 in *Griswold v. Connecticut*, 381 U.S. 479, 14 L. Ed. 2d 510, 85 S. Ct. 1678 (1965),  
11 wherein the *Griswold* Court began by noting that “specific guarantees in the Bill of  
12 Rights have penumbras, formed by emanations from those guarantees that help give  
13 them life and substance.” 381 U.S. at 484.

14 69. The *Griswold* opinion stressed the sanctity of marriage lying within the  
15 zone of privacy created by several fundamental constitutional guarantees. *Griswold v.*  
16 *Connecticut*, 381 U.S. 479, 485, 85 S. Ct. 1678, 1682 (1965)

17 70. Defendants discriminate against Plaintiffs on the basis of their  
18 fundamental rights of marriage.

19 71. The CARES Act provision at issue, on its face and as applied, or  
20 threatened to be applied, violates the First Amendment of the United States  
21 Constitution; Due Process Clause of the Fifth Amendment; Equal Protection and  
22 Privileges and Immunities afforded under the Fourteenth Amendment under Reverse  
23 Incorporation Doctrine; and the well-established fundamental right to marry.

24 72. The First, Fifth, and Fourteenth Amendments all amount to well-  
25 established constitutional rights of which a reasonable person would have known was  
26 violated personally and officially by the Defendants.

1        73. Defendants have no compelling interest justifying their policies of  
2 discrimination based on marriage, and they cannot show that these classifications are  
3 necessary to serve any legitimate governmental interest.

4        74. The Defendants treat Plaintiffs differently than U.S. Citizens who file  
5 jointly with other U.S. Citizens, who are similarly situated.

6        75. The CARES Act singles out law-abiding and tax-paying U.S. Citizens  
7 by excluding them from a benefit they and their children would otherwise be entitled  
8 to with no compelling interest justifying the law and without serving any legitimate  
9 governmental interest.

10       76. Sec. 6428 is not narrowly tailored to advance a compelling government  
11 interest, nor is it rationally related to any legitimate government interest.

12       77. Accordingly, the CARES Act provision at issue violates the First  
13 Amendment to the United States Constitution; Due Process Clause of the Fifth  
14 Amendment to the United States Constitution; Equal Protection and Privileges and  
15 Immunities under the Fourteenth Amendment under the Reverse Incorporation  
16 Doctrine; and the well-established fundamental right to marry.

17                                    **Alienage as a Suspect Class**

18       78. “[Classifications] based on alienage, like those based on nationality or  
19 race, are inherently suspect and subject to close judicial scrutiny. Aliens as a class are  
20 a prime example of a ‘discrete and insular’ minority . . . for whom such heightened  
21 judicial solicitude is appropriate.” *Graham v. Richardson*, 403 U.S. 365, 372  
22 (1971) (footnotes and citations omitted).

23       79. Discrimination based on the alienage of a U.S. citizen’s spouse is  
24 presumptively unconstitutional and subject to strict scrutiny.

25       80. Defendants discriminate against Plaintiffs on the basis of the alienage of  
26 their spouses.



81. The CARES Act provision at issue, on its face and as applied, or threatened to be applied, violates the First Amendment to the United States Constitution; Due Process Clause of the Fifth Amendment; Equal Protection and Privileges and Immunities under the Fourteenth Amendment under the Reverse Incorporation Doctrine; and the well-established fundamental right to marry.

82. Defendants have no compelling interest justifying their policies of discrimination based on the marriage to a non-U.S. Citizen, and they cannot show that this suspect class is necessary to serve any legitimate governmental interest.

83. The Defendants treat Plaintiffs differently than U.S. Citizens who marry other U.S. Citizens, who are similarly situated.

84. Sec. 6428 is not narrowly tailored to advance a compelling government interest, nor is it rationally related to any legitimate government interest.

85. Accordingly, the CARES Act provision at issue violates the First Amendment of the United States Constitution; Due Process Clause of the Fifth Amendment to the United States Constitution; Equal Protection and Privileges and Immunities under the Fourteenth Amendment under the Reverse Incorporation Doctrine; and the well-established fundamental right to marry.

**COUNT II**  
**Action for Temporary Restraining Order (“TRO”);  
Preliminary and Permanent Injunction;  
and Declaratory Relief Against All Defendants  
(On Behalf of Plaintiffs and the Class)**

86. Plaintiffs re-allege and incorporate paragraphs 1-85 of this Complaint as though fully set forth herein.

87. Plaintiffs seek the entry of a temporary restraining order, preliminary and permanent injunction, and Declaratory Relief, including but not limited to the following:

- a. Issue a temporary, preliminary and permanent injunction against the Defendants and all those acting in concert prohibiting enforcement of the laws, as applied, at issue in this action; and
- b. Issue a declaratory judgment that the CARES Act provision at issue in this case, as applied to Plaintiffs and the putative class, violates the constitutional and statutory rights of Plaintiffs and denies Plaintiffs the privileges and immunities to which they would otherwise be entitled.

88. Plaintiffs have no adequate remedy at law and are suffering irreparable harm. There is no harm to the Defendants by this Court granting an injunction prohibiting enforcement of the challenged CARES Act provision. Meanwhile, the harm to Plaintiffs is severe. The public interest is clearly served by this Court acting to order recognition of U.S. Citizens and their children consistent with the manner in which the Federal Government treats similarly situated U.S. Citizens, without regard to their marital status. Only prompt action by this federal Court ordering declaratory and injunctive relief will serve the public interest.

89. Injunctive relief is appropriate under the circumstances because Defendants have intentionally excluded otherwise eligible U.S. Citizens from receiving the Advance Payment and more damaging, excluding them from a benefit conferred upon all other U.S. Citizens simply because of whom they chose to marry, which is facially discriminatory and retributive.

90. Plaintiffs have suffered, and will continue to suffer, immediate and irreparable harm by reason of the conduct described above. Such immediate and irreparable harm includes, but is not limited to, meeting the basic necessities of life, including the ability to put food on the table, paying rent, insurance, health insurance, and loss of privacy, reputation in the community, and dignity.

91. Plaintiffs do not have an adequate remedy at law to protect and re-establish the rights which currently have been, and continue to be, violated by Defendants' actions. Plaintiffs' rights cannot be obtained except through injunctive relief.

92. Entering the injunctive relief that Plaintiffs are seeking will cause the Defendants no harm.

93. Defendants will suffer no loss, if compelled to act in accordance with the law, by refraining from discriminating against U.S. Citizens based upon their marital status to immigrants.

94. There is a reasonable likelihood that the Plaintiffs will succeed on the merits of her claims.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs JANE DOE and JOHN DOE, individually and on behalf of the proposed Class, by and through their attorneys, pray for relief as follows:

- a. For an Order certifying this action as a class action and appointing Plaintiffs and their Counsel to represent the Class;
- b. An Order granting Blaise & Nitschke, P.C., Matern Law Group, P.C., \*Khalaf & Abuzir, LLC, and \*Moore Tax Law Group, LLC as class counsel;
- c. A temporary, preliminary and/or permanent injunction against the Defendants, and all those acting in concert, prohibiting enforcement of the laws as written and instead applying the provision as follows:
  - i. Issuing a Temporary Restraining Order to CARES Act Section 2101 to be applied as follows:

“(a) In General.—Subchapter B of chapter 65 of subtitle F of the Internal Revenue Code of 1986 is amended by inserting after section 6427 the following new section:

SEC. 6428. 2020 RECOVERY REBATES FOR INDIVIDUALS  
[ . . . ]

“(h) Identification Number Requirement.—

“(1) IN GENERAL.—No credit shall be allowed under subsection (a) to an eligible individual who does not include on the return of tax for the taxable year—

“(A) such individual’s valid identification number,

“(B) in the case of a joint return, the valid identification number of such individual’s spouse for at least one of the filing spouses, and

“(C) in the case of any qualifying child taken into account under subsection (b)(1)(B), the valid identification number of such qualifying child.

“(2) VALID IDENTIFICATION NUMBER.—

“(A) IN GENERAL.—For purposes of paragraph (1), the term ‘valid identification number’ means a social security number (as such term is defined in section 24(h)(7)).

- ii. Issuing a Preliminary and Permanent Injunction amending the CARES Act as identified above and enjoining Defendants from affixing any new terms to the CARES Act, or any future legislation designed to provide economic stimulus to United States citizens that excludes mixed immigration status families.

- d. A determination that the Exclusion Provision is unconstitutional and should not be enforced;

- e. Issue a declaratory judgment that the CARES Act provision at issue in this case is subject to strict scrutiny;
- f. Issue a declaratory judgment that the CARES Act provision at issue in this case, as applied to the Plaintiffs, violates the constitutional and statutory rights of Plaintiffs;
- g. Issue a declaratory judgment striking from the CARES Act those provisions that are violative of the protections afforded to Plaintiffs and those similarly situated under the United States Constitution, federal statutes, and those cases interpreting the same under which this Court is bound under the principles of *stare decisis*;
- h. Enter an Order requiring the Defendants treat Plaintiffs and the Putative Class equally in extending disbursement of the Advance Payment equally to Plaintiffs and the Putative Class; *Heckler v. Matthews* 465 U.S. 728, 740 (1984); (quoting *Iowa-Des Moines Nat'l Bank v. Bennett*, 284 U.S. 239, 247 (1931);
- i. For an award of attorneys' fees and costs; and
- j. Such other and further relief as this court may deem just and proper.

### **JURY DEMAND**

Plaintiffs respectfully demand a trial by jury of all matters so triable.

### **DOCUMENT PRESERVATION DEMAND**

Plaintiffs hereby demand that Defendants take affirmative steps to preserve all recordings, data, documents, and all other tangible things that relate to Plaintiffs and the putative class and the events described herein. These materials are likely very relevant to the litigation of this claim. If Defendants are aware of any third party that has possession, custody, or control of any such materials, Plaintiffs demand that Defendants request that such third party also take steps to preserve the materials. This

demand shall not narrow the scope of any independent document preservation duties of the Defendants.

**NOTICE OF LIEN AND ASSIGNMENT**

All rights relating to attorneys' fees have been assigned to counsel.

DATED: June 2, 2020

Respectfully submitted,

JANE DOE, individually and on behalf of  
others similarly situated.

By: /s/ Heather L. Blaise

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\* Application for admission *pro hac vice*  
forthcoming





## Treasury, IRS release latest state-by-state Economic Impact Payment figures

IR-2020-101, May 22, 2020

WASHINGTON –The Treasury Department and the Internal Revenue Service today released updated state-by-state figures for Economic Impact Payments reflecting the opening weeks of the program.

“Economic Impact Payments have continued going out at a rapid rate to Americans across the country,” said IRS Commissioner Chuck Rettig. “We remind people to visit IRS.gov for the latest information, including answers to the most common questions we see surrounding the payments. We also continue to urge those who don’t normally have a filing requirement, including those with little or no income, that they can quickly register for the payments on IRS.gov.”

Millions of people who do not typically file a tax return are eligible to receive these payments. Payments are automatic for people who filed a tax return in 2018 or 2019, receive Social Security retirement, survivor or disability benefits (SSDI), Railroad Retirement benefits, as well as Supplemental Security Income (SSI) and Veterans Affairs beneficiaries who didn’t file a tax return in the last two years.

For those who don’t receive federal benefits and didn’t have a filing obligation in 2018 or 2019, the IRS continues to encourage them to visit the Non-Filer tool at IRS.gov so they can quickly register for Economic Impact Payments. People can continue to receive their payment throughout the year.

