

IRS Resource Guide – Links to IRS.gov

Decedents & Related Issues

This document is intended to help congressional staff find publicly available information. The document itself is not official guidance. However, it does provide hyperlinks to www.irs.gov, where official IRS guidance is posted.

1. What IRS resources are available for survivors filing returns for decedents?

- The most comprehensive guide is [Publication 559, Survivors, Executors, and Administrators](#).
- [Tax Topic 356 – Decedents](#) includes general information and links to forms and publications.
- [Deceased Persons – Probate, Filing Estate and Individual Returns, Paying Taxes Due](#) includes links to information on IRS.gov to help resolve final tax issues of a deceased person and their estate. Topics include:
 - Getting the IRS to File a Proof of Claim in a Probate Proceeding,
 - Selling Real Property that is Part of the Decedent's Estate, and
 - Filing Estate and/or Gift Tax Returns
- [Publication 17, Your Federal Income Tax](#), lists helpful topics in the index under *Decedents*.
- Forms (other than tax returns) you may need to file include:
 - [Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer](#) - use this form to claim a refund on behalf of a deceased taxpayer.
 - [Form 56, Notice Concerning Fiduciary Relationship](#) - use this form to notify the IRS of the creation or termination of a fiduciary relationship such as when you are acting as fiduciary for an individual or a decedent's estate. A fiduciary is any person in a position of confidence acting on behalf of any other person. A fiduciary assumes the powers, rights, duties and privileges of the person or entity on whose behalf he or she is acting. See the [Instructions](#) to Form 56 for details.

In addition, several interactive resources on IRS.gov are referenced below. By using an interactive tool, you will get instructions that apply to your specific situation.

2. Should a final individual income tax return for the year of death be filed for a decedent?

Maybe. An individual income tax return *may* need to be filed for an individual for the year of death. For example, a 2016 tax return may need to be filed in 2017 for an individual who died in 2016. You can find more information at [Deceased Persons – Filing the Final Return\(s\) of a Deceased Person](#).

To determine if a final income tax return must be filed, please enter the decedent's information on [Do I Need to File a Tax Return?](#)

A final income tax return may need to be filed in the year following an individual's death, depending on his/her income and withholding. For example:

- If an individual was a wage earner who died in September 2016 and had earned \$50,000 between January and September, a 2016 return would have to be filed for the individual. Income, deductions and credits, etc., would be reported and tax due or a refund would be calculated.

IRS Resource Guide – Links to IRS.gov

Decedents & Related Issues

- If an individual was a wage earner who died in February 2016 and had earned \$5,000 that year, a 2016 return would generally not be required but could be filed to claim the tax withholding as a refund.
- If an individual died in December 2016 and the only income was \$2,000 per month in Social Security retirement benefits, filing a return would not be required, based on a calculation of taxable Social Security benefits. There most likely would have been no withholding, but if there was, a return could be filed to claim a refund.
- If an individual died in 2016 and had received both Social Security income and other pension and investment income during the year, a 2016 return might be required. Taxable income would need to be calculated.

If the individual was married, the surviving spouse can elect to file a joint return and report both the deceased's and surviving spouse's income, deductions and credits.

3. How do I file a final individual income tax return for a decedent?

If you've determined that a final individual income tax return should be filed, you can use [How Do I File a Deceased Person's Tax Return?](#) on IRS.gov to learn how.

Using the interactive tool will provide the most specific information. However, here are some general instructions for filing a final individual income tax return:

- Use the Form 1040 series to file the tax return(s). Write *Deceased*, the decedent's name and the date of death across the top of the tax return. If the return is being filed electronically, identify the taxpayer as deceased and the date of death in the tax software.
- The standard deduction for a decedent's final tax return is the same as it would have been had the decedent continued to live.
- The return for the year of death will be the final individual tax return for the decedent. The return is due on the regular due date, generally April 15 in the year following the close of the year of death.
- To obtain a refund for a decedent's tax overpayment, including any refundable credits that the decedent is entitled to; as a general rule you must file a claim for refund within three years from the filing date of the original tax return or two years from the date the tax is considered paid, whichever is later.
- The person in charge of the decedent's property must file and sign the return(s) as *personal representative*. The return(s) must be filed with the IRS Center for the state in which the personal representative lives.
- If the decedent's return claims a refund, the personal representative must attach a copy of the court certificate to the return(s) showing that he or she was appointed the personal representative.
- The personal representative is responsible for paying from the decedent's assets any additional taxes that may be due.
- If no personal representative has been appointed by the court or designated by the will, the person in charge of the decedent's property is treated as the personal representative.
- If the taxpayer was married and the surviving spouse elects to file a joint return, write the names and address of the deceased taxpayer and the surviving spouse in the name and address space. The surviving spouse must sign the return(s) and write in the signature area *Filing as surviving spouse*. The return(s) must be filed with the IRS Center for the state in which the *surviving spouse* lives. The surviving spouse is responsible for any additional taxes that may be due.

