



# TaxNewsFlash

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## IRS provides FAQs for individuals claiming the “medical condition exception” in 2020 (COVID-19)

The IRS provided a set of “frequently asked questions” (FAQs) to offer relief to certain alien individuals who are present in the United States but were unable to follow through on their plans to leave the United States because they contracted the coronavirus (COVID-19) or experienced other medical conditions or problems.

As noted in the FAQs (dated May 27, 2020), certain alien individuals may have intended to leave the United States but were unable to do so because of a medical condition or problem (as described in section 7701(b)(3)(D)(ii)). The IRS explained that these individuals may be eligible to claim the “medical condition exception” to exclude certain days of U.S. presence from the substantial presence test, described in section 7701(b)(3), provided they meet the requirements described in section 7701(b)(3)(D)(ii) and section 301.7701(b)-3(c)—the medical condition exception.

Alien individuals who are eligible to claim the medical condition exception generally must file Form 8843, *Statement for Exempt Individuals and Individuals With a Medical Condition*, to claim the exception. Form 8843 requires a signed statement from a physician or other medical official that the alien individual was unable to leave the United States due to a medical condition or medical problem. The FAQs continue to explain that because of the uniqueness of the COVID-19 situation, these individuals may have difficulty obtaining a signed statement by a physician or other medical official attesting to the alien individual's inability to leave due to a medical condition. Accordingly, the FAQs modify the requirements for completing Part V of Form 8843 for certain alien individuals claiming the medical condition exception during calendar year 2020.

The FAQs also provide information regarding relevant record keeping requirements for persons filing Form 8843 without a physician's statement (either pursuant to these FAQs or the relief granted in Rev. Proc. 2020-20). Rev. Proc. 2020-20 provides relief for certain nonresident alien individuals stranded in the United States due to the COVID-19 pandemic, and describes procedures for eligible individuals to claim the COVID-19 medical condition travel exception (by which an eligible individual can exclude a single period of up to 60 consecutive calendar days of presence in the United States for purposes of applying the substantial presence test). Read [TaxNewsFlash](#)

Read the [FAQs](#) (full text provided below):

**Q 1. Will an alien individual who intended to but is or was unable to leave the United States on the individual's planned departure date due to a medical condition or medical problem in calendar year 2020 be required to obtain a physician's statement as required by Part V of Form 8843?**

**A1.** Any alien individual who is eligible and fulfills the requirements to claim the Medical Condition Exception may file the Form 8843 without a physician's statement to cover a single period of up to 30 consecutive calendar days in calendar year 2020 (30-Day Medical Condition). This FAQ does not modify the eligibility requirements to claim the Medical Condition Exception, only the procedures for claiming the exception on Part V of Form 8843 and only with respect to a single period of up to 30 consecutive calendar days of presence in the United States in calendar year 2020.

Pursuant to the Medical Condition Exception, any days of presence for which an alien individual is eligible and claims a 30-Day Medical Condition will be excluded for purposes of the substantial presence test. The exemption from the Form 8843 requirement to obtain a physician's statement for a 30-Day Medical Condition can be claimed in addition to the relief provided in Rev. Proc. 2020-20. The instructions to Form 8843 for 2020 will reflect the 30-Day Medical Condition contemplated by this FAQ.

**Q2. What types of documentary evidence should alien individuals retain to support their eligibility for the 30-Day Medical Condition?**

**A2.** In lieu of a physician's statement, alien individuals claiming the 30-Day Medical Condition should retain documentary evidence that substantiates their medical condition, their inability to leave due to the medical condition, and the period of the medical condition, such as (i) evidence of consultations with a health care provider (for example, a phone bill or a text message or email from the health care provider), (ii) receipts related to healthcare purchases, (iii) evidence of canceled or changed travel reservations, or (iv) official medical records or written healthcare correspondence that the individual received (for example, automated responses instructing an individual to self-isolate). These documents should not be submitted with the Form 8843, but alien individuals claiming the 30-Day Medical Condition should be prepared to produce these records if requested by the IRS.

**Q3. How should alien individuals who only claim the 30-Day Medical Condition complete Part V of Form 8843 (the section of the form applicable to individuals claiming the Medical Condition Exception)?**

**A3.** For those claiming a 30-Day Medical Condition without claiming relief under Rev. Proc. 2020-20 or any other excluded days pursuant to the Medical Condition Exception, the alien individual should write "30-Day Medical Condition" and then describe in detail the 30-Day Medical Condition that prevented the alien individual from leaving the United States under Line 17a in Part V of Form 8843. When determining the information to include in line 17a, an alien individual should provide relevant information so that the individual can clearly demonstrate qualification for the Medical Condition Exception if the Form 8843 is later reviewed by the IRS with the corresponding documentary evidence discussed in FAQ 2, as applicable. Lines 17b and 17c should be completed consistently with the form's instructions. Line 18 of the form should be left blank. As described in FAQ 2, third-party documentary evidence of an alien individual's medical condition should not be submitted with the form, but should be retained by the alien individual.

**Q4. How should alien individuals who claim multiple Medical Condition Exceptions complete Part V of Form 8843?**

**A 4.** An alien individual may be able to claim multiple Medical Condition Exceptions and should file a single Form 8843 enumerating all the applicable Medical Condition Exceptions on line 17a. The alien individual should attach a separate statement with respect to each Medical Condition Exception being claimed along with the relevant corresponding information as outlined in Rev. Proc. 2020-20, in FAQ 3, or the existing instructions, as applicable. As an example, line 17a could read:

"Condition 1: COVID-19 MEDICAL CONDITION TRAVEL EXCEPTION;  
Condition 2: 30-DAY MEDICAL CONDITION,"

Lines 17b and 17c of Part V should be left blank, but the relevant information for each applicable exception, as described in Rev. Proc. 2020-20 and in FAQ 3, along with the dates that would otherwise be reflected under line 17b and line 17c, would be included in each separate statement. Neither of these conditions require a physician's statement, and thus line 18 should be left blank. Note, however, if an alien individual is also claiming a Medical Condition Exception that requires a physician's statement, the signature and relevant information from line 18 should be included in the separate attachment related to that medical condition.

**Q5. What types of documentary evidence should Eligible Individuals retain to support their eligibility for the relief provided under Rev. Proc. 2020-20?**

**A5.** An Eligible Individual claiming relief under Rev. Proc. 2020-20 should retain evidence of the individual's presence in the United States during the individual's claimed COVID-19 Emergency Period (such as a Customs and Border Protection Form I-94 showing the individual's entries into the United States, hotel receipts, or travel reservations, including confirmation of changes or cancellations). If the Eligible Individual was actually ill or advised to self-quarantine in the United States during the individual's excluded days under the revenue procedure, he or she may also retain the documents described in FAQ 2 to demonstrate presence in the United States through U.S.-based medical records and treatments, though failure to document an actual illness will not affect eligibility to claim relief under Rev. Proc. 2020-20.

An Eligible Individual who does not qualify for the presumption of an intent to leave the United States outlined in section 4.02 of Rev. Proc. 2020-20 (meaning, the individual has applied, or otherwise taken steps, to become a lawful permanent resident of the United States but is not yet a lawful permanent resident), should also retain any documents that may support a "facts and circumstances" analysis of the Eligible Individual's intent to leave the United States under section 301.7701(b)-3(c)(2). These documents should not be submitted with the Form 8843, but Eligible Individuals claiming relief under Rev. Proc. 2020-20 should be prepared to produce these records if requested by the IRS.

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