



Deceased estates

- <https://www.ato.gov.au/Individuals/Deceased-estates/>
- Last modified: 27 May 2022
- QC 23846

What to do when someone dies, getting authority to deal with the ATO, lodging a final tax return, and trust tax returns.

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Checklist: what to do when someone dies

- <https://www.ato.gov.au/Individuals/Deceased-estates/Checklist--what-to-do-when-someone-dies/>
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Use this step-by-step checklist to manage tax for a deceased estate.

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1. Look after yourself

This is the most important thing.

If you are feeling overwhelmed, don't hesitate to talk with your friends or family, or phone a confidential counselling service:

- Lifeline Australia on 13 11 14 (24 hours)
- Beyond Blue on 1300 224 636 (24 hours)
- MensLine Australia on 1300 789 978 (24 hours)
- Griefline on 1300 845 745 (6 am to midnight (AEST))
- Thirrili – support for Aboriginal and Torres Strait Islander people and communities – on 1800 805 801 (24 hours).

2. Pause tax correspondence

We understand that tax is not your priority right now.

[Phone us](#) to let us know the person has died, and we will stop sending tax

correspondence to the deceased person or otherwise trying to contact them.

Usually the person who phones us is the executor or next of kin, but other people can also notify us.

If you wish, our customer service representative can talk you through the next steps.

3. Determine who will manage the deceased's financial affairs

When you are ready to deal with the deceased's financial affairs, the first step is to work out who will manage this.

If there is a will and it names an executor, this person (or people – there may be more than one) generally manages the deceased's financial affairs.

If there is no executor, the next of kin may take responsibility for managing the deceased's financial affairs.

Completing the administration of a deceased estate typically takes 6 to 12 months but can take longer.

It's important that you finalise any tax obligations before distributing the assets of the estate.

4. Get help if you need it

If you need help with the deceased's tax affairs, you can:

- contact a registered tax agent for advice
- [phone us](#) – we can guide you through the steps and explain what you can do.

We can only help with deceased estate matters that involve tax and super.

The deceased person's former tax agent or financial adviser may be able to help with information and advice about the deceased's financial affairs prior to their death.

[Services Australia](#)²⁷ has information about registering the death and obtaining a death certificate.

The websites of the supreme courts and public trustee in each state and territory have information about managing a deceased estate.

You should seek professional advice if you need help with:

- contesting a will
- general administration of a deceased estate
- applying for a grant of probate or letters of administration
- what to do when a person dies intestate (without a will).

5. Decide if you need a grant of probate or letters of administration

You will need one of these court-issued documents to be considered the authorised [legal personal representative \(LPR\)](#) by us. The authorised LPR has:

- full authority to manage the deceased's tax affairs
- unrestricted access to ATO-held information and assets of the estate.

If you are managing a small estate you may not need to apply for a [grant of probate or letters of administration](#). However, some people or organisations (including us) who hold assets of the estate may require one of these documents before releasing these assets.

You may also need one of these documents to manage other aspects of the deceased estate. This depends on the law in your state or territory.

6. Notify us that you are managing the estate

You can [tell us you will manage the deceased estate's tax affairs](#) by submitting an official notification of death. We will add your name to the estate's records.

- If you are the deceased person's authorised [LPR](#), with grant of probate or letters of administration, you will have full authority to manage the deceased's tax affairs.
- If you are not the authorised LPR, we can still help you. However, there are legal restrictions on the information and funds we can release to you.

7. Manage any business tax obligations

If the deceased person's tax affairs included carrying on a business, you may need to seek further advice from a legal practitioner or registered tax agent.

If the deceased person was a sole trader or a partner in a partnership, you may need to lodge a final business activity statement (BAS) for the last tax period. This is usually the quarter in which the person died, and ends the day before their death.

You may also need to lodge any outstanding BASs and pay any tax.

If the deceased person was a partner in a partnership, on their death the partnership may dissolve, depending on the terms of the partnership agreement.

[Goods and services tax \(GST\)](#) and [capital gains tax \(CGT\)](#) may apply to the sale of assets that were used in the business.

8. Lodge a final tax return for the deceased person

Check if you need to [lodge a final tax return](#) for the deceased person. This is called a 'date of death' tax return.