Economic Impact Payments, totals by State.			
State	State postal code	Total Number of EIP Payments	Total Amount of EIP Payments
Alabama	AL	2,332,771	\$ 3,988,469,624
Alaska	AK	333,429	\$ 580,774,111
Arizona	AZ	3,242,043	\$ 5,573,167,261
Arkansas	AR	1,428,624	\$ 2,496,524,966
California	CA	16,869,636	\$ 27,897,283,972
Colorado	CO	2,605,089	\$ 4,407,408,401
Connecticut	CT	1,601,397	\$ 2,609,644,445
Delaware	DE	463,653	\$ 778,262,906
District of Columbia	DC	308,306	\$ 421,734,460
Florida	FL	10,618,792	\$ 17,546,164,251
Georgia	GA	4,763,109	\$ 8,081,253,826
Hawaii	HI	691,424	\$ 1,179,264,436
Iowa	IA	1,477,214	\$ 2,660,402,672
Idaho	ID	808,118	\$ 1,512,453,150



IRS

News  
Release

Illinois	IL	5,729,351	\$ 9,630,495,809
Indiana	IN	3,174,698	\$ 5,613,824,661
Kansas	KS	1,310,151	\$ 2,359,448,490
Kentucky	KY	2,199,370	\$ 3,824,826,391
Louisiana	LA	2,186,332	\$ 3,680,836,165
Maine	ME	714,941	\$ 1,215,239,330
Maryland	MD	2,692,062	\$ 4,380,831,484
Massachusetts	MA	3,136,787	\$ 5,028,963,151
Michigan	MI	4,813,156	\$ 8,286,614,929
Minnesota	MN	2,613,771	\$ 4,577,086,990
Mississippi	MS	1,427,440	\$ 2,422,655,854
Missouri	MO	2,933,973	\$ 5,118,911,639
Montana	MT	527,902	\$ 932,003,084
Nebraska	NE	887,877	\$ 1,611,581,538
Nevada	NV	1,496,510	\$ 2,484,078,422
New Hampshire	NH	676,004	\$ 1,139,776,925
New Jersey	NJ	3,955,396	\$ 6,507,621,505
New Mexico	NM	997,072	\$ 1,684,917,178
New York	NY	9,341,632	\$ 15,034,060,259
North Carolina	NC	4,820,974	\$ 8,264,415,092
North Dakota	ND	354,768	\$ 632,983,746
Ohio	OH	5,828,477	\$ 9,833,041,489
Oklahoma	OK	1,799,803	\$ 3,190,860,867
Oregon	OR	2,031,861	\$ 3,425,278,483
Pennsylvania	PA	6,258,107	\$ 10,596,406,088
Rhode Island	RI	536,218	\$ 869,615,684
South Carolina	SC	2,443,864	\$ 4,174,979,940
South Dakota	SD	416,962	\$ 759,483,658
Tennessee	TN	3,305,606	\$ 5,693,071,645
Texas	TX	12,396,590	\$ 21,635,810,592
Utah	UT	1,287,162	\$ 2,494,199,291
Vermont	VT	327,867	\$ 555,841,287
Virginia	VA	3,796,975	\$ 6,447,589,217
Washington	WA	3,453,810	\$ 5,876,091,642
West Virginia	WV	913,264	\$ 1,578,210,674
Wisconsin	WI	2,817,912	\$ 4,948,382,340
Wyoming	WY	270,626	\$ 488,905,666
Foreign Addresses		748,724	\$ 1,222,795,510



## News Release

Internal Revenue Service  
Media Relations Office  
Washington, D.C.

Media Contact: 202.317.4000  
Public Contact: 800.829.1040  
[www.irs.gov/newsroom](http://www.irs.gov/newsroom)

### Economic Impact Payment help available on IRS.gov

IRS.gov has a variety of [tools](#) and resources available to help individuals and businesses navigate Economic Impact Payments and get the information they need about EIP and other CARES Act provisions.

**Economic Impact Payment FAQs:** The IRS is seeing a variety of questions about Economic Impact Payments, ranging from eligibility to timing. These [FAQs](#) provide an overview and are updated frequently. Taxpayers should check the FAQs often for the latest additions; many common questions are answered on IRS.gov already, and more are being developed.



# Economic impact payments: What you need to know

*Updated with new information for seniors, retirees on April 1, 2020. Also see [Treasury news release](#).*

## Check IRS.gov for the latest information: No action needed by most people at this time

IR-2020-61, March 30, 2020

WASHINGTON — The Treasury Department and the Internal Revenue Service today announced that distribution of economic impact payments will begin in the next three weeks and will be distributed automatically, with no action required for most people. However, some taxpayers who typically do not file returns will need to submit a simple tax return to receive the economic impact payment.

### Who is eligible for the economic impact payment?

Tax filers with adjusted gross income up to \$75,000 for individuals and up to \$150,000 for married couples filing joint returns will receive the full payment. For filers with income above those amounts, the payment amount is reduced by \$5 for each \$100 above the \$75,000/\$150,000 thresholds. Single filers with income exceeding \$99,000 and \$198,000 for joint filers with no children are not eligible. Social Security recipients and railroad retirees who are otherwise not required to file a tax return are also eligible and will not be required to file a return.

Eligible taxpayers who filed tax returns for either 2019 or 2018 will automatically receive an economic impact payment of up to \$1,200 for individuals or \$2,400 for married couples and up to \$500 for each qualifying child.

### How will the IRS know where to send my payment?

The vast majority of people do not need to take any action. The IRS will calculate and automatically send the economic impact payment to those eligible.

For people who have already filed their 2019 tax returns, the IRS will use this information to calculate the payment amount. For those who have not yet filed their return for 2019, the IRS will use information from their 2018 tax filing to calculate the payment. The economic impact payment will be deposited directly into the same banking account reflected on the return filed.

### The IRS does not have my direct deposit information. What can I do?

In the coming weeks, Treasury plans to develop a web-based portal for individuals to provide their banking information to the IRS online, so that individuals can receive payments immediately as opposed to checks in the mail.

### I am not typically required to file a tax return. Can I still receive my payment?

Yes. The IRS will use the information on the Form SSA-1099 or Form RRB-1099 to generate Economic Impact Payments to recipients of benefits reflected in the Form SSA-1099 or Form RRB-1099 who are not required to file a tax return and did not file a return for 2018 or 2019. This includes senior citizens, Social Security recipients and railroad retirees who are not otherwise required to file a tax return.

Since the IRS would not have information regarding any dependents for these people, each person would receive \$1,200 per person, without the additional amount for any dependents at this time.

**I have a tax filing obligation but have not filed my tax return for 2018 or 2019. Can I still receive an economic impact payment?**

Yes. The IRS urges anyone with a tax filing obligation who has not yet filed a tax return for 2018 or 2019 to file as soon as they can to receive an economic impact payment. Taxpayers should include direct deposit banking information on the return.

**I need to file a tax return. How long are the economic impact payments available?**

For those concerned about visiting a tax professional or local community organization in person to get help with a tax return, these economic impact payments will be available throughout the rest of 2020.

**Where can I get more information?**

The IRS will post all key information on [IRS.gov/coronavirus](https://www.irs.gov/coronavirus) as soon as it becomes available.

The IRS has a reduced staff in many of its offices but remains committed to helping eligible individuals receive their payments expeditiously. Check for updated information on [IRS.gov/coronavirus](https://www.irs.gov/coronavirus) rather than calling IRS assistors who are helping process 2019 returns.

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7 Attorneys for Plaintiff,  
8 JANE DOE, INDIVIDUALLY AND  
9 ON BEHALF OF OTHERS SIMILARLY SITUATED

10  
11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **SOUTHERN DIVISION**

14 JANE DOE, individually and on behalf of  
15 others similarly situated,

16 Plaintiff,

17 v.

18 DONALD J. TRUMP, in his individual  
19 and official capacity as President of the  
20 United States; MITCH MCCONNELL, in  
21 his individual and official capacity as a  
22 Senator and Sponsor of S. 3548 CARES  
23 Act; and STEVEN MNUCHIN, in his  
24 individual and official capacity as the  
25 Acting Secretary of the U.S. Department  
26 of Treasury; CHARLES RETTIG, in his  
27 individual and official capacity as U.S.  
28 Commissioner of Internal Revenue; U.S.  
DEPARTMENT OF THE TREASURY;  
the U.S. INTERNAL REVENUE  
SERVICE; and the UNITED STATES OF  
AMERICA,

Defendants.

CASE NO: 8:20-cv-00858-SVW-JEM  
*Assigned to the Hon. Stephen V. Wilson*

**AFFIDAVIT OF HAROLD D.  
KATZ, CPA IN SUPPORT OF  
PLAINTIFF'S REPLY IN  
SUPPORT OF HER EMERGENCY  
MOTION FOR TEMPORARY  
RESTRAINING ORDER,  
PRELIMINARY INJUNCTION  
AND/OR DECLARATORY  
JUDGMENT**

Action Filed: May 6, 2020

24 Affiant, HAROLD D. KATZ, CPA, being first duly sworn upon oath and in  
25 support of Plaintiff's, individually and on behalf of others similarly situated, Reply in  
26 Support of her Emergency Motion for Temporary Restraining Order, Preliminary  
27 Injunction and/or Declaratory Judgment, states:

**EXHIBIT D**

1           1.     I am over the age of eighteen and am a resident of the State of Illinois.

2           2.     I am a Certified Public Accountant ("CPA"), licensed in the State of  
3 Illinois.

4           3.     I am a licensed CPA for over 40 years.

5           4.     I am a TEP (Trust and Estate Practitioner), a member of the AICPA  
6 (American Institute of CPAs) and a member of the IL CPA Society.

7           5.     I typically prepare over 500 tax returns for individuals on an annual  
8 basis.

9           6.     On Monday, June 1, 2020 I reviewed Plaintiff Jane Doe's 2019 IRS  
10 Form 1040, U.S. Individual Income Tax Return.

11          7.     Plaintiff's 2019 IRS Form 1040 was filed as "Married Filing Jointly,"  
12 ("MFJ").

13          8.     I calculated the difference in Federal tax that the Plaintiff would have  
14 paid if she filed "Married Filing Separately" ("MFS") instead of MFJ.

15          9.     If Plaintiff were to have filed MFS, her net Federal tax liability would  
16 have increased by 115.35%.

17          10.    In my experience as a CPA, filing MFS almost always results in a  
18 greater Federal tax liability than filing MFJ. This confirms why in the IRS SOI  
19 (Statistics of Income) Tax Stats-Individual Statistical Table by Filing Status for tax  
20 year 2017, the IRS reported that 54,774,397 returns of MFJ (including returns of  
21 surviving spouses) were filed and only 3,212,807 MFS were filed.

22          11.    Based on my review of Plaintiff Jane Doe's 2019 IRS Form 1040, if not  
23 for her MFJ filing status, she meets the income qualifications for the Advanced  
24 Refund of the 2020 Recovery Rebate for Individuals under the CARES Act.



1 **FURTHER AFFIANT SAYETH NAUGHT.**

2  
3   
4 HAROLD D. KATZ, CPA

5  
6 **VERIFICATION BY CERTIFICATION**

7 Under penalties of perjury as provided by law pursuant to 28 U.S. Code  
8 § 1746, the undersigned certifies that the statements set forth in this instrument are  
9 true and correct, except as to matters therein stated to be on information and belief  
10 and, as to such matters, the undersigned certifies as aforesaid that he verily believes  
11 the same to be true.

12  
13 Dated this 2 day of June, 2020.

14   
15 HAROLD D. KATZ, CPA

**Instructions for Form I-130, Petition for Alien Relative,  
and Form I-130A, Supplemental Information for  
Spouse Beneficiary**



Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
**Form I-130/I-130A**  
OMB No. 1615-0012  
Expires 02/28/2021

### What Is the Purpose of Form I-130?

A citizen or lawful permanent resident of the United States may file Form I-130, Petition for Alien Relative, with U.S. Citizenship and Immigration Services (USCIS) to establish the existence of a relationship to certain alien relatives who wish to immigrate to the United States.

### Who May File Form I-130?

1. If you are a U.S. citizen, you must file a separate Form I-130 for each eligible relative. You may file Form I-130 for:
  - A. Your spouse;
  - B. Your unmarried children under 21 years of age;
  - C. Your unmarried sons or daughters 21 years of age or older;
  - D. Your married sons or daughters of any age;
  - E. Your brothers or sisters (you must be 21 years of age or older); and
  - F. Your mother or father (you must be 21 years of age or older).
2. If you are a lawful permanent resident of the United States, you must file a separate Form I-130 for each eligible relative. You may file Form I-130 for:
  - A. Your spouse;
  - B. Your unmarried child under 21 years of age; and
  - C. Your unmarried son or daughter 21 years of age or older.

#### NOTE:

1. If you are filing for your spouse, he or she must complete and sign Form I-130A, Supplemental Information for Spouse Beneficiary. If your spouse is overseas, Form I-130A must still be completed, but your spouse does not have to sign Form I-130A. Form I-130A must be submitted with Form I-130.
2. There is no visa category for married children of lawful permanent residents. If you are a lawful permanent resident and you filed Form I-130 for your unmarried son or daughter, but your son or daughter marries before immigrating to the United States or adjusting status to lawful permanent resident, we will deny or automatically revoke your petition.
3. Non-citizen U.S. nationals (as defined in the Immigration and Nationality Act (INA) section 308) have the same rights as lawful permanent residents to petition for family members. If you are a U.S. national born in American Samoa or Swains Island (or who otherwise qualifies as a non-citizen U.S. national, as described in INA section 308), you should indicate in **Part 2., Item Number 36.** of the petition that you are a lawful permanent resident. You do not need to list an Alien Registration Number (A-Number) in **Part 2., Item Number 1.** of the petition.
4. If the beneficiary qualifies under **Items 1.C., 1.D., or 1.E.** above, you are not required to file separate petitions for the beneficiary's spouse or unmarried children under 21 years of age. They are considered derivative beneficiaries and you should list them in **Part 4.** of this petition.

