

2010
Tax FORUM
IRS Nationwide

Introduction to the Decedent's Final Form 1040

National Society of Tax Professionals



Filing Requirements

- Decedent Ceases as a Taxable Entity
- An Estate Comes into Existence
- Decedent's Final **Form 1040** due April 15th following year of death with automatic extension available
- Personal Representative must file Final **Form 1040**

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Filing Requirement of Decedent

- Determined by income, age and filing status
- Gross income includes *all* money, goods and property actually received or constructively received
- Period from January 1 through midnight of the date of death
- A return must be filed in order to receive a refund

Filing Issues

- Decedent's year of death not a short tax year
- Income not annualized
- Full *personal exemption* available
- Full *standard deduction* and additional standard deductions for age, blindness and real estate taxes available

Filing Issues

- Dependency *exemptions* of decedent still qualify after death
- Decedent eligible for **EIC** even though return covers less than twelve months
- Self-employment income *greater than \$400* and **FICA & Medicare** taxes on tips not reported by employer
- **Schedule H** filing requirement issues

Personal Representative Issues

- Form 56 required “*Notice of Fiduciary Relationship*”
- Form 1310 required “*Statement of Person Claiming Refund Due a Decedent Taxpayer*”
- Surviving spouse or court appointed representative: **Form 1310** not required
- Practical matter: always attach **Form 1310**



Filing Issues

- File Final Form 1040 at Service Center of Personal Representative
- No estimated payments after death IRS Reg. 1.6015(b)-1(c) (2) and Private Letter Ruling 9102010
- “DECEASED” across top of return
- Personal representative and or Surviving Spouse name also on return

Filing Issues

- Personal Representative signs return as “*Personal Representative*”
- If joint return then surviving spouse signs as “*Surviving Spouse*”
- Report *all income actually and constructively received before death for cash basis taxpayer*
- Report *all deductions actually or constructively paid before death*

Income in Respect of a Decedent: IRD

- Gross income to which decedent had a “*right*” to receive at death but didn’t
- Not *actually or constructively received at death*: not included on final Form 1040
- If no designated beneficiary then IRD items reported on **Estate's Form 1041**
- If a named beneficiary then by operation of law income reported on **Form 1040** of named beneficiary

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Income in Respect of a Decedent: IRD

- Character of income to Estate and/or named beneficiary same as if received by decedent
- Capital gain vs. ordinary
- Short-term capital gain vs. long-term capital gain
- Installment sale character determined by holding period of decedent

Deductions in Respect of a Decedent

- Decedent's *obligations* at death not paid at the time of death
- Deducted by either the **Estate on Form 1041** or *named beneficiary* of property transferred on **Form 1040**

Common Issues to Resolve

- Final Wages of Decedent: **Form W-2** reporting
- Interest & Dividend Income issues: Forms **1099-INT** & **1099-DIV** and reporting discrepancies
- **U.S. Savings Bond Interest** issues and *Sec. 454 Election*
- **Capital Losses** of decedent

Common Issues to Resolve

- Sale of decedent's former residence
- **Rental Property issues and Passive Activity Losses: PALs**
- **Business Operations and Net Operating Losses: NOLs**
- **Medical Expense: Sec. 213(d) *election* and Medical savings Account (MSA) issues**