The final tax return covers the income year in which the person died, up to the date

of death.

You may also need to lodge any outstanding prior year tax returns.

To help complete these returns you may need to [obtain the deceased person's tax information](#) from us.

9. Lodge tax returns for the deceased estate

There are no inheritance taxes in Australia.

When someone dies, their assets are held by the LPR until the assets can be distributed to the beneficiaries. The deceased estate is a separate entity to the deceased individual.

The estate may receive income from these assets. For example, the estate may receive rental income from a property, or dividends from shares.

In this case you may need to [lodge trust tax returns for the estate](#), and pay any tax from the estate.

You do this for the remainder of the income year in which the person died, and then for each year until the estate is finalised.

10. Finalise tax affairs

[Check that all tax obligations are provided for](#) before making a final distribution of the deceased's property.

The authorised LPR is liable to pay any outstanding tax-related liabilities of a deceased person, up to the value of the deceased estate's assets. The authorised LPR may have to meet those liabilities personally if they distribute the estate's assets with notice of a claim by the ATO.

Who can represent a deceased estate

- <https://www.ato.gov.au/Individuals/Deceased-estates/Who-can-represent-a-deceased-estate/>
- Last modified: 24 Aug 2022
- QC 67528

How to become a legal personal representative (LPR), get a grant of probate and appoint a tax agent.

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- [Who can be a legal personal representative \(LPR\)?](#)
- [The LPR's responsibilities](#)
- [If you are not the authorised LPR](#)
- [What are probate and letters of administration?](#)
- [Do you need probate or letters of administration?](#)
- [Appointing a tax agent, legal practitioner or BAS agent](#)

Do you have authority to deal with us?

To have full authority to manage the deceased's tax affairs, you must be their authorised legal personal representative (LPR).

If you are not the authorised LPR, we can still help you but there are legal restrictions on the information and funds we can release to you.

Who can be a legal personal representative (LPR)?

A LPR is a person who is legally authorised to represent the:

- deceased individual
- deceased estate (if required).

The word 'legal' does not mean the person must be a legal practitioner. The LPR is usually the executor named in the will, or an administrator appointed by the court (which can be the next of kin). There can be more than one LPR for an estate.

For tax purposes, to be recognised as the authorised LPR and have unrestricted access to the deceased's information and assets, you will need:

- for an executor – [grant of probate from a supreme court](#)
- for another person – [grant of letters of administration from a supreme court](#), appointing you as administrator of the estate.

[Notify us that you are managing the estate](#) and provide one of the above documents. We will then list you as an authorised contact for the deceased individual and the deceased estate (where applicable).

The LPR's responsibilities

The tax-related responsibilities of the LPR include:

- lodging a [date of death tax return for the deceased person](#), if required
- lodging a [trust tax return for the deceased estate](#), if required
- [providing for any tax liabilities of the estate](#) before its assets are distributed to beneficiaries.

If you are not the authorised LPR

If you decide not to apply for [probate or letters of administration](#):

- you will not be recognised as the authorised LPR for tax purposes

- you can still [notify us that you are managing the estate](#).

We will help you with the deceased's tax affairs and add your name to our records. However, as you are not the authorised LPR:

- there are legal restrictions on the tax and super information we can disclose to you
- we may not be able to transfer the deceased's tax refunds or franking credits to you
- we cannot list you or your representative as an authorised contact for the estate.

What are probate and letters of administration?

A grant of probate:

- means a supreme court recognises a will as legally valid
- enables the executor to fully represent the estate and distribute assets to the beneficiaries named in the will.

A grant of letters of administration:

- is used when there is no will or executor
- is issued by a supreme court to a person (such as the next of kin), who is appointed as the administrator of the estate
- enables the administrator to represent the estate and distribute assets to the beneficiaries.

The court costs of obtaining a grant of probate or letters of administration depend on the state or territory in which the application is lodged. This fee is usually reimbursed from the estate.

Do you need probate or letters of administration?

Inheritance in Australia is governed by state and territory law.

In some states and territories, you may not need probate or letters of administration to manage a small estate.