IRS Resource Guide – Links to IRS.gov

Decedents & Related Issues

- The person who is filing a return for a decedent and claiming a refund must file [Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer](#), with the return(s).

4. How do I file a prior year return for a decedent?

If an individual died before filing a prior year return (for instance, he died in March 2017 and hadn't yet filed his full-year 2016 tax return due by April 18, 2017), similar instructions apply. Use [How Do I File a Deceased Person's Tax Return?](#) In this example, a final return for 2017 might also need to be filed in 2018, depending on the individual's income from January 2017 through his death in March 2017.

5. How is income reported that is received after an individual's death?

All income the decedent would have received had death not occurred that wasn't properly included on the final return is income in respect of a decedent and must be included in the income of one of the following:

- The decedent's estate, if the estate receives it.
- The beneficiary, if the right to income is passed directly to the beneficiary and the beneficiary receives it.
- Any person to whom the estate properly distributes the right to receive it.

For example, if a final pension or salary check for a decedent is paid to the beneficiary, the beneficiary would include the pension or salary payment in his income in the year received. Please see additional information beginning on page 9 of [Publication 559](#).

If payment on a contract is made to a decedent's business following his death, the income would be reported on [Form 1041, U.S. Income Tax Return for Estates and Trusts](#). Or, if an individual died without designating a beneficiary for his 401(k) pension plan, the balance in the account would be paid to the individual's estate, and the taxable portion would be reported as income on Form 1041.

6. Are a decedent's medical expenses deductible?

Yes. Medical expenses paid before death by the decedent are included in figuring any deduction for medical and dental expenses on the final income tax return. This includes expenses for a spouse and any dependents as well as for the decedent. The survivor or designated personal representative can choose to treat certain expenses paid by the decedent's estate for the decedent's medical care as paid by the decedent at the time the services were provided. The expenses must be paid within the one-year period beginning with the day after the date of death. If you are the survivor or personal representative making this choice, you must attach a statement to the decedent's Form 1040 (or the amended return, Form 1040X) saying that the expenses haven't been and won't be claimed on the estate tax return. You can find additional information in chapter 21 of [Publication 17](#).

7. How is a decedent's capital loss or capital loss carryover deducted?

A capital loss sustained by a decedent during his or her last tax year (or carried over to that year from an earlier year) can be deducted only on the final income tax return filed for the decedent. The capital loss limits still apply in this situation. The decedent's estate cannot deduct any of the loss or carry it over to following years. For more information on capital loss limits, see chapter 16 of [Publication 17](#).

8. Who is required to file Form 1041, Tax Return for Estates and Trusts?

When someone dies, their assets become property of their estate. Any income those assets generate is also part of the estate and may trigger the requirement to file an estate income tax return. Examples of assets that would generate income to the decedent's estate include savings accounts, CDs, stocks, bonds, mutual funds and rental property. [Form 1041, U.S. Income Tax Return for Estates and Trusts](#), is required if the estate generates more than \$600 in annual gross income.

The decedent and their estate are separate taxable entities. Before filing Form 1041, you will need to obtain a tax ID number for the estate. An estate's tax ID number is called an *employer identification number*, or EIN, and comes in the format 12-345678X. You can [apply online](#) for this number. You can also apply by fax or mail. See [How to Apply for an EIN](#).

A decedent's estate figures its gross income in much the same way as an individual. Most deductions and credits allowed to individuals are also allowed to estates and trusts. However, there is one major distinction. A trust or decedent's estate is allowed an income distribution deduction for distributions to beneficiaries. Income distributions are reported to beneficiaries and the IRS on [Schedules K-1](#).

9. Who is required to file Form 706, Estate Tax Return?

For estate tax purposes, the personal representative may be required to file Form 706. If death occurred in 2016, Form 706 must be filed if the gross estate of the decedent, plus any adjusted taxable gifts and specific gift tax exemption is valued at more than \$5,450,000. If Form 706 is required, the return and payment of any tax is due is within nine months after the date of the decedent's death, although an extension is available. You can find details in the [instructions](#) for Form 706 and in [Publication 559](#) beginning on page 24.