**EXHIBIT E**

5. If you are the lawful permanent resident petitioner and the beneficiary qualifies under **Items 2.A., 2.B., or 2.C.** above, you are not required to file separate petitions for the beneficiary's unmarried children under 21 years of age. They are considered derivative beneficiaries and you should list them in **Part 4.** of this petition.
6. The derivative beneficiaries described in **Items 4.** and **5.** above may apply for an immigrant visa along with the beneficiary.

### Who May Not File Form I-130?

You may **NOT** file Form I-130 for a person in the following categories:

1. An adoptive parent or adopted child, if the adoption took place after the child turned 16 years of age, or if the child has not been in the legal custody and has not lived with the parents for at least 2 years before filing the petition;
2. A natural parent, if you gained lawful permanent resident status or U.S. citizenship through adoption or as a special immigrant juvenile;
3. A stepparent or stepchild, if the marriage that created the relationship took place after the child turned 18 years of age;
4. A spouse, if you and your spouse were not both physically present at the marriage ceremony, unless the marriage was consummated;
5. A spouse, if you gained lawful permanent resident status through a prior marriage to a U.S. citizen or lawful permanent resident, unless:
  - A. You are now a naturalized U.S. citizen;
  - B. You have been a lawful permanent resident for at least five years;
  - C. You can establish by clear and convincing evidence that you did not enter the prior marriage (through which you gained your lawful permanent resident status) in order to evade any U.S. immigration law; or
  - D. Your prior marriage through which you gained your immigrant status was terminated by the death of your former spouse;
6. A spouse, if you married your spouse while he or she was the subject of an exclusion, deportation, removal, or rescission proceeding regarding his or her right to be admitted into or to remain in the United States, or while a decision in any of these proceedings was before any court on judicial review. However, you may be eligible for the bona fide marriage exemption under INA section 245(e)(3) if:
  - A. You request in writing a bona fide marriage exemption and prove by clear and convincing evidence that the marriage is legally valid where it took place and that you and your spouse married in good faith and not for the purpose of obtaining lawful permanent resident status for your spouse and that no fee or any other consideration (other than appropriate attorney fees) was given to you for your filing of this petition. The request must be submitted with Form I-130; or
  - B. Your spouse has lived outside the United States, after the marriage, for a period of at least two years;
7. Any person, if USCIS determines that he or she entered into or attempted or conspired to enter into a marriage in order to evade U.S. immigration laws; and
8. A grandparent, grandchild, nephew, niece, uncle, aunt, cousin, or parent-in-law.

## General Instructions

USCIS provides forms free of charge through the USCIS website. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which can be downloaded for free at <http://get.adobe.com/reader/>. If you do not have Internet access, you may call the USCIS National Customer Service Center at **1-800-375-5283** and ask that we mail a form to you. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

**Signature.** Each petition must be properly signed and filed. For all signatures on this petition, USCIS will not accept a stamped or typewritten name in place of a signature. A legal guardian may also sign for a mentally incompetent person.

**Filing Fee.** Each petition must be accompanied by the appropriate filing fee. (See the **What Is the Filing Fee** section of these Instructions.)

**Biometric Services Fee.** If you file this petition with USCIS, you do not need to include a biometric services fee at the time you submit your petition. If you are later notified that you must submit biometrics, you will receive a biometric services appointment notice with instructions on how to submit the additional biometric services fee. If you file this petition with an agency other than USCIS, please check with that agency to determine if and when you must submit a biometric services fee.

**Evidence.** At the time of filing, you must submit all evidence and supporting documentation listed in the **General Requirements** section of these Instructions. USCIS may issue a Notice of Intent to Deny (NOID) or a Denial Notice for petitions filed without the required supporting evidence.

**Biometric Services Appointment.** USCIS may require that you appear for an interview or provide fingerprints, photograph, and/or signature at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your application, petition, or request. After USCIS receives your petition and ensures it is complete, we will inform you in writing, if you need to attend a biometric services appointment. If an appointment is necessary, the notice will provide you the location of your local or designated USCIS Application Support Center (ASC) and the date and time of your appointment or, if you are currently overseas, instruct you to contact a U.S. Embassy, U.S. Consulate, or USCIS office outside the United States to set up an appointment.

If you are required to provide biometrics, at your appointment you must sign an oath reaffirming that:

1. You provided or authorized all information in the petition;
2. You reviewed and understood all of the information contained in, and submitted with, your petition; and
3. All of this information was complete, true, and correct at the time of filing.

If you fail to attend your biometric services appointment, USCIS may deny your petition.

**Copies.** You may submit legible photocopies of documents requested, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filing or at any time during processing of an application, petition, or request. If you submit original documents when not required, the documents may remain a part of the record, and USCIS will not automatically return them to you.

**Translations.** If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification should also include the date, the translator's signature and printed name, and may contain the translator's contact information.

## How To Fill Out Form I-130

1. Type or print legibly in black ink.

2. If you need extra space to complete any item within this petition, use the space provided in **Part 9. Additional Information** or attach a separate sheet of paper; type or print your name and A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks, "Provide the name of your current spouse"), type or print "N/A," unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None," unless otherwise directed.
4. Enter dates in mm/dd/yyyy format. If you cannot provide an exact date, provide an approximate date in the same format and include an explanation in **Part 9. Additional Information**.
5. **USCIS Online Account Number** (if any). If you have previously filed an application, petition, or request using the USCIS online filing system (previously called USCIS Electronic Immigration System (USCIS ELIS)), provide the USCIS Online Account Number you were issued by the system. You can find your USCIS Online Account Number by logging in to your account and going to the profile page. If you previously filed certain applications, petitions, or requests on a paper form via a USCIS Lockbox facility, you may have received a USCIS Online Account Access Notice issuing you a USCIS Online Account Number. If you received such a notice, your USCIS Online Account Number can be found at the top of the notice. If you were issued a USCIS Online Account Number, enter it in the space provided at **Part 2., Item Number 2**. The USCIS Online Account Number is not the same as an A-Number.
6. **Part 3. Biographic Information.** Provide the biographic information requested in **Part 3., Item Numbers 1. - 6**. Providing this information as part of your petition may reduce the time you spend at your USCIS ASC appointment as described in the **Biometric Services Appointment** section of these Instructions.

**A. Ethnicity and Race.** Select the boxes that best describe your ethnicity and race.

**Categories and Definitions for Ethnicity and Race**

- (1) **Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. (**NOTE:** This category is only included under Ethnicity in **Part 3., Item Number 1.**)
- (2) **White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- (3) **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- (4) **Black or African American.** A person having origins in any of the black racial groups of Africa.
- (5) **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- (6) **Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**B. Height.** Select the values that best match your height in feet and inches. For example, if you are five feet and nine inches, select "5" for feet and "09" for inches. Do not enter your height in meters or centimeters.

**C. Weight.** Enter your weight in pounds. If you do not know your weight, or need to enter a weight under 30 pounds or over 699 pounds, enter "000." Do not enter your weight in kilograms.

**D. Eye Color.** Select the box that best describes the color of your eyes.

**E. Hair Color.** Select the box that best describes the color of your hair.



- 7. Form I-94 Arrival-Departure Record.** Complete **Part 4., Item Numbers 46.b. - 50.,** of the petition regarding the admission or travel document for the beneficiary.

If U.S. Customs and Border Protection (CBP) or USCIS issued the beneficiary a Form I-94, Arrival-Departure Record, provide the beneficiary's Form I-94 number and date that his or her authorized period of stay expires or expired (as shown on Form I-94). The Form I-94 number also is known as the Departure Number on some versions of Form I-94.

**NOTE:** If the beneficiary was admitted to the United States by CBP at an airport or seaport after April 30, 2013, he or she may have been issued an electronic Form I-94 by CBP, instead of a paper Form I-94. The beneficiary may visit the CBP website at [www.cbp.gov/i94](http://www.cbp.gov/i94) to obtain a paper version of his or her electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport, after April 30, 2013 with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP website without charge. If his or her Form I-94 cannot be obtained from the CBP website, it may be obtained by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS **does** charge a fee for this service.

**Passport and Travel Document Numbers.** Complete **Part 4., Item Numbers 45. - 50.,** as applicable, if the beneficiary relative used a passport or travel document to travel to the United States, enter either the passport or travel document information in the appropriate space on the petition, even if the passport or travel document is currently expired.

- 8. Part 6. Petitioner's Statement, Contact Information, Declaration, and Signature.** Select the appropriate box to indicate whether you read this petition yourself or whether you had an interpreter assist you. If someone assisted you in completing the petition, select the box indicating that you used a preparer. Further, you must sign and date your petition and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). Every petition **MUST** contain the signature of the petitioner (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.
- 9. Part 7. Interpreter's Contact Information, Certification, and Signature.** If you used anyone as an interpreter to read the Instructions and questions on this petition to you in a language in which you are fluent, the interpreter must fill out this section, provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the petition.
- 10. Part 8. Contact Information, Declaration, and Signature of the Person Preparing this Petition, if Other Than the Petitioner.** This section must contain the signature of the person who completed your petition, if other than you, the petitioner. If the same individual acted as your interpreter **and** your preparer, that person should complete both **Part 7.** and **Part 8.** If the person who completed this petition is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this petition **MUST** sign and date the petition. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your petition is an attorney or accredited representative whose representation extends beyond preparation of this petition, he or she may be obliged to also submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your petition.

**We recommend that you print or save a copy of your completed petition to review in the future and for your records. We recommend that you review your copy of your completed petition before you come to your biometric services appointment at a USCIS ASC.** At your appointment, USCIS will permit you to complete the petition process only if you are able to confirm, under penalty of perjury, that all of the information in your petition is complete, true, and correct. If you are not able to make that attestation in good faith at that time, USCIS will require you to return for another appointment.

## General Requirements

### 1. Does approval of this petition mean that my family member is automatically a lawful permanent resident or they can immediately immigrate to the United States?

No. An approved petition does not give the beneficiary automatic lawful permanent resident status or permission to immediately immigrate to the United States.

### 2. When will a visa become available?

When a petition is approved for the spouse, unmarried children under 21 years of age, or parents of a U.S. citizen, these persons are classified as immediate relatives, which means visas are immediately available to them.

When a petition is approved for a U.S. citizen's sibling or married or adult son or daughter, or for a lawful permanent resident's spouse, child, or unmarried son or daughter, it is assigned to the appropriate visa preference category. Each year, a limited number of immigrant visas are available for each preference category. The visas are processed in the order in which the petitions are properly filed and accepted by us. To be considered properly filed, a petition must be fully completed and signed, and the filing fee must be paid.

For a monthly report on the dates when immigrant visas are available, call the U.S. Department of State at 1-202-663-1541, or visit their website at [www.travel.state.gov](http://www.travel.state.gov).

### 3. What documents do you need to show that you are a U.S. citizen?

- A. A copy of your birth certificate, issued by a civil registrar, vital statistics office, or other civil authority showing that you were born in the United States;
- B. A copy of your naturalization certificate or certificate of citizenship issued by USCIS or the former Immigration and Naturalization Service (INS);
- C. A copy of Form FS-240, Consular Report of Birth Abroad (CRBA), issued by a U.S. Embassy or U.S. Consulate;
- D. A copy of your unexpired U.S. passport; or
- E. An original statement from a U.S. consular officer verifying that you are a U.S. citizen with a valid passport.

If you do not have any of the above documents and you were born in the United States, see the **What if an official document is not available** section of these Instructions.

### 4. What documents do you need to show that you are a lawful permanent resident?

If you are a lawful permanent resident, you must file your petition with a copy of the front and back of your Permanent Resident Card (Form I-551). If you have not yet received your card, submit copies of your passport biographic page and the page showing admission as a lawful permanent resident, or other evidence of permanent resident status issued by USCIS or the former INS.

### 5. What documents do you need to prove family relationship?

You have to prove that there is a family relationship between you and the beneficiary. If you are filing for a relative listed below, submit the following documentation to prove the family relationship.

#### A. A spouse:

- (1) A copy of your marriage certificate;
- (2) If either you were or your spouse was previously married, submit copies of documents showing that each of the prior marriages was legally terminated; and
- (3) You **must** submit two identical color passport-style photographs of yourself and your spouse (if he or she is in the United States) taken within 30 days of filing this petition. The photos must have a white to off-white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched.