However, the ATO and many financial institutions may require one of these documents to release information or funds to you. If you lodge a claim for credits owing to the estate, we will assess your situation and let you know if we require a court grant to release the credits.

Find out about wills and probate in your state or territory

- Australian Capital Territory
 - [Supreme Court of the ACT](#)[↗]
 - [Public Trustee and Guardian](#)[↗]
- New South Wales
 - [Supreme Court of New South Wales](#)[↗]
 - [NSW Trustee and Guardian](#)[↗]

- Northern Territory
 - [Supreme Court of the Northern Territory](#)[↗]
 - [Public Trustee](#)[↗]
- Queensland
 - [Queensland courts](#)[↗]
 - [Public Trustee](#)[↗]
- South Australia
 - [Courts Administration Authority of South Australia](#)[↗]
 - [Public Trustee](#)[↗]
- Tasmania
 - [Supreme Court of Tasmania](#)[↗]
 - [Public Trustee](#)[↗]
- Victoria
 - [Supreme Court of Victoria](#)[↗]
 - [State Trustees](#)[↗]
- Western Australia
 - [Supreme Court of Western Australia](#)[↗]
 - [Public Trustee](#)[↗]

Appointing a tax agent, legal practitioner or BAS agent

You can appoint a registered tax agent, legal practitioner or registered BAS agent to help you manage the estate. You should let us know by [updating your authorised contact](#).

- If you are the authorised LPR, the person you appoint will be authorised to [access the deceased's tax and super information](#). We will list them as an authorised contact for the deceased individual and the deceased estate (where applicable).
- If you are not the authorised LPR, you can still appoint someone to help you. We will not record them as an authorised contact on our systems, but we will still help you and your representative where we can within the law.

If the deceased had a tax agent or other representative before they died, and you wish to use the same person, you will need to reappoint them. Their authority to represent the deceased for tax purposes ceased at the time of death.

Notifying us of a death and who will manage the estate

- <https://www.ato.gov.au/Individuals/Deceased-estates/Notifying-us-of-a-death-and-who-will-manage-the-estate/>
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- QC 49903

Who can notify us, how to notify, and what documents you will need.

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- [Pausing correspondence while you prepare](#)
- [Who can notify us](#)
- [How to notify us](#)
- [Supporting documents](#)
- [Notifying a super fund](#)

Pausing correspondence while you prepare

To officially notify us of a person's death you will need the death certificate and may need other supporting documents.

If you do not yet have the supporting documents, you can [phone us](#) to let us know unofficially that the person has died.

We will pause the deceased's tax correspondence until you are ready.

Who can notify us

Official notification of death

Usually the person who officially notifies us of a person's death is a:

- relative
- executor or administrator of the estate
- legal practitioner, BAS agent or tax agent who previously represented the deceased person, or has been appointed by the executor or administrator.

Notification of who will manage the estate

Only the executor or administrator of the estate can nominate as the person who will manage the estate.

They can appoint a legal practitioner, tax agent or BAS agent to help them.

How to notify us

You use the same form to both officially notify us of a person's death and notify us of who will manage the estate.

You can notify us by:

- [completing an online form and attending an interview at an Australia Post outlet](#) to present your supporting documents
 - you can keep your documents and do not need certified copies
- [completing a paper form and mailing it to us](#), along with certified copies of the supporting documents
 - the copies must be [certified by a justice of the peace or other approved](#)

- [certifier](#), and are not returned to you
- a legal practitioner, tax agent or BAS agent appointed by the LPR can also use this form to notify us by mail.

It takes up to 28 days to update the deceased person's records after we receive your notification.

Supporting documents

- [Death certificate](#)
- [Probate or letters of administration](#)
- [Will](#)

Death certificate

You will need the death certificate to officially notify us of a person's death.

If you do not have one, contact the Births, Deaths and Marriages registry in your state or territory, who can issue one.

Probate or letters of administration

If you have one of the following court-issued documents, bring it with you to the interview or include a certified copy with your mailed notification:

- [grant of probate](#) (for an executor)
- [letters of administration](#) (for an administrator).

We will record you as the authorised LPR and enter your name in our records as the authorised contact for the deceased estate.

If you submitted an official notification of death before you had the grant of probate or letters of administration, you can submit a new copy of the notification form to provide these documents to us. We will then list you as the authorised LPR in our records.

