



GMS Flash Alert

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United States – IRS FAQs: Claiming Medical Condition Exception for COVID-19

On May 27, 2020, the U.S. Internal Revenue Service (IRS) issued guidance in a set of “frequently asked questions” (FAQs)¹ for certain nonresident individuals who were present in the United States and intended to leave but were unable to do so because of a medical condition or travel interruptions due to COVID-19. These individuals may be eligible to claim the medical condition exception to exclude certain days of U.S. presence for purposes of the substantial presence test.

These FAQs acknowledge the difficulty of obtaining signed statements from physicians during the COVID-19 emergency and thus modify certain requirements in relation to claiming this exception.

WHY THIS MATTERS

On April 21, 2020, the IRS issued guidance in Rev. Proc. 2020-20² providing welcome relief for certain individuals present in the United States who, but for COVID-19-related emergency travel interruptions, would not have been present in the United States long enough to be considered a U.S. resident under the substantial presence test (SPT) of the U.S. Internal Revenue Code.³ (For prior coverage, see [GMS *Flash Alert* 2020-187](#), April 22, 2020.) These new FAQs give guidance regarding how to claim the benefit of these special relief provisions.

Rev. Proc. 2020-20

Rev. Proc. 2020-20 permitted any eligible individual who intended to leave the United States during their COVID-19 Emergency Period (on or after February 1, 2020 and on or before April 1, 2020), but was unable to do so because of COVID-19 emergency travel disruptions (which include canceled flights and disruptions to other forms of transportation, shelter-in-place orders, quarantines, and border closures), to exclude this period, of up to 60 days, for purposes of applying the SPT.

FAQs

The newly-issued FAQs provide additional relief by allowing an individual who is eligible for the medical condition exception to cover a period of up to 30 consecutive days in 2020 without the physician's statement that is normally required. This exemption can be claimed in addition to the relief provided in Rev. Proc. 2020-20. In place of a physician's statement, eligible individuals should retain documentary evidence substantiating their medical condition and should be prepared to produce such evidence if requested by the IRS.

The FAQs also provide guidance on how Form 8843, *Statement for Exempt Individuals and Individuals With a Medical Exception*, should be completed when this form is submitted as part of the individual's 2020 income tax return.

FOOTNOTES:

- 1 For the text of *FAQs for Individuals Claiming the Medical Condition Exception in 2020*, see <https://www.irs.gov/newsroom/faqs-for-individuals-claiming-the-medical-condition-exception-in-2020>.
- 2 For the text of Rev. Proc. 2020-20, see: <https://www.irs.gov/pub/irs-drop/rp-20-20.pdf>.
- 3 Internal Revenue Code section 7701(b)(3).

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