The two identical color passport-style photos must be 2 by 2 inches. The photos must be in color with full face, frontal view on a white to off-white background. Head height should measure 1 to 1 3/8 inches from top of hair to bottom of chin, and eye height is between 1 1/8 to 1 3/8 inches from bottom of photo. Your head must be bare unless you are wearing headwear as required by a religious denomination of which you are a member. Using a pencil or felt pen, lightly print your name and A-Number (if any) on the back of the photo.

**NOTE: In addition to the required documentation listed above, you should submit one or more of the following types of documentation that may prove you have a bona fide marriage:**

- (1) Documentation showing joint ownership of property;
- (2) A lease showing joint tenancy of a common residence, meaning you both live at the same address together;
- (3) Documentation showing that you and your spouse have combined your financial resources;
- (4) Birth certificates of children born to you and your spouse together;
- (5) Affidavits sworn to or affirmed by third parties having personal knowledge of the bona fides of the marital relationship. Each affidavit must contain the full name and address of the person making the affidavit; date and place of birth of the person making the affidavit; and complete information and details explaining how the person acquired his or her knowledge of your marriage; or
- (6) Any other relevant documentation to establish that there is an ongoing marital union.

**NOTE: You must submit clear and convincing evidence that you and your spouse entered into the marriage in good faith and not for immigration purposes if you married your spouse while your spouse was the subject of an exclusion, deportation, removal, or rescission proceeding (including during the judicial review of any one of these proceedings); or you are a lawful permanent resident that obtained your permanent residence through a prior marriage that was not determined by the death of your spouse and you are filing your petition for your spouse that you were married within five years of obtaining your permanent residence.**

- B. A child and you are the mother:** Submit a copy of the child's birth certificate showing your name and the name of your child.
- C. A child and you are the father:** Submit a copy of the child's birth certificate showing both parents' names, your marriage certificate to the child's mother, and proof of legal termination of the parents' prior marriages, if any, issued by civil authorities.
- D. A child born out of wedlock and you are the father:** Submit evidence that you and the mother were married while the child was under 18 years of age, or submit evidence that the child was legitimated under the law of the child's residence or domicile, or under the law of your residence or domicile, before the child reached 18 years of age. If your child was not legitimated before reaching 18 years of age, you must file your petition with copies of evidence that a bona fide parent-child relationship existed between you and the child before the child reached 21 years of age. This may include evidence that you lived with the child, supported him or her, or otherwise showed continuing parental interest in the child's welfare.
- E. A brother or sister:** Submit a copy of your birth certificate and a copy of your brother's or sister's birth certificate showing that you have at least one common parent. If you and your brother or sister have a common father but different mothers, submit copies of the marriage certificates showing that your father was married to each mother, as well as copies of documents showing that any prior marriages of either your father or mothers were legally terminated. If you and your brother or sister are related through adoption or a stepparent, or if you have a common father and either of you were not legitimated before you turned 18 years of age, see **Items D., H., and I.** in these Instructions for additional information on proving your family relationship.
- F. A mother:** Submit a copy of your birth certificate showing your name and your mother's name.

- G. A father:** Submit a copy of your birth certificate showing the names of both parents. Also submit a copy of your parents' marriage certificate establishing that your father was married to your mother. If either your mother or father were previously married, submit copies of documents showing that each of the prior marriages was legally terminated. If you are filing for a stepparent or adoptive parent, or if you are filing for your father and you were born out of wedlock, see **Items D., H., and I.** in these Instructions for additional information on proving your family relationship.
- H. Stepparent/Stepchild:** If your petition is based on a stepparent-stepchild relationship, you must file your petition with a copy of the marriage certificate of the stepparent to the child's natural parent showing that the marriage occurred before the child turned 18 years of age, copies of documents showing that any prior marriages were legally terminated (if applicable), and a copy of the stepchild's birth certificate.
- I. Adoptive parent or adopted child:** If you and the person you are filing for are related by adoption, you must submit a copy of the adoption decree showing that the adoption took place before the child turned 16 years of age. If you adopted a child under 16 years of age, and you also adopted the older sibling of that child, you may file a petition for the older child if the adoption occurred before the older child turned 18 years of age. You must submit a copy of the adoption decree showing that the adoption of the sibling occurred before the sibling turned 18 years of age.
- In either case, you must also submit copies of evidence that each child was in the legal custody of and resided with the parents who adopted him or her for at least two years before or after adoption. Only a court or recognized government entity may grant legal custody, and it is usually granted at the time the adoption is finalized. However, if legal custody is granted by a court or recognized government entity prior to the adoption, that time may count toward fulfilling the 2-year legal custody requirement.

**6. Notice to persons filing for spouses, if you have been married less than two years.**

If you have been married less than two years on the date your spouse has obtained permanent resident status, USCIS will grant your spouse conditional permanent resident status for two years under INA section 216. USCIS then requires both you and your spouse to file Form I-751, Petition to Remove Conditions on Residence, during the **90-day period immediately before your spouse's conditional permanent resident status expires.**

Conditional permanent residents have the same rights, privileges, responsibilities, and duties as all other lawful permanent residents. A conditional permanent resident is not limited in his or her right to apply for naturalization, file petitions on behalf of qualifying relatives, or reside permanently in the United States as an immigrant in accordance with U.S. immigration laws.

**NOTE:** If your spouse fails to timely file Form I-751 to remove the conditional basis of his or her spouse's permanent resident status, USCIS will terminate his or her permanent resident status and begin removal proceedings.

**7. What if a name has changed?**

If either you or the person you are filing for is using a name that is not the same name shown on the relevant documents, you must file your petition with copies of the legal documents reflecting the name change, such as a marriage certificate, adoption decree, or court order.

**8. What if an official document is not available?**

In this situation, submit a statement from the appropriate civil authority certifying that the document or documents are not available. You must also submit secondary evidence, which may include one or more of the following records listed below.

- A. Religious record:** A copy of a document bearing the seal of the religious organization showing that the baptism, dedication, or comparable rite occurred within two months after birth, and showing the date and place of the child's birth, date of the religious ceremony, and the names of the child's parents.
- B. School record:** A letter from the authority (preferably the first school attended) showing the date of admission to the school, the child's date of birth or age at that time, place of birth, and names of the parents.

- C. Census record:** State or Federal census records showing the names, place of birth, date of birth, or the age of the person listed.
- D.** If records like those described above are not available, then you may submit two or more written statements from individuals who were living at the time and who have personal knowledge of the event you are trying to prove, such as the date and place of birth, marriage, or death. The individuals making the written statements do not have to be U.S. citizens. Each written statement must contain the following information regarding the individual making the written statement: his or her full name, address, date and place of birth, full information concerning the event, and complete details explaining how the individual acquired personal knowledge of the event.
- Finally, each individual's written statement must include the following declaration, "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date], [signature]."
- E. For parent-child relationships only:** If other forms of evidence have proven inconclusive, the petitioner may submit on a voluntary basis other evidence of a birth parent and birth child relationship to include deoxyribonucleic acid (DNA) testing. DNA test results will only be accepted by USCIS from parentage-testing laboratories accredited by the American Association of Blood Banks (AABB). A list of laboratories can be viewed at [www.aabb.org/sa/facilities/Pages/RTestAccrFac.aspx](http://www.aabb.org/sa/facilities/Pages/RTestAccrFac.aspx).

### What Is the Filing Fee?

The filing fee for Form I-130 is **\$535**. The filing fee for this petition cannot be waived.

**NOTE:** The filing fee is not refundable, regardless of any action USCIS takes on this petition. **DO NOT MAIL CASH.** You must submit all fees in the exact amounts.

### Use the following guidelines when you prepare your check or money order for the Form I-130:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
2. Make the check or money order payable to **U.S. Department of Homeland Security**.

**NOTE:** Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

3. If you live outside the United States, contact the nearest U.S. Embassy or U.S. Consulate for instructions on the method of payment.

**Notice to Those Making Payment by Check.** If you send us a check, USCIS will convert it into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and your bank will show it on your regular account statement.

You will not receive your original check back. We will destroy your original check, but will keep a copy of it. If USCIS cannot process the EFT for technical reasons, you authorize us to process the copy in place of your original check. If your check is returned as unpayable, USCIS will re-submit the payment to the financial institution one time. If the check is returned as unpayable a second time, we will reject your petition and charge you a returned check fee.

### How To Check If the Fees Are Correct

Form I-130's filing fee is current as of the edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fees are correct by following one of the steps below.

1. Visit the USCIS website at [www.uscis.gov](http://www.uscis.gov), select "FORMS," and check the appropriate fee; or
2. Call the USCIS National Customer Service Center at **1-800-375-5283** and ask for the fee information. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

## Where To File?

Please see our website at [www.uscis.gov/i-130](http://www.uscis.gov/i-130) or call our National Customer Service Center at **1-800-375-5283** for the most current information about where to file this petition. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

## Address Change

A petitioner who is not a U.S. citizen must notify USCIS of his or her new address within 10 days of moving from his or her previous residence. For information on filing a change of address, go to the USCIS website at [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange) or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

**NOTE:** Do not submit a change of address request to USCIS Lockbox facilities because the Lockbox does not process change of address requests.

## Processing Information

**Initial Processing.** Once USCIS accepts your petition we will check it for completeness. If you do not completely fill out this petition, you will not establish a basis for your eligibility and USCIS may reject or deny your petition.

**Requests for More Information.** We may request that you provide more information or evidence to support your petition. We may also request that you provide the originals of any copies you submit. USCIS will return any requested originals when they are no longer needed.

**Requests for Interview.** We may request that you appear at a USCIS office for an interview based on your petition. At the time of any interview or other appearance at a USCIS office, we may require that you provide your fingerprints, photograph, and/or signature to verify your identity and/or update background and security checks.

**Decision.** The decision on Form I-130 involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of the decision in writing.

## USCIS Forms and Information

To ensure you are using the latest version of this petition, visit the USCIS website at [www.uscis.gov](http://www.uscis.gov) where you can obtain the latest USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling the USCIS Contact Center at **1-800-375-5283**. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Instead of waiting in line for assistance at your local USCIS office, you can schedule an appointment online at [www.uscis.gov](http://www.uscis.gov). Select "Schedule an appointment online" and follow the screen prompts to set up your appointment. Once you finish scheduling an appointment, the system will generate an appointment notice for you.

## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-130, we will deny your Form I-130 and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

## USCIS Compliance Review and Monitoring

By signing this petition, you have stated under penalty of perjury (28 U.S.C. section 1746) that all information and documentation submitted with this petition are complete, true, and correct. You also authorize the release of any information from your records that USCIS may need to determine your eligibility for the immigration benefit you are seeking and consent to USCIS verifying such information.

The Department of Homeland Security (DHS) has the authority to verify any information you submit to establish eligibility for the immigration benefit you are seeking at any time. USCIS' legal authority to verify this information is in 8 U.S.C. sections 1103, 1155, and 1184, and 8 CFR Parts 103, 204, 205, and 214. To ensure compliance with applicable laws and authorities, USCIS may verify information before or after your case is decided.

Agency verification methods may include, but are not limited to: review of public records and information; contact via written correspondence, the Internet, facsimile, other electronic transmission, or telephone; unannounced physical site inspections of residences and locations of employment; and interviews. USCIS will use information obtained through verification to assess your compliance with the laws and to determine your eligibility for an immigration benefit.

Subject to the restrictions under 8 CFR 103.2(b)(16), USCIS will provide you with an opportunity to address any adverse or derogatory information that may result from a USCIS compliance review, verification, or site visit after a formal decision is made on your case or after the agency has initiated an adverse action which may result in revocation or termination of an approval.

## DHS Privacy Notice

**AUTHORITIES:** The information requested on this petition, and the associated evidence, is collected under the Immigration and Nationality Act (INA) section 204.

**PURPOSE:** The primary purpose for providing the requested information on this petition is to determine if you have established eligibility for the immigration benefit for which you are filing. DHS will use the information you provide to grant or deny the immigration benefit you are seeking.

**DISCLOSURE:** The information you provide is voluntary. However failure to provide the requested information, including your Social Security number, and the requested evidence, may delay a final decision in your case or result in denial of your petition.

**ROUTINE USES:** DHS may share the information you provide on this form with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records forms [DHS/USCIS-001 – Alien File, Index, and National File Tracking System and DHS/USCIS-007 – Benefits Information System] and the published privacy impact assessments [DHS/USCIS/PIA-003 Integrated Digitization Document Management Program (IDDMP), DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System and Associated Systems, and DHS/USCIS/PIA-051 Case and Activity Management for International Operations], which you can find at [www.dhs.gov/privacy](http://www.dhs.gov/privacy). DHS may also share the information, as appropriate, for law enforcement purposes or in the interest of national security.

## Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for Form I-130 is estimated at 2 hours per response and Form I-130A is estimated at 50 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the forms, preparing statements, attaching necessary documentation, and submitting the forms. The collection of biometrics is estimated to require 1 hour and 10 minutes. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0012. **Do not mail your completed Form I-130 or Form I-130A to this address.**

## Checklist

### For all Form I-130 petitioners:

- ☐ Did you answer each question on Form I-130?
- ☐ Did you sign and date the petition?
- ☐ Did you enclose the correct filing fee for each petition?
- ☐ Did you submit proof of your U.S. citizenship or lawful permanent resident status?
- ☐ Did you submit other required supporting evidence?
- ☐ If you have an attorney or accredited representative, did you include a completed Form G-28?

### For Form I-130 spouse petitioners:

- ☐ Did you include two photographs of your spouse beneficiary?
- ☐ Did you include a completed and signed Form I-130A?
- ☐ Did you include two photographs of you (spouse petitioner)?





# Petition to Remove Conditions on Residence

Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
Form I-751  
OMB No. 1615-0038  
Expires 12/31/2019

For USCIS Use Only	Receipt		Action Block	Remarks
	Reloc Sent	Reloc Received		
	Date (mm/dd/yyyy)	Date (mm/dd/yyyy)		
	____/____/____	____/____/____		
	Date (mm/dd/yyyy)	Date (mm/dd/yyyy)		
____/____/____	____/____/____			
<input type="checkbox"/> Petitioner interviewed on (mm/dd/yyyy) ____/____/____ <input type="checkbox"/> Approved under INA 216(c)(4)(C) Battered Spouse/Child				

To be completed by an attorney or accredited representative (if any).	<input type="checkbox"/> Select this box if Form G-28 is attached.	Attorney State Bar Number (if applicable) <input type="text"/>	Attorney or Accredited Representative USCIS Online Account Number (if any) <input type="text"/>
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► **START HERE** - Type or print in black ink.

## Part 1. Information About You, the Conditional Resident

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

### Other Names Used

List all other names you have ever used, including aliases, maiden name, and nicknames. If you need extra space to complete this section, use the space provided in **Part 11**.

**Additional Information.**

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

### Other Information

4. Date of Birth (mm/dd/yyyy)

5. Country of Birth

6. Country of Citizenship or Nationality (provide all that apply)

7. Alien Registration Number (A-Number) (if any)  
► A-

8. U.S. Social Security Number (if any)  
►

9. USCIS Online Account Number (if any)  
►

### Marital Status

10. Marital Status  
☐ Single ☐ Married ☐ Divorced ☐ Widowed

11. Date of Marriage (mm/dd/yyyy)

12. Place of Marriage

13. If the marriage through which you gained conditional residence has ended, provide the date it ended (date of divorce or date of death) (mm/dd/yyyy)

14. Conditional Residence Expires On (mm/dd/yyyy)



**Part 1. Information About You, the Conditional Resident (continued)****Mailing Address****15.a.** In Care Of Name**15.b.** Street Number and Name**15.c.** ☐ Apt. ☐ Ste. ☐ Flr.**15.d.** City or Town**15.e.** State**15.f.** ZIP Code**16.** Is your physical address different than your mailing address?☐ Yes ☐ NoIf you answered "Yes" to **Item Number 16.**, provide your physical address below.**Physical Address****17.a.** In Care Of Name**17.b.** Street Number and Name**17.c.** ☐ Apt. ☐ Ste. ☐ Flr.**17.d.** City or Town**17.e.** State**17.f.** ZIP Code**Additional Information About You****18.** Are you in removal, deportation, or rescission proceedings?☐ Yes ☐ No**19.** Was a fee paid to anyone other than an attorney in connection with this petition?☐ Yes ☐ No**20.** Have you ever been arrested, detained, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance (excluding traffic regulations), or committed any crime which you were not arrested in the United States or abroad?☐ Yes ☐ NoIf you answered "Yes" to **Item Number 20.**, provide a detailed explanation in **Part 11. Additional Information** or on a separate sheet of paper, and refer to the **What Initial Evidence Is Required** section of the Form I-751 instructions to determine what criminal history document to include with your petition.**21.** If you are married, is this a different marriage than the one through which you gained conditional resident status?☐ Yes ☐ No**22.** Have you resided at any other address since you became a permanent resident?☐ Yes ☐ NoIf you answered "Yes" to **Item Number 22.**, provide a list of all addresses where you have resided since becoming a permanent resident and the dates you resided at those locations in the space provided in **Part 11. Additional Information**.**23.** Is your spouse or parent's spouse currently serving with or employed by the U.S. Government and serving outside the United States?☐ Yes ☐ No**Part 2. Biographic Information****1.** Ethnicity (Select **only one** box)☐ Hispanic or Latino☐ Not Hispanic or Latino**2.** Race (Select **all applicable** boxes)☐ White☐ Asian☐ Black or African American☐ American Indian or Alaska Native☐ Native Hawaiian or Other Pacific Islander**3.** Height

Feet

Inches

**4.** Weight

Pounds

**5.** Eye Color (Select **only one** box)☐ Black☐ Blue☐ Brown☐ Gray☐ Green☐ Hazel☐ Maroon☐ Pink☐ Unknown/Other**6.** Hair Color (Select **only one** box)☐ Bald (No hair)☐ Black☐ Blond☐ Brown☐ Gray☐ Red☐ Sandy☐ White☐ Unknown/Other

**Part 3. Basis for Petition****Joint Filing**

My conditional residence is based on my marriage or my parent's marriage to a U.S. citizen or lawful permanent resident, and I am filing this joint petition together with (Select **only one** box):

- 1.a. ☐ My spouse.
- 1.b. ☐ My parent's spouse because I am unable to be included in a joint petition filed by my parent and my parent's spouse.

**OR** (Select **all** applicable boxes in the next section.)

**Waiver or Individual Filing Request**

My conditional residence is based on my marriage or my parent's marriage to a U.S. citizen or lawful permanent resident, I am unable to file a joint petition with my spouse or my parent's spouse, because:

- 1.c. ☐ My spouse is deceased.
- 1.d. ☐ My marriage was entered in good faith, but the marriage was terminated through divorce or annulment.
- 1.e. ☐ I entered the marriage in good faith, and, during the marriage, I was battered, or was the subject of extreme cruelty, by my U.S. citizen or lawful permanent resident spouse.
- 1.f. ☐ My parent entered the marriage in good faith, and, during the marriage, I was battered, or was subjected to extreme cruelty, by my parent's U.S. citizen or lawful permanent resident spouse or by my conditional resident parent.
- 1.g. ☐ The termination of my status and removal from the United States would result in an extreme hardship.

**Part 4. Information About the U.S. Citizen or Lawful Permanent Resident Spouse. If Filing as a Child Separately, Information About the U.S. Citizen or Lawful Permanent Resident Stepparent Through Whom You Gained Your Conditional Residence.**

**Relationship**

- 1.a. ☐ Spouse or Former Spouse
- 1.b. ☐ Parent's Spouse or Former Spouse

**Other Information**

- 2.a. Family Name (Last Name)
- 2.b. Given Name (First Name)
- 2.c. Middle Name
3. Date of Birth (mm/dd/yyyy)
4. U.S. Social Security Number (if any)
5. A-Number (if any)

**Physical Address**

- 6.a. Street Number and Name
- 6.b. ☐ Apt. ☐ Ste. ☐ Flr.
- 6.c. City or Town
- 6.d. State
- 6.e. ZIP Code
- 6.f. Province
- 6.g. Postal Code
- 6.h. Country

**Part 5. Information About Your Children**

Provide information on all of your children. If you need extra space to complete this section, use the space provided in **Part 11. Additional Information.**

**Child 1**

- 1.a. Family Name (Last Name)
- 1.b. Given Name (First Name)
- 1.c. Middle Name
2. Date of Birth (mm/dd/yyyy)
3. A-Number (if any)
4. Is this child living with you? ☐ Yes ☐ No
5. Is this child applying with you? ☐ Yes ☐ No

**Part 5. Information About Your Children**  
(continued)**Physical Address**

6.a. Street Number and Name

6.b. ☐ Apt. ☐ Ste. ☐ Flr.

6.c. City or Town

6.d. State   6.e. ZIP Code

6.f. Province

6.g. Postal Code

6.h. Country

**Child 2**

7.a. Family Name (Last Name)

7.b. Given Name (First Name)

7.c. Middle Name

8. Date of Birth (mm/dd/yyyy)

9. A-Number (if any)  A-

10. Is this child living with you? ☐ Yes ☐ No

11. Is this child applying with you? ☐ Yes ☐ No

**Physical Address**

12.a. Street Number and Name

12.b. ☐ Apt. ☐ Ste. ☐ Flr.

12.c. City or Town

12.d. State   12.e. ZIP Code

12.f. Province

12.g. Postal Code

12.h. Country

**Child 3**

13.a. Family Name (Last Name)

13.b. Given Name (First Name)

13.c. Middle Name

14. Date of Birth (mm/dd/yyyy)

15. A-Number (if any)  A-

16. Is this child living with you? ☐ Yes ☐ No

17. Is this child applying with you? ☐ Yes ☐ No

**Physical Address**

18.a. Street Number and Name

18.b. ☐ Apt. ☐ Ste. ☐ Flr.

18.c. City or Town

18.d. State   18.e. ZIP Code

18.f. Province

18.g. Postal Code

18.h. Country

**Child 4**

19.a. Family Name (Last Name)

19.b. Given Name (First Name)

19.c. Middle Name

20. Date of Birth (mm/dd/yyyy)

21. A-Number (if any)  A-

22. Is this child living with you? ☐ Yes ☐ No

23. Is this child applying with you? ☐ Yes ☐ No

### Part 5. Information About Your Children (continued)

#### Physical Address

24.a. Street Number and Name

24.b. ☐ Apt. ☐ Ste. ☐ Flr.

24.c. City or Town

24.d. State   24.e. ZIP Code

24.f. Province

24.g. Postal Code

24.h. Country

#### Child 5

25.a. Family Name (Last Name)

25.b. Given Name (First Name)

25.c. Middle Name

26. Date of Birth (mm/dd/yyyy)

27. A-Number (if any)   
 ▶ A-

28. Is this child living with you? ☐ Yes ☐ No

29. Is this child applying with you? ☐ Yes ☐ No

#### Physical Address

30.a. Street Number and Name

30.b. ☐ Apt. ☐ Ste. ☐ Flr.

30.c. City or Town

30.d. State   30.e. ZIP Code

30.f. Province

30.g. Postal Code

30.h. Country

### Part 6. Accommodations for Individuals With Disabilities and/or Impairments

**NOTE:** Read the information in the Form I-751 Instructions before completing this part.

1. Are you requesting an accommodation because of your disabilities and/or impairments? ☐ Yes ☐ No
2. Are you requesting an accommodation because of your spouse's disabilities and/or impairments? ☐ Yes ☐ No
3. Are you requesting an accommodation because of your included children's disabilities and/or impairments? ☐ Yes ☐ No

If you answered "Yes" to **Item Numbers 1. - 3.**, select any applicable box for **Item Numbers 4.a. - 4.c.** Provide information on the disabilities and/or impairments for each person.

- 4.a. ☐ I am deaf or hard of hearing and request the following accommodation. (If you are requesting a sign-language interpreter, indicate for which language (for example, American Sign Language).):
- 4.b. ☐ I am blind or have low vision and request the following accommodation:
- 4.c. ☐ I have another type of disability and/or impairment. (Describe the nature of your disability and/or impairment and the accommodation you are requesting.):

**Part 7. Petitioner's Statement, Contact Information, Acknowledgement of Appointment at USCIS Application Support Center, Certification, and Signature**

**NOTE:** Read the information on penalties in the **Penalties** section of the Form I-751 Instructions before completing this part.

**NOTE:** If you selected **Box 1.a.** in **Part 3.**, your spouse must also read and sign the petition in **Part 8.** Signature of a conditional resident child under 14 years of age is not required; a parent may sign for a child.

**Petitioner's Statement**

**NOTE:** Select the box for either **Item Number 1.a.** or **1.b.** If applicable, select the box for **Item Number 2.**

- 1.a. ☐ I can read and understand English, and have read and understand every question and instruction on this petition, as well as my answer to every question. I have read and understand the **Acknowledgement of Appointment at USCIS Application Support Center.**
- 1.b. ☐ The interpreter named in **Part 9.** has also read to me every question and instruction on this petition, as well as my answer to every question, in   
 ,  
a language in which I am fluent. I understand every question and instruction on this petition as translated to me by my interpreter, and have provided complete, true, and correct responses in the language indicated above. The interpreter named in **Part 9.** has also read the **Acknowledgement of Appointment at USCIS Application Support Center** to me, in the language in which I am fluent, and I understand this Application Support Center (ASC) Acknowledgement as read to me by my interpreter.
2. ☐ I have requested the services of and consented to   
 ,  
who ☐ is ☐ is not an attorney or accredited representative, preparing this petition for me. This person who assisted me in preparing my petition has reviewed the **Acknowledgement of Appointment at USCIS Application Support Center** with me, and I understand the ASC Acknowledgement.