If you have a digital grant of probate or letters of administration, you will need to print it and have the printed version certified.

Will

You only need to include the will if you have decided [not to apply for probate or letters of administration](#).

We can:

- use the will to verify your role in the estate's tax affairs
- add your name to our records, with a note that you are managing the estate's tax affairs.

However, we cannot record you as the authorised LPR if you do not have probate or letters of administration. This means there are legal restrictions on the information and funds we can release to you.

Example: notifying the ATO and being authorised as the LPR

Maree died on 4 March 2022 in Melbourne. At the time of her death Maree's assets included her main residence, a rental property and shares.

Maree's last will and testament names her son, Zach, as the executor of her estate.

Pausing tax correspondence

A few weeks after Maree's death, a letter from the ATO arrives at her address. Zach phones the ATO and asks to temporarily pause her tax correspondence.

Grant of probate

Zach has Maree's financial records, but the information is incomplete. Also, he knows that Maree's estate will continue to receive income from the shares and rental property.

Zach decides to apply for a grant of probate so he can be recorded by the ATO as the authorised LPR. This will give him full authority to deal with Maree's tax affairs, including unrestricted access to the tax information and funds held by the ATO.

Zach applies to the Supreme Court of Victoria for a grant of probate.

- The court issues the grant of probate on 1 June 2022. This validates the will in which Zach is named as executor.
- The grant is stored electronically on the court's system. Zach has access to the electronic version.

Online notification

On 2 June 2022, Zach completes an ATO online notification of Maree's death. Shortly after, he attends an interview at an Australia Post outlet, where he provides:

- the original death certificate
- a printed and certified copy of the digital grant of probate.

Authorisation as LPR

On 30 June 2022, the ATO:

- advises Zach that he has been recorded as the authorised LPR
- provides Zach with a data package of Maree's tax and super information for the past 3 income years
- resumes sending tax correspondence related to Maree's estate, with Zach as the contact.

Notifying a super fund

You should contact the deceased person's super fund (or funds) to let them know the person has died and discuss the release of their super.

Do this if you are:

- a potential [beneficiary of a deceased person's super](#)
- the [LPR of the estate](#).

We can provide [information about super funds](#) to the authorised LPR or their representative. If there is no authorised LPR, we may inform the funds. They will then determine whether to contact the family.

Accessing a deceased person's tax and super information

- <https://www.ato.gov.au/Individuals/Deceased-estates/Accessing-a-deceased-person-s-tax-and-super-information/>
- Last modified: 24 Aug 2022
- QC 56976

Who can access the tax and super information we hold, and how to get it.

On this page

- [If you are the authorised legal personal representative \(LPR\)](#)
- [If you are not the authorised LPR](#)
- [Tax and BAS agents](#)
- [Legal practitioners](#)
- [Requesting a deceased estate data package](#)

If you are the authorised legal personal representative (LPR)

Once you have [notified us](#) that you are the authorised [LPR](#), you can access the deceased person's full tax and super information.

- We can give you a data package of tax and super information for the past 3 income years.
- You can [contact us](#) for specific information, such as the deceased person's tax file number (TFN).

We can also provide the deceased's tax and super information to a representative

you have appointed to help you with the deceased's tax affairs. The representative must be one of the following:

- tax agent
- business activity statement (BAS) agent
- legal practitioner.

The deceased person's information can only be accessed through us. It is not available through other government sources, such as myGov.

An executor who has not obtained a grant of probate is not an authorised LPR for the estate.

If you are not the authorised LPR

If you are trying to finalise the deceased's tax obligations, we want to help.

First, you should [notify us that you are managing the estate](#).

There are legal restrictions on the information we can disclose to someone who is not the authorised LPR. This includes a family member without letters of administration and an executor without a grant of probate.

However, we may be able to provide enough information for you to finalise the deceased's tax obligations, depending on the circumstances.

[Contact us](#) to find out what tax information we can give you.

We will ask:

- what type of information you are seeking
- why you want the information
- about your relationship to the deceased – for example, whether you are the executor or next of kin (you may need to provide proof of your relationship to the deceased, such as a birth or marriage certificate).

