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White Paper

Death and Income Taxes

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Death and Income Taxes

How might the death of your family member impact income tax return responsibilities?

The death of one of your family members--particularly the death of your spouse--may create certain federal income tax tasks and responsibilities for you. In particular, you'll need to learn the proper procedure for filing and signing the decedent's final income tax return, you'll need to review the applicable filing status rules, and you'll probably need to learn how to obtain and cash any refund check to which the deceased may have been entitled.

What should you know about filing and signing income tax returns incident to a death?

Specific procedures must be followed if you are filing and/or signing a decedent's final income tax return.

Filing the return

The same filing requirements that apply to individuals determine whether a final income tax return must be filed for your deceased family member ("the decedent"). In other words, if the decedent's level of income during the year was so low that he or she would not normally be obligated to file an income tax return, then an income tax return need not be filed for the year of death.

When you file a return for the decedent, either as the personal representative (i.e., the executor or administrator) or as the surviving spouse, the return must be completed according to some specific rules. For instance, you must write "DECEASED" across the top of the decedent's tax return, along with the decedent's name and date of death.

- If you are the surviving spouse and are filing a joint return with the decedent, you should also write the names and addresses of both parties (you and the decedent) in the regular name and address space on the return, or use the peel-off label
- If a joint return is not being filed, write the decedent's name in the name space in care of the personal representative, along with the personal representative's address

Signing the return

Specific rules also govern procedure for signing the return. If a personal representative such as an executor or administrator has been appointed, the personal representative must sign the return. If a joint return is filed, the surviving spouse must also sign the return. If no personal representative has been appointed by the due date for filing the return, the surviving spouse (on a joint return) should sign

the return and write "Filing as Surviving Spouse," in the signature area. If no personal representative has been appointed and if there is no surviving spouse, the person in charge of the decedent's property must file and sign the return as "Personal Representative."

Other important rules

There are many other rules that come into play when filing a final return for a decedent. For instance, you should know that the date of death determines the amount of income and deductions that will be reported on the tax return.

What are some filing status considerations in the year of death?

In general, marital status is determined on the last day of the tax year (December 31). However, special rules apply when a married taxpayer dies; married filing jointly status is generally allowed for that tax year, even if the death occurred on January 1. If the decedent was married, however, it is important for you to calculate whether the tax on a joint return would be less than the total tax owed on two separate returns. Bear in mind that although a joint return will include all of the income and deductions of the survivor for the entire year, it will include only the income and deductions of the decedent up until the date of the death.

Tip: If certain property was not owned jointly with the surviving spouse but passed to the decedent's estate at death, the subsequent income on that property would be reported on the income tax return for the estate, not on the joint income tax return.

Filing status for surviving spouse

For the surviving spouse, any of a number of filing statuses may be appropriate. These can range from married filing jointly, to married filing separately, to qualifying widow(er), to head of household.

Married filing jointly

In the year of a spouse's death, the surviving spouse generally is considered married for the entire year, for tax purposes. Therefore, the surviving spouse can generally file a joint return for that year. This rule also applies if both spouses die during the same tax year. Generally, a joint return can be made only with the cooperation of the executor or administrator of the decedent's estate. However, the surviving spouse, acting alone, can file a joint return with the deceased spouse under the following conditions:

- The decedent had not filed a tax return (as married filing separately) for his or her year of death, prior to death
- No executor or administrator has been appointed at or before the filing of the joint return or before the last day prescribed by law for filing the return of the surviving spouse (including extensions)

Married filing separately

In general, a surviving spouse should calculate taxes both according to the married filing jointly status and the married filing separately status in order to determine the most advantageous approach. If the surviving spouse remarries before the end of the year, married filing separately status must be used for the decedent's final return.

Qualifying widow(er)

Although a joint return cannot be filed with the deceased spouse for a tax year after the year of death, the surviving spouse can use the married filing jointly tax rates and standard deduction amount by filing as a "qualified widow(er)" in each of the following two years. The surviving spouse must be unmarried and pay more than half the cost of maintaining the principal home for the entire year of a child who qualifies for a dependency exemption on the surviving spouse's return.

Head of household status

If you are not eligible to file jointly or as a qualified surviving spouse, head of household filing status is the best alternative to minimize tax (assuming that you qualify). This is because the tax rates are lower and the standard deduction higher than if you file single or married filing separately. It's possible that you may qualify for head of household status if you provide support for a grandchild, sibling, or other relative, and meet all applicable conditions.

What is the procedure for obtaining and cashing refund checks for a decedent?

Generally, a person who is filing a return for a decedent and claiming a refund must file IRS Form 1310, with the return. However, there are some exceptions:

Surviving spouse

If you are a surviving spouse filing a joint return with the decedent and claiming a refund, you do not have to file Form 1310.

Appointed personal representative

If you are a court appointed or certified personal representative, you also do not have to file Form 1310, but you must attach a copy of the court certificate showing your appointment to the return. However, if you are claiming a refund on an amended return (Form 1040X), then you must attach Form 1310.

Tip: To make sure that refunds are not delayed, it is recommended that Form 1310 be attached to any return being filed for a decedent on which a refund is being claimed.

Disclosures

This material does not constitute the rendering of investment, legal, tax or insurance advice or services. It is intended for informational use only and is not a substitute for investment, legal, tax, and insurance advice.

State, national and international laws vary, as do individual circumstances; so always consult a qualified investment advisor, attorney, CPA, or insurance agent on all investment, legal, tax, or insurance matters.

The effectiveness of any of the strategies described will depend on your individual situation and on a number of other factors. After reviewing your personal situation, we may recommend that you not use any strategy in this document but instead consider various other strategies available through our practice.

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