**Petitioner's Contact Information**

3. Petitioner's Daytime Telephone Number

4. Petitioner's Mobile Telephone Number (if any)

5. Petitioner's Email Address (if any)

**Acknowledgement of Appointment at USCIS Application Support Center**

I,  ,  
understand that the purpose of a USCIS ASC appointment is for me to provide fingerprints, photograph, and/or signature and to re-affirm that all of the information in my petition is complete, true, and correct and was provided by me. I understand that I will sign my name to the following declaration which USCIS will display to me at the time I provide my fingerprints, photograph, and/or signature during my ASC appointment.

*By signing here, I declare under penalty of perjury that I have reviewed and understand my application, petition, or request as identified by the receipt number displayed on the screen above, and all supporting documents, applications, petitions, or requests filed with my application, petition, or request that I (or my attorney or accredited representative) filed with USCIS, and that all of the information in these materials is complete, true, and correct.*

If conditional residence was based on a marriage, I further certify that the marriage was entered into in accordance with the laws of the place where the marriage took place and was not for the purpose of procuring an immigration benefit.

I also understand that when I sign my name, provide my fingerprints, and am photographed at the USCIS ASC, I will be re-affirming that I willingly submit this petition; I have reviewed the contents of this petition; all of the information in my petition and all supporting documents submitted with my petition were provided by me and are complete, true, and correct; and if I was assisted in completing this petition, the person assisting me also reviewed this **Acknowledgement of Appointment at USCIS Application Support Center** with me.



**Part 7. Petitioner's Statement, Contact Information, Acknowledgement of Appointment at USCIS Application Support Center, Certification, and Signature (continued)**

***Petitioner's Certification***

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any and all of my records that USCIS may need to determine my eligibility for the immigration benefit that I seek.

I furthermore authorize release of information contained in this petition, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

I certify under penalty of perjury, that the information in my petition, my responses to each question, and any document submitted with my petition were provided by me and are complete, true, and correct.

***Petitioner's Signature***

6.a. Petitioner's Signature

6.b. Date of Signature (mm/dd/yyyy)

**NOTE TO ALL PETITIONERS:** If you do not completely fill out this petition or fail to submit required documents listed in the Instructions, USCIS may deny your petition.

**NOTE:** If you are filing based on claims of having been battered or subjected to extreme cruelty waiver or individual filing, you are not required to have the spouse's or individual listed in **Part 4's** signature.

**Part 8. Spouse's or Individual Listed in Part 4.'s Statement, Contact Information, Acknowledgement of Appointment USCIS Application Support Center, Certification, and Signature (if applicable)**

Provide the following information about the spouse or individual listed in **Part 4**.

**NOTE:** Read the information on penalties in the **Penalties** section of the Form I-751 Instructions before completing this part.

***Spouse's or Individual's Statement***

**NOTE:** Select the box for either **Item Number 1.a.** or **1.b.** If applicable, select the box for **Item Number 2.**

- 1.a. ☐ I can read and understand English, and have read and understand every question and instruction on this petition, as well as the petitioner's answer to every question. I have read and understand the **Acknowledgement of Appointment at USCIS Application Support Center**.
- 1.b. ☐ The interpreter named in **Part 9**, has also read to me every question and instruction on this petition, as well as the petitioner's answer to every question, in , a language in which I am fluent. I understand every question and instruction on this petition as translated to me by my interpreter, and have provided complete, true, and correct responses in the language indicated above. The interpreter named in **Part 9**, has also read the **Acknowledgement of Appointment at USCIS Application Support Center** to me, in the language in which I am fluent, and I understand this Application Support Center (ASC) Acknowledgement as read to me by my interpreter.
2. ☐ I have requested the services of and consented to , who ☐ is ☐ is not an attorney or accredited representative, preparing this petition for me. This person who assisted me in preparing my petition has reviewed the **Acknowledgement of Appointment at USCIS Application Support Center** with me, and I understand the ASC Acknowledgement.

***Spouse's or Individual's Contact Information***

3. Spouse's or Individual's Daytime Telephone Number
4. Spouse's or Individual's Mobile Telephone Number (if any)
5. Spouse's or Individual's Email Address (if any)





**Part 8. Spouse's or Individual Listed in Part 4.'s Statement, Contact Information, Acknowledgement of Appointment USCIS Application Support Center, Certification, and Signature (if applicable) (continued)**

***Acknowledgement of Appointment at USCIS Application Support Center***

I, , understand that the purpose of a USCIS ASC appointment is for me to provide my fingerprints, photograph, and/or signature and to re-affirm that all of the information in my petition is complete, true, and correct and was provided by me. I understand that I will sign my name to the following declaration which USCIS will display to me at the time I provide my fingerprints, photograph, and/or signature during my ASC appointment.

***By signing here, I declare under penalty of perjury that I have reviewed and understand my application, petition, or request as identified by the receipt number displayed on the screen above, and all supporting documents, applications, petitions, or requests filed with my application, petition, or request that I (or my attorney or accredited representative) filed with USCIS, and that all of the information in these materials is complete, true, and correct.***

I also understand that when I sign my name, provide my fingerprints, and am photographed at the USCIS ASC, I will be re-affirming that I willingly submit this petition; I have reviewed the contents of this petition; all of the information in my petition and all supporting documents submitted with my petition were provided by me and are complete, true, and correct; and if I was assisted in completing this petition, the person assisting me also reviewed this **Acknowledgement of Appointment at USCIS Application Support Center** with me.

***Spouse's or Individual's Certification***

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any and all of my records that USCIS may need to determine my eligibility for the immigration benefit that I seek.

I furthermore authorize release of information contained in this petition, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

I certify under penalty of perjury, that the information in my petition, my responses to each question, and any document submitted with my petition were provided by me and are complete, true, and correct.

***Spouse's or Individual's Signature***

6.a. Spouse's or Individual's Signature

6.b. Date of Signature (mm/dd/yyyy)

**NOTE TO ALL SPOUSES OR INDIVIDUALS:** If you do not completely fill out this petition or fail to submit required documents listed in the instructions, USCIS may deny your petition.

**Part 9. Interpreter's Contact Information, Certification, and Signature**

Provide the following information about the interpreter.

***Interpreter's Full Name***

1.a. Interpreter's Family Name (Last Name)

1.b. Interpreter's Given Name (First Name)

2. Interpreter's Business or Organization Name (if any)

***Interpreter's Mailing Address***

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State

3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

***Interpreter's Contact Information***

4. Interpreter's Daytime Telephone Number

5. Interpreter's Email Address (if any)





**Part 9. Interpreter's Contact Information, Certification, and Signature (continued)****Interpreter's Certification****I certify that:**

I am fluent in English and , which is the same language provided in **Part 7., Item Number 1.b.**;

I have read to this petitioner every question and instruction on this petition, as well as the answer to every question, in the language provided in **Part 7., Item Number 1.b.**; and

I have read the **Acknowledgement of Appointment at USCIS Application Support Center** to the petitioner in the same language provided in **Part 7., Item Number 1.b.**

The petitioner has informed me that he or she understands every instruction and question on the petition, as well as the answer to every question, and the petitioner verified the accuracy of every answer; and

The petitioner has also informed me that he or she understands the ASC Acknowledgement and that by appearing for a USCIS ASC biometric services appointment and providing his or her fingerprints, photograph, and/or signature, he or she is re-affirming that the contents of this petition and all supporting documentation are complete, true, and correct.

**Interpreter's Signature**

6.a. Interpreter's Signature

6.b. Date of Signature (mm/dd/yyyy)

**Part 10. Contact Information, Statement, Certification, and Signature of the Person Preparing this Petition, If Other Than the Petitioner**

Provide the following information about the preparer.

**Preparer's Full Name**

1.a. Preparer's Family Name (Last Name)

1.b. Preparer's Given Name (First Name)

2. Preparer's Business or Organization Name (if any)

**Preparer's Mailing Address**

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State

3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

**Preparer's Contact Information**

4. Preparer's Daytime Telephone Number

5. Preparer's Fax Number

6. Preparer's Email Address (if any)

**Preparer's Statement**

7.a. ☐ I am not an attorney or accredited representative but have prepared this petition on behalf of the petitioner and with the petitioner's consent.

7.b. ☐ I am an attorney or accredited representative and my representation of the petitioner in this case ☐ extends ☐ does not extend beyond the preparation of this petition.

**NOTE:** If you are an attorney or accredited representative whose representation extends beyond preparation of this petition, you must submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, with this petition.

**Part 10. Contact Information, Statement, Certification, and Signature of the Person Preparing this Petition, If Other Than the Petitioner (continued)**

***Preparer's Certification***

By my signature, I certify, swear, or affirm, under penalty of perjury, that I prepared this petition on behalf of, at the request of, and with the express consent of the petitioner. I completed this petition based only on responses the petitioner provided to me. After completing the petition, I reviewed it and all of the petitioner's responses with the petitioner, who agreed with every answer on the petition. If the petitioner supplied additional information concerning a question on the petition, I recorded it on the petition. I have also read the **Acknowledgement of Appointment at USCIS Application Support Center** to the petitioner and the petitioner has informed me that he or she understands the ASC Acknowledgement

***Preparer's Signature***

**8.a.** Preparer's Signature

**8.b.** Date of Signature (mm/dd/yyyy)



## Part 11. Additional Information

If you need extra space to provide any additional information within this petition, use the space below. If you need more space than what is provided, you may make copies of this page to complete and file with this petition or attach a separate sheet of paper. Type or print your name and A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

### Your Full Name

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. A-Number (if any) A-

3.a. Page Number  3.b. Part Number  3.c. Item Number

3.d.


4.a. Page Number  4.b. Part Number  4.c. Item Number

4.d.


5.a. Page Number  5.b. Part Number  5.c. Item Number

5.d.


6.a. Page Number  6.b. Part Number  6.c. Item Number

6.d.


7.a. Page Number  7.b. Part Number  7.c. Item Number

7.d.






# Application for Naturalization

Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS

Form N-400

OMB No. 1615-0052

Expires 09/30/2022

For USCIS Use Only	Date Stamp	Receipt	Action Block
Remarks			

► **START HERE - Type or print in black ink.** Type or print "N/A" if an item is not applicable or the answer is none, unless otherwise indicated. Failure to answer all of the questions may delay U.S. Citizenship and Immigration Services (USCIS) processing your Form N-400. **NOTE: You must complete Parts 1. - 15.**

If your biological or legal adoptive mother or father is a U.S. citizen by birth, or was naturalized before you reached your 18th birthday, you may already be a U.S. citizen. Before you consider filing this application, please visit the USCIS Website at [www.uscis.gov](http://www.uscis.gov) for more information on this topic and to review the instructions for Form N-600, Application for Certificate of Citizenship, and Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322.

**NOTE:** Are either of your parents a United States citizen? If you answer "Yes," then complete **Part 6. Information About Your Parents** as part of this application. If you answer "No," then skip **Part 6.** and go to **Part 7. Biographic Information.**

## Part 1. Information About Your Eligibility (Select only one box or your Form N-400 may be delayed)

Enter Your 9 Digit A-Number:

► A-

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### 1. You are at least 18 years of age and:

- A. ☐ Have been a lawful permanent resident of the United States for at least 5 years.
- B. ☐ Have been a lawful permanent resident of the United States for at least 3 years. In addition, you have been married to and living with the same U.S. citizen spouse for the last 3 years, **and** your spouse has been a U.S. citizen for the last 3 years at the time you filed your Form N-400.
- C. ☐ Are a lawful permanent resident of the United States **and** you are the spouse of a U.S. citizen **and** your U.S. citizen spouse is regularly engaged in specified employment abroad. (See the Immigration and Nationality Act (INA) section 319(b).) If your residential address is outside the United States and you are filing under Section 319(b), select the USCIS Field Office from the list below where you would like to have your naturalization interview:

	▼
--	---

D. ☐ Are applying on the basis of qualifying military service.

E. ☐ Other (Explain):

	▼
--	---

## Part 2. Information About You (Person applying for naturalization)

### 1. Your Current Legal Name (do not provide a nickname)

Family Name (Last Name)

--

Given Name (First Name)

--

Middle Name (if applicable)

--

### 2. Your Name Exactly As It Appears on Your Permanent Resident Card (if applicable)

Family Name (Last Name)

--

Given Name (First Name)

--

Middle Name (if applicable)

--

**Part 2. Information About You** (Person applying for naturalization) (continued) A-

3. Other Names You Have Used Since Birth (include nicknames, aliases, and maiden name, if applicable)

Family Name (Last Name)

  


Given Name (First Name)

  


Middle Name (if applicable)

  


4. Name Change (Optional)

**Read the Form N-400 Instructions before you decide whether or not you would like to legally change your name.**

Would you like to legally change your name?