Estate taxes are complex, so you should consider consulting an attorney or other estate tax specialist if a Form 706 must be filed.

10. Who is required to File 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent?

If a person is required to file Form 706, Estate Tax Return, or Form 706-NA, Estate Tax Return for Non-Resident of the U.S., on behalf of a decedent's estate after July 2015, the person may also be required to file Form 8971. Form 8971 and its Schedule A are used to report the final estate tax value of property distributed or to be distributed from the estate. Form 8971 and a copy of every Schedule A is filed with the IRS and one Schedule A is sent to each beneficiary receiving property from an estate.

Estate taxes and the related returns are complex, so consider consulting an attorney or other estate tax specialist if you think filing Form 706 or Form 8971 may be required.

11. Are life insurance proceeds taxable to the beneficiary?

No. The proceeds from a decedent's life insurance policy paid by reason of his or her death generally are excluded from income. The exclusion applies to any beneficiary, whether a family member, other individual, a corporation or a partnership. Please see additional information on page 13 of [Publication 559](#).

12. Are inheritances taxable to the recipient?

It depends. Money and property received as an inheritance are generally not included in your income. However, if property you inherited later produces income, such as interest,

dividends or rents, that income is taxable to you. If the inheritance is the income from property, that income is taxable to you.

If you sell property (real estate, stocks, collectibles, etc.) that you inherited, you might have a taxable gain on the sale. See [Gifts & Inheritances](#).

For information on inherited annuities, such as IRAs, review [Publication 559](#).

13. What are the responsibilities of an estate administrator?

In general, the responsibilities of an estate administrator are to collect all the decedent's assets, pay any creditors and distribute the remaining assets to heirs or other beneficiaries.

For information about the duties of an estate administrator and the probate process, please see [Deceased Taxpayers – Understanding the General Duties as an Estate Administrator](#).

14. How should an employer report the wages of a deceased employee?

If an employee died during the year, the employer must report the accrued wages, vacation pay and other compensation paid after the date of death. If payments were made in the same year the employee died, the employer must withhold Social Security and Medicare taxes on the payments and report them only as Social Security and Medicare wages on the employee's Form W-2 to ensure that proper Social Security and Medicare credit is received. On the Form W-2, the employer should show the payment as Social Security wages (box 3) and Medicare wages and tips (box 5) and the Social Security and Medicare taxes withheld in boxes 4 and 6; the employer should not show the payment in box 1 of Form W-2.

If payment was after the year of death, the employer should not report it on Form W-2, and should not withhold Social Security and Medicare taxes.

Whether the payment was made in the year of death or after the year of death, the employer also must report the payment to the estate or beneficiary on Form 1099-MISC. The employer should report the payment in box 3, and enter the name and TIN of the payment recipient on Form 1099-MISC. For example, if the recipient is an individual beneficiary, enter the name and Social Security number of the individual; if the recipient is the estate, enter the name and employer identification number of the estate. The general backup withholding rules apply to this payment.

Death benefits from nonqualified deferred compensation plans or section 457 plans paid to the estate or beneficiary of a deceased employee are reportable on Form 1099-MISC. Do not report these death benefits on Form 1099-R. However, if the benefits are from a qualified plan, report them on Form 1099-R. See the Instructions for Forms 1099-R and 5498.

For additional information, see [Deceased employee's wages in the Form 1099-MISC instructions](#).

15. How can a decedent's tax information be requested from the IRS?

We'll need to know you're authorized to receive a decedent's records before we can share them. For detailed instructions, see [Deceased Persons – Getting Information from the IRS](#).

16. What can be done to protect a decedent's information from being obtained and used by identity thieves?

IRS Resource Guide – Links to IRS.gov

Decedents & Related Issues

Please see suggestions for protecting a decedent's information at [Deceased Taxpayers – Protecting the Deceased's Identity from ID Theft](#).

17. Which state return(s) do I need to file for a decedent?

Contact the state department of revenue in the state where the deceased individual resided. States have their own requirements, which may include filing an estate and/or inheritance tax return.

18. How can I find a tax professional if I need help filing a return for a decedent?

Helpful suggestions for determining the kind of tax professional needed and for checking a tax professional's credentials are available at [Need someone to prepare your tax return?](#).