As you are not the authorised LPR, we won't record you as an authorised contact for the deceased estate.

The deceased person's former tax agent or financial adviser may also be able to help with tax and super information from their own records. However, they no longer have authority to access the deceased's information on our systems.

Tax and BAS agents

When we receive information that a person has died, we remove access to their records by their former representatives, including tax and BAS agents. This is because the person's authorisations ceased when they died.

To gain access to the deceased person's tax records, the agent must:

1. be appointed by the authorised LPR (and the authorised LPR must have

[notified us of their appointment](#))

2. complete a declaration advising of their appointment.

An agent can make the declaration and add the deceased person to their client list through [Online services for agents](#).

An agent who has not been appointed by an authorised LPR does not have legal authority to access a deceased person's ATO records after the date of death. If the agent is assisting in managing the tax affairs of the estate, they will need to contact the ATO to request information.

Legal practitioners

For a legal practitioner to gain access to the deceased's tax records, either:

- the authorised LPR must advise us that the legal practitioner has been appointed to help them manage the estate
- the legal practitioner must [notify us by mail](#) of their appointment.

Requesting a deceased estate data package

The authorised LPR, or their nominated representative, can get a data package of the tax and super records we have for the deceased person. This will help you identify the deceased person's assets and income streams.

The data package contains:

- tax return information for the previous 3 income years
- an extract of income and investment data for the previous 3 income years
- an extract of notices of assessment issued for the previous 3 income years
- the most recent statement of account
- details of any outstanding debts with us
- details of any superannuation accounts
- any payroll data for the current year.

How to request a data package

If you are the authorised LPR, we will send you the deceased estate data package when you [notify us](#) that you are the representative of the deceased person.

Alternatively, an authorised LPR or their nominated representative can request a data package by [contacting us](#).

Doing a final tax return for the deceased person

- <https://www.ato.gov.au/Individuals/Deceased-estates/Doing-a-final-tax-return-for-the-deceased-person/>
- Last modified: 24 Aug 2022
- QC 40481

Work out if a 'date of death' tax return is required, how to lodge, and who can receive any refund.

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- [Who can lodge a date of death tax return](#)
- [When a tax return is required](#)
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- [Period of the tax return](#)
- [Lodging the tax return](#)
- [Preparing the tax return](#)
- [Notice of assessment, refunds and tax owing](#)

Do you need to lodge a final return for a deceased person

You may need to lodge a final tax return for the deceased person for the income year in which they died. This is called a 'date of death' tax return.

This is different to the [trust tax return for the deceased's estate](#). For tax purposes, income received by the deceased estate after the person's death is treated separately to the income of the deceased person.

Who can lodge a date of death tax return

You can lodge the date of death tax return after you have [notified us](#) of the person's death and been entered on our records as the person who is managing the deceased's tax affairs.

Usually, the authorised [legal personal representative \(LPR\)](#) lodges the deceased person's date of death tax return.

If you are not an authorised LPR, we will assess the lodged tax return and determine the appropriate action within the law and our internal policies.

When a tax return is required

You must lodge a date of death tax return if any of the following applied to the deceased person in the income year in which they died:

- they had tax withheld from their income, including from interest or dividends
- their taxable income was above the tax-free threshold
- they lodged tax returns in the income years before their death, or had outstanding tax returns.

Outstanding tax returns

When you notify us of the death, we can tell you if the person had any outstanding tax returns for prior income years.

If there are outstanding tax returns, these will also need to be lodged.

If a tax return is not required

If a date of death tax return is not required, let us know by completing and sending a [non-lodgment advice form](#).

On the form, where it asks for the reason, print 'DECEASED', followed by the date of death.

Period of the tax return

The date of death tax return covers the period from 1 July of the income year in which the person died, up to the date of death.

This is different to a [trust tax return for the deceased estate](#), which is for the period after the person died.

Example: period of final tax return

Maree died on 4 March 2022. Her authorised LPR is her son, Zach. Maree's taxable income up to her date of death was above the tax-free threshold.

Zach lodges a date of death tax return for Maree. This covers Maree's income from 1 July 2021 to 4 March 2022.

