

## Identity Theft Isn't Just for the Living

Article By:

Advertising, Labeling and Consumer Class Action at Holland & Hart

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With income tax season upon us, we are inundated with warnings from the IRS to take extra caution when filing our individual income tax returns with identity theft on the rise. But identity theft also happens to Decedents.

We recently had an estate that filed a final individual income tax return for a Decedent and the estate was expecting a sizeable refund. When the refund check did not arrive, we attempted to track it down with the IRS. All calls to the IRS hit dead-end after dead-end. No agent at the Service would talk with us even though we had the Personal Representative on the phone line with us and all necessary information to validate our identity.

Finally after pleading our case to a sympathetic agent who was willing to listen, the agent had us fax several pieces of validating information to her, such as the Decedent's Death Certificate, Letters Testamentary, a copy of the Decedent's prior year income tax return and a Form 2848. The agent then advised us that a return had already been filed for the Decedent and a refund had already been issued. The fraudulent fiduciary was from a different state than our fiduciary. Thus, the IRS wrongfully concluded that we were attempting to conduct fraud and had filed a fraudulent return. Our account was then flagged as a "High Risk Disclosure" account. That was the reason why all prior attempts to talk with the IRS before went unheeded.

The estate had to file Form 14039 Identity Theft Affidavit with the IRS with an original Death Certificate, certified copy of the Letters Testamentary, copies of the Decedent's and the Personal Representative's Drivers Licenses together with Form 2848.

Even though the IRS was doing their job in trying to protect our Decedent's account, they were protecting the wrong fiduciary. Fortunately, we were able to finally make our case and get the matter resolved.

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