☐ Yes ☐ No

If you answered "Yes," type or print the new name you would like to use in the spaces provided below.

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)

5. U.S. Social Security Number (if applicable)

  


6. USCIS Online Account Number (if any)

  


7. Gender

☐ Male ☐ Female

8. Date of Birth

(mm/dd/yyyy)

9. Date You Became a Lawful

Permanent Resident (mm/dd/yyyy)

10. Country of Birth

11. Country of Citizenship or Nationality

12. Do you have a physical or developmental disability or mental impairment that prevents you from demonstrating your knowledge and understanding of the English language and/or civics requirements for naturalization?

☐ Yes ☐ No

If you answered "Yes," submit a completed Form N-648, Medical Certification for Disability Exceptions, when you file your Form N-400.

13. Exemptions from the English Language Test

A. Are you **50** years of age or older **and** have you lived in the United States as a lawful permanent resident for periods totaling at least **20** years at the time you file your Form N-400?☐ Yes ☐ NoB. Are you **55** years of age or older **and** have you lived in the United States as a lawful permanent resident for periods totaling at least **15** years at the time you file your Form N-400?☐ Yes ☐ NoC. Are you **65** years of age or older **and** have you lived in the United States as a lawful permanent resident for periods totaling at least **20** years at the time you file your Form N-400? (If you meet this requirement, you will also be given a simplified version of the civics test.)☐ Yes ☐ No**Part 3. Accommodations for Individuals With Disabilities and/or Impairments****NOTE:** Read the information in the Form N-400 Instructions before completing this part.

1. Are you requesting an accommodation because of your disabilities and/or impairments?

☐ Yes ☐ No

If you answered "Yes," select any applicable box.

A. ☐ I am deaf or hard of hearing and request the following accommodation. (If you are requesting a sign-language interpreter, indicate for which language (for example, American Sign Language).)
B. ☐ I am blind or have low vision and request the following accommodation:



**Part 5. Information About Your Residence (continued)**

A-

**C. Physical Address 2**

Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

County

State

 

ZIP Code + 4

 - Province or Region  
(foreign address only)Postal Code  
(foreign address only)Country  
(foreign address only)Dates of  
Residence

From (mm/dd/yyyy)

To (mm/dd/yyyy)

**D. Physical Address 3**

Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

County

State

 

ZIP Code + 4

 - Province or Region  
(foreign address only)Postal Code  
(foreign address only)Country  
(foreign address only)Dates of  
Residence

From (mm/dd/yyyy)

To (mm/dd/yyyy)

**E. Physical Address 4**

Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

County

State

 

ZIP Code + 4

 - Province or Region  
(foreign address only)Postal Code  
(foreign address only)Country  
(foreign address only)Dates of  
Residence

From (mm/dd/yyyy)

To (mm/dd/yyyy)

**Part 6. Information About Your Parents**

If neither one of your parents is a United States citizen, then skip this part and go to Part 7.

1. Were your parents married before your 18th birthday?

☐ Yes ☐ No**Information About Your Mother**

2. Is your mother a U.S. citizen?

☐ Yes ☐ NoIf you answered "Yes," complete the following information. If you answered "No," go to **Item Number 3.**



**Part 6. Information About Your Parents (continued)**

A-

**A. Current Legal Name of U.S. Citizen Mother**

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)

**B. Mother's Country of Birth****C. Mother's Date of Birth (mm/dd/yyyy)****D. Date Mother Became a U.S. Citizen (if known) (mm/dd/yyyy)****E. Mother's A-Number (if any)**

▶ A-

**Information About Your Father****3. Is your father a U.S. citizen?**☐ Yes ☐ NoIf you answered "Yes," complete the information below. If you answered "No," go to **Part 7**.**A. Current Legal Name of U.S. Citizen Father**

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)

**B. Father's Country of Birth****C. Father's Date of Birth (mm/dd/yyyy)****D. Date Father Became a U.S. Citizen (if known) (mm/dd/yyyy)****E. Father's A-Number (if any)**

▶ A-

**Part 7. Biographic Information****NOTE:** USCIS requires you to complete the categories below to conduct background checks. (See the Form N-400 Instructions for more information.)**1. Ethnicity (Select **only one** box)**☐ Hispanic or Latino ☐ Not Hispanic or Latino**2. Race (Select **all applicable** boxes)**☐ White ☐ Asian ☐ Black or African American ☐ American Indian or Alaska Native ☐ Native Hawaiian or Other Pacific Islander**3. Height** Feet  Inches  **4. Weight** Pounds   **5. Eye color (Select **only one** box)**☐ Black ☐ Blue ☐ Brown ☐ Gray ☐ Green ☐ Hazel ☐ Maroon ☐ Pink ☐ Unknown/Other**6. Hair color (Select **only one** box)**☐ Bald (No hair) ☐ Black ☐ Blond ☐ Brown ☐ Gray ☐ Red ☐ Sandy ☐ White ☐ Unknown/Other

**Part 8. Information About Your Employment and Schools You Attended**

A-

List where you have worked or attended school full time or part time during the last five years. Provide information for the complete time period. Include all military, police, and/or intelligence service. Begin by providing information about your most recent or current employment, studies, or unemployment (if applicable). Provide the locations and dates where you worked, were self-employed, were unemployed, or have studied for the last five years. If you worked for yourself, type or print "self-employed." If you were unemployed, type or print "unemployed." If you need extra space, use additional sheets of paper.

**1. Employer or School Name**


Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

State

ZIP Code + 4

  - 
Province or Region  
(foreign address only)Postal Code  
(foreign address only)Country  
(foreign address only)



Date From (mm/dd/yyyy)

Date To (mm/dd/yyyy)

Your Occupation



**2. Employer or School Name**


Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

State

ZIP Code + 4

  - 
Province or Region  
(foreign address only)Postal Code  
(foreign address only)Country  
(foreign address only)



Date From (mm/dd/yyyy)

Date To (mm/dd/yyyy)

Your Occupation



**3. Employer or School Name**


Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

State

ZIP Code + 4

  - 
Province or Region  
(foreign address only)Postal Code  
(foreign address only)Country  
(foreign address only)



Date From (mm/dd/yyyy)

Date To (mm/dd/yyyy)

Your Occupation

**Part 9. Time Outside the United States**A- 

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1. How many **total days (24 hours or longer)** did you spend outside the United States during the last 5 years? 

--

 days
2. How many trips of **24 hours or longer** have you taken outside the United States during the last 5 years? 

--

 trips
3. List below all the trips of **24 hours or longer** that you have taken outside the United States during the last 5 years. Start with your most recent trip and work backwards. If you need extra space, use additional sheets of paper.

Date You Left the United States (mm/dd/yyyy)	Date You Returned to the United States (mm/dd/yyyy)	Did Trip Last 6 Months or More?	Countries to Which You Traveled	Total Days Outside the United States
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		

**Part 10. Information About Your Marital History**

1. What is your current marital status?  
☐ Single, Never Married ☐ Married ☐ Divorced ☐ Widowed ☐ Separated ☐ Marriage Annulled  
 If you are single and have **never** married, go to **Part 11**.
2. If you are married, is your spouse a current member of the U.S. armed forces? ☐ Yes ☐ No
3. How many times have you been married (including annulled marriages, marriages to other people, and marriages to the same person)? 

--
4. If you are married now, provide the following information about your current spouse.

**A. Current Spouse's Legal Name**

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)









**B. Current Spouse's Previous Legal Name**

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)









**C. Other Names Used by Current Spouse (include nicknames, aliases, and maiden name, if applicable)**

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)









**D. Current Spouse's Date of Birth (mm/dd/yyyy)**



**E. Date You Entered into Marriage with Current Spouse (mm/dd/yyyy)**

**Part 10. Information About Your Marital History (continued)**

A-

**F. Current Spouse's Present Home Address**

Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

County

State

ZIP Code + 4

 - Province or Region  
(foreign address only)Postal Code  
(foreign address only)Country  
(foreign address only)**G. Current Spouse's Current Employer or Company**

5. Is your current spouse a U.S. citizen?

☐ Yes ☐ NoIf you answered "Yes," answer **Item Number 6**. If you answered "No," go to **Item Number 7**.

6. If your current spouse is a U.S. citizen, complete the following information.

**A. When did your current spouse become a U.S. citizen?**☐ At Birth - Go to **Item Number 8**. ☐ Other - Complete the following information.**B. Date Your Current Spouse Became a U.S. Citizen (mm/dd/yyyy)**

7. If your current spouse is not a U.S. citizen, complete the following information.

**A. Current Spouse's Country of Citizenship or Nationality****B. Current Spouse's A-Number (if any)**

▶ A-

**C. Current Spouse's Immigration Status**☐ Lawful Permanent Resident ☐ Other (Explain):

8. How many times has your current spouse been married (including annulled marriages, marriages to other people, and marriages to the same person)? If your current spouse has been married before, provide the following information about your current spouse's prior spouse.

If your current spouse has had more than one previous marriage, provide that information on additional sheets of paper.

**A. Legal Name of My Current Spouse's Prior Spouse**

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)

**B. Immigration Status of My Current Spouse's Prior Spouse (if known)**☐ U.S. Citizen ☐ Lawful Permanent Resident ☐ Other (Explain):**C. Date of Birth of My Current Spouse's Prior Spouse (mm/dd/yyyy)****D. Country of Birth of My Current Spouse's Prior Spouse****E. Country of Citizenship or Nationality of My Current Spouse's Prior Spouse**



## A-

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**Part 11. Information About Your Children (continued)**

A-

Current Address

Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

County

State

ZIP Code + 4



 - 

Province or Region  
(foreign address only)

Postal Code  
(foreign address only)

Country  
(foreign address only)




What is your child's relationship to you? (for example, biological child, stepchild, legally adopted child)

**D. Child 4**

Current Legal Name

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)




A-Number (if any)

Date of Birth (mm/dd/yyyy)

Country of Birth

► A-




Current Address

Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐ ☐

City or Town

County

State

ZIP Code + 4



 - 

Province or Region  
(foreign address only)

Postal Code  
(foreign address only)

Country  
(foreign address only)




What is your child's relationship to you? (for example, biological child, stepchild, legally adopted child)

**Part 12. Additional Information About You (Person Applying for Naturalization)**

Answer **Item Numbers 1. - 21.** If you answer "Yes" to any of these questions, include a typed or printed explanation on additional sheets of paper.

1. Have you **EVER** claimed to be a U.S. citizen (in writing or any other way)? ☐ Yes ☐ No
2. Have you **EVER** registered to vote in any Federal, state, or local election in the United States? ☐ Yes ☐ No
3. Have you **EVER** voted in any Federal, state, or local election in the United States? ☐ Yes ☐ No
4. **A.** Do you now have, or did you **EVER** have, a hereditary title or an order of nobility in any foreign country? ☐ Yes ☐ No
- B.** If you answered "Yes," are you willing to give up any inherited titles or orders of nobility that you have in a foreign country at your naturalization ceremony? ☐ Yes ☐ No
5. Have you **EVER** been declared legally incompetent or been confined to a mental institution? ☐ Yes ☐ No



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- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- | Dates of Membership  |                    |
|----------------------|--------------------|
| From<br>(mm/dd/yyyy) | To<br>(mm/dd/yyyy) |

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

- ☐ Yes ☐ No

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- Page 13 of 20

**Part 12. Additional Information About You** (Person Applying for Naturalization) (continued)A- 

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19. Did you **EVER** receive any type of military, paramilitary (a group of people who act like a military group but are not part of the official military), or weapons training? ☐ Yes ☐ No
20. Did you **EVER** recruit (ask), enlist (sign up), conscript (require), or use any person under 15 years of age to serve in or help an armed force or group? ☐ Yes ☐ No
21. Did you **EVER** use any person under 15 years of age to do anything that helped or supported people in combat? ☐ Yes ☐ No

**If any of Item Numbers 22. - 28. apply to you, you must answer "Yes" even if your records have been sealed, expunged, or otherwise cleared.** You must disclose this information even if someone, including a judge, law enforcement officer, or attorney, told you that it no longer constitutes a record or told you that you do not have to disclose the information.

