

## My Deceased Loved One Received a Stimulus Check. Can I Keep It?

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*Commentary by: Charla Burchett, Esq.*

The Internal Revenue Service has paid out billions of dollars in relief payments to individuals as part of the CARES Act, a cash injection passed by Congress in response to COVID-19. Just last Friday, new guidance was issued by the IRS to taxpayers who received a stimulus check for deceased family members.

For the most part, the IRS wants such recipients to pay the money back to the U.S. Treasury, with one exception. You may only retain the stimulus check if your loved one was living on the day the check was issued. Checks were issued based upon the last income tax return filed in the name of the decedent which could be either the 2018 return or the 2019 return. If you received a stimulus check on behalf of a deceased person, it either means the final income tax return (IRS Form 1040 U. S. Individual Income Tax Return) for your loved one has not yet been filed or the return was filed and your loved one died after the return was filed.

However, if you are the surviving spouse of a decedent, and the stimulus check payment was calculated based on two individuals, then you may retain your portion of the stimulus check. The amount to retain would be \$1,200 unless the adjusted gross income on the last filed return exceeded \$150,000. In this event, you should confer with your accountant.

While the IRS has not set forth specific legal consequences for someone's failure to return the funds, it is clear that the IRS expects the funds to be returned.

If you received a paper check, you must write "VOID" in the endorsement section on the back of the check. Then mail the voided Treasury check to the IRS. Do not staple, bend, or paper clip the check. Include a note explaining the reason you are returning the check.

If you have cashed or deposited the paper check or if the payment was direct deposited to an account for the decedent, then you must either send a personal check or money order to the IRS. The check or money order should be made payable to the "US Treasury" and you should write "2020EIP" and the "decedents social security number" on the check or money order. Also, include a note explaining the reason you are returning the check.

The mailing address to use to return the funds to the IRS is based on the state in which you live. For Florida residents, the address is:



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Austin Refund Inquiry Unit

36451 S Interregional Hwy 35

Mail Stop 6542

Austin, TX 78741.

If you have any other questions, you should review the [IRS website](#).

### Professionals

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