22. Have you **EVER** committed, assisted in committing, or attempted to commit, a crime or offense for which you were **NOT** arrested? ☐ Yes ☐ No
23. Have you **EVER** been arrested, cited, or detained by any law enforcement officer (including any immigration official or any official of the U.S. armed forces) for any reason? ☐ Yes ☐ No
24. Have you **EVER** been charged with committing, attempting to commit, or assisting in committing a crime or offense? ☐ Yes ☐ No
25. Have you **EVER** been convicted of a crime or offense? ☐ Yes ☐ No
26. Have you **EVER** been placed in an alternative sentencing or a rehabilitative program (for example, diversion, deferred prosecution, withheld adjudication, deferred adjudication)? ☐ Yes ☐ No
27. A. Have you **EVER** received a suspended sentence, been placed on probation, or been paroled? ☐ Yes ☐ No  
B. If you answered "Yes," have you completed the probation or parole? ☐ Yes ☐ No
28. A. Have you **EVER** been in jail or prison? ☐ Yes ☐ No  
B. If you answered "Yes," how long were you in jail or prison? Years  Months  Days
29. If you answered "No" to **ALL** questions in **Item Numbers 23. - 28.**, then skip this item and go to **Item Number 30.**

If you answered "Yes" to any question in **Item Numbers 23. - 28.**, then complete this table. If you need extra space, use additional sheets of paper and provide any evidence to support your answers.

Why were you arrested, cited, detained, or charged?	Date arrested, cited, detained, or charged. (mm/dd/yyyy)	Where were you arrested, cited, detained, or charged? (City or Town, State, Country)	Outcome or disposition of the arrest, citation, detention, or charge (no charges filed, charges dismissed, jail, probation, etc.)

**Part 12. Additional Information About You** (Person Applying for Naturalization) (continued)

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Answer **Item Numbers 30. - 46.** If you answer "Yes" to any of these questions, except **Item Numbers 37. and 38.**, include a typed or printed explanation on additional sheets of paper and provide any evidence to support your answers.

**30.** Have you **EVER**:

- A.** Been a habitual drunkard? ☐ Yes ☐ No
- B.** Been a prostitute, or procured anyone for prostitution? ☐ Yes ☐ No
- C.** Sold or smuggled controlled substances, illegal drugs, or narcotics? ☐ Yes ☐ No
- D.** Been married to more than one person at the same time? ☐ Yes ☐ No
- E.** Married someone in order to obtain an immigration benefit? ☐ Yes ☐ No
- F.** Helped anyone to enter, or try to enter, the United States illegally? ☐ Yes ☐ No
- G.** Gambled illegally or received income from illegal gambling? ☐ Yes ☐ No
- H.** Failed to support your dependents or to pay alimony? ☐ Yes ☐ No
- I.** Made any misrepresentation to obtain any public benefit in the United States? ☐ Yes ☐ No

**31.** Have you **EVER** given any U.S. Government officials **any** information or documentation that was false, fraudulent, or misleading? ☐ Yes ☐ No

**32.** Have you **EVER** lied to any U.S. Government officials to gain entry or admission into the United States or to gain immigration benefits while in the United States? ☐ Yes ☐ No

**33.** Have you **EVER** been removed, excluded, or deported from the United States? ☐ Yes ☐ No

**34.** Have you **EVER** been ordered removed, excluded, or deported from the United States? ☐ Yes ☐ No

**35.** Have you **EVER** been placed in removal, exclusion, rescission, or deportation proceedings? ☐ Yes ☐ No

**36.** Are removal, exclusion, rescission, or deportation proceedings (including administratively closed proceedings) **currently** pending against you? ☐ Yes ☐ No

**37.** Have you **EVER** served in the U.S. armed forces? ☐ Yes ☐ No

**38. A.** Are you **currently** a member of the U.S. armed forces? ☐ Yes ☐ No

**B.** If you answered "Yes," are you scheduled to deploy overseas, including to a vessel, within the next three months? (Refer to the **Address Change** section in the Instructions on how to notify USCIS if you learn of your deployment plans after you file your Form N-400.) ☐ Yes ☐ No

**C.** If you answered "Yes," are you **currently** stationed overseas? ☐ Yes ☐ No

**39.** Have you **EVER** been court-martialed, administratively separated, or disciplined, or have you received an other than honorable discharge, while in the U.S. armed forces? ☐ Yes ☐ No

**40.** Have you **EVER** been discharged from training or service in the U.S. armed forces because you were an alien? ☐ Yes ☐ No

**41.** Have you **EVER** left the United States to avoid being drafted in the U.S. armed forces? ☐ Yes ☐ No

**42.** Have you **EVER** applied for any kind of exemption from military service in the U.S. armed forces? ☐ Yes ☐ No

**43.** Have you **EVER** deserted from the U.S. armed forces? ☐ Yes ☐ No

**Part 12. Additional Information About You (Person Applying for Naturalization) (continued)**

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44. A. Are you a male who lived in the United States at any time between your 18th and 26th birthdays? ☐ Yes ☐ No  
(This does not include living in the United States as a lawful nonimmigrant.)

B. If you answered "Yes," when did you register for the Selective Service? Provide the information below.

Date Registered  
(mm/dd/yyyy)

Selective Service  
Number

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C. If you answered "Yes," but you **did not register** with the Selective Service System and you are:

1. Still under 26 years of age, you must register before you apply for naturalization, and complete the Selective Service information above; **OR**
2. Now 26 to 31 years of age (29 years of age if you are filing under INA section 319(a)), but you did not register with the Selective Service, you must attach a statement explaining why you did not register, and provide a status information letter from the Selective Service.

Answer **Item Numbers 45. - 50.** If you answer "No" to any of these questions, include a typed or printed explanation on additional sheets of paper and provide any evidence to support your answers.

45. Do you support the Constitution and form of Government of the United States? ☐ Yes ☐ No

46. Do you understand the full Oath of Allegiance to the United States? ☐ Yes ☐ No

47. Are you willing to take the full Oath of Allegiance to the United States? ☐ Yes ☐ No

48. If the law requires it, are you willing to bear arms on behalf of the United States? ☐ Yes ☐ No

49. If the law requires it, are you willing to perform noncombatant services in the U.S. armed forces? ☐ Yes ☐ No

50. If the law requires it, are you willing to perform work of national importance under civilian direction? ☐ Yes ☐ No

**Part 13. Applicant's Statement, Certification, and Signature**

**NOTE:** Read the **Penalties** section of the Form N-400 Instructions before completing this part.

***Applicant's Statement***

**NOTE:** Select the box for either **Item A.** or **B.** in **Item Number 1.** If applicable, select the box for **Item Number 2.**

1. Applicant's Statement Regarding the Interpreter

- A. ☐ I can read and understand English, and I have read and understand every question and instruction on this application and my answer to every question.
- B. ☐ The interpreter named in **Part 14.** read to me every question and instruction on this application and my answer to every question in 



, a language in which I am fluent, and I understood everything.

2. Applicant's Statement Regarding the Preparer

- ☐ At my request, the preparer named in **Part 15.**, 



, prepared this application for me based only upon information I provided or authorized.

**Part 13. Applicant's Statement, Certification, and Signature (continued)**

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***Applicant's Certification***

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit that I seek.

I further authorize release of information contained in this application, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

I understand that USCIS will require me to appear for an appointment to take my biometrics (fingerprints, photograph, and/or signature) and, at that time, I will be required to sign an oath reaffirming that:

- 1) I reviewed and provided or authorized all of the information in my application;
- 2) I understood all of the information contained in, and submitted with, my application; and
- 3) All of this information was complete, true, and correct at the time of filing.

I certify, under penalty of perjury, that I provided or authorized all of the information in my application, I understand all of the information contained in, and submitted with, my application, and that all of this information is complete, true, and correct.

***Applicant's Signature***

3. Applicant's Signature

Date of Signature (mm/dd/yyyy)

		
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**NOTE TO ALL APPLICANTS:** If you do not completely fill out this application or fail to submit required documents listed in the Instructions, USCIS may deny your application.

**Part 14. Interpreter's Contact Information, Certification, and Signature**

Provide the following information about the interpreter.

***Interpreter's Full Name***

1. Interpreter's Family Name (Last Name)

Interpreter's Given Name (First Name)

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2. Interpreter's Business or Organization Name (if any)

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***Interpreter's Mailing Address***

3. Street Number and Name

Apt. Ste. Flr. Number

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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City or Town

State

ZIP Code + 4

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Province

Postal Code

Country

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**Part 14. Interpreter's Contact Information, Certification, and Signature**  
(continued)

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***Interpreter's Contact Information***

4. Interpreter's Daytime Telephone Number
5. Interpreter's Mobile Telephone Number (if any)
6. Interpreter's Email Address (if any)

***Interpreter's Certification***

I certify, under penalty of perjury, that:

I am fluent in English and , which is the same language specified in **Part 13., Item B.** in **Item Number 1.**, and I have read to this applicant in the identified language every question and instruction on this application and his or her answer to every question. The applicant informed me that he or she understands every instruction, question and answer on the application, including the **Applicant's Certification** and has verified the accuracy of every answer.

***Interpreter's Signature***

7. Interpreter's Signature Date of Signature (mm/dd/yyyy)
- ➔

**Part 15. Contact Information, Declaration, and Signature of the Person Preparing This Application, if Other Than the Applicant**

Provide the following information about the preparer.

***Preparer's Full Name***

1. Preparer's Family Name (Last Name)  Preparer's Given Name (First Name)
2. Preparer's Business or Organization Name (if any)

***Preparer's Mailing Address***

3. Street Number and Name  Apt. ☐ Ste. ☐ Flr. ☐ Number
- City or Town  State  ZIP Code + 4  -
- Province  Postal Code  Country



**Part 15. Contact Information, Declaration, and Signature of the Person  
Preparing This Application, if Other Than the Applicant (continued)**

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**Preparer's Contact Information**

4. Preparer's Daytime Telephone Number

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5. Preparer's Mobile Telephone Number (if any)

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6. Preparer's Email Address (if any)

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**Preparer's Statement**

7. A. ☐ I am not an attorney or accredited representative but have prepared this application on behalf of the applicant and with the applicant's consent.

B. ☐ I am an attorney or accredited representative and my representation of the applicant in this case  
☐ extends ☐ does not extend beyond the preparation of this application.

**NOTE:** If you are an attorney or accredited representative whose representation extends beyond preparation of this application, you may be obliged to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, with this application.

**Preparer's Certification**

By my signature, I certify, under penalty of perjury, that I prepared this application at the request of the applicant. The applicant then reviewed this completed application and informed me that he or she understands all of the information contained in, and submitted with, his or her application, including the **Applicant's Certification**, and that all of this information is complete, true, and correct. I completed this application based only on information that the applicant provided to me or authorized me to obtain or use.

**Preparer's Signature**

8. Preparer's Signature



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Date of Signature (mm/dd/yyyy)

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**NOTE: Do not complete Parts 16., 17., or 18. until the USCIS Officer instructs you to do so at the interview.**

**Part 16. Signature at Interview**

I swear (affirm) and certify under penalty of perjury under the laws of the United States of America that I know that the contents of this Form N-400, Application for Naturalization, subscribed by me, including corrections number 1 through \_\_\_\_\_, are complete, true, and correct. The evidence submitted by me on numbered pages 1 through \_\_\_\_\_ are complete, true, and correct.

Subscribed to and sworn to (affirmed) before me

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USCIS Officer's Printed Name or Stamp

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Date of Signature (mm/dd/yyyy)

Applicant's Signature

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USCIS Officer's Signature

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**Part 17. Renunciation of Foreign Titles**A- 

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If you answered "Yes" to **Part 12., Items A. and B. in Item Number 4.**, then you must affirm the following before a USCIS officer:

I further renounce the title of \_\_\_\_\_ which I have heretofore held; or  
(list titles)

I further renounce the order of nobility of \_\_\_\_\_ to which I have heretofore belonged.  
(list order of nobility)

Applicant's Printed Name

Applicant's Signature

USCIS Officer's Printed Name

USCIS Officer's Signature

Date of Signature (mm/dd/yyyy)

**Part 18. Oath of Allegiance**

If your application is approved, you will be scheduled for a public oath ceremony at which time you will be required to take the following Oath of Allegiance immediately prior to becoming a naturalized citizen. By signing below you acknowledge your willingness and ability to take this oath:

I hereby declare on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen;

that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign, and domestic;

that I will bear true faith and allegiance to the same;

that I will bear arms on behalf of the United States when required by the law;

that I will perform noncombatant service in the armed forces of the United States when required by the law;

that I will perform work of national importance under civilian direction when required by the law; and

that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

**Applicant's Printed Name**

Family Name (Last Name)

Given Name (First Name)

Middle Name (if applicable)

**Applicant's Signature****Date of Signature (mm/dd/yyyy)**