Lodging the tax return

You lodge a date of death tax return using the paper form [tax return for individuals](#). You cannot use myTax or myGov, because these can only be used by the person who holds the account to lodge their own return.

If you are the authorised LPR of the deceased estate and have appointed a tax agent to help you, the agent can prepare and lodge the return online.

Preparing the tax return

- [Obtaining the deceased's tax information](#)
- [Identifying information](#)
- [Income and deductions](#)
- [Capital gains tax](#)
- [Losses](#)
- [Medicare levy](#)
- [Study and training loan repayments](#)

Obtaining the deceased's tax information

If you can't find the information you need in the deceased person's papers:

- if you are the authorised LPR of the deceased estate, you can [obtain the deceased person's tax information](#) from us
- if you are not the authorised LPR of the deceased estate, the deceased person's former tax agent may be able to help with information and advice.

Identifying information

When preparing the return:

- write 'DECEASED ESTATE' at the top of the first page
- give the name as 'LEGAL REPRESENTATIVE OF [taxpayer's name] (DECEASED)', or similar
- to the question 'Will you need to lodge an Australian tax return in the future?', print X in the 'No' box
- sign the tax return with your name 'on behalf of [deceased person's name]'.

The deceased person's tax file number (TFN) may be in their personal papers. If you are the authorised LPR, you can obtain the TFN from us.

Income and deductions

Include:

- income earned and deductible expenses incurred by the deceased person in the income year up to the day they died
- costs of preparing the return, such as tax agent fees and similar expenses incurred by the executor or administrator, even if they were incurred after the deceased's death.

Income and deductions incurred by the estate after the deceased's death are reported in a [trust tax return](#).

Capital gains tax

For CGT events that happened before the deceased's death, include those capital gains and losses in their date of death tax return.

If an [asset passes under the will to a foreign resident, charity or super fund](#), capital gains tax (CGT) may apply at the time of the taxpayer's death. Any capital gain or capital loss that applies in these circumstances must be reported on the deceased's date of death tax return.

Losses

Tax and capital losses incurred by the deceased cannot be carried forward for use by the deceased estate.

If these losses cannot be deducted or applied in the date of death tax return, they

will lapse.

Medicare levy

The tax return has 2 questions about the Medicare levy.

For question M1:

- If the deceased person (and any dependants) was fully exempt from the Medicare levy until their death, the number of days they are [exempt from the Medicare levy](#) (label V) is the number of days in the income year.
- If the deceased person was half exempt from the Medicare levy until their death, the number of days they are half exempt from the Medicare levy (label W) is the number of days in the income year.

For question M2:

- If the deceased person (and any dependants) was covered by private hospital cover or was exempt from the Medicare levy until their death, the number of days that they do not pay the Medicare levy surcharge (label A) is the number of days in the income year.

Study and training loan repayments

You do not need to include information about repayments of study and training loans (such as the Higher Education Loan Program). This is assessed automatically.

If the income reported in the tax return is more than the minimum repayment threshold, the assessment will include a final repayment. After this, any remaining debt is cancelled.

Notice of assessment, refunds and tax owing

We will send the notice of assessment to you, including details of any refund or tax owing.

You must provide for any tax owing before distributing the estate's assets to the beneficiaries. If this is not done, you may be personally liable for any tax owing.

If you are the authorised [LPR](#), we will release any refund or franking credits to you.

If there is no authorised LPR, we will assess whether we can release refunds or franking credits. We may take into account:

- the terms of the will, if there is one
- the rules of succession, if there is no will.

Doing trust tax returns for the deceased estate

- <https://www.ato.gov.au/Individuals/Deceased-estates/Doing-trust-tax-returns-for-the-deceased-estate/>
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When and how to lodge a trust tax return, income to include, how tax applies, how to get a TFN and ABN, and tax rates.

[When and how to lodge returns for a deceased estate](#)

Work out if a trust tax return is required, how to get a TFN and ABN, and how to lodge.

[Who pays tax on deceased estate income](#)

How tax works during administration of the estate, and whether to pay tax for beneficiaries.

[Deductibility of legal personal representative legal costs](#)

Check if legal costs you incur as the legal personal representative (LPR) are deductible.

[When a beneficiary is presently entitled to income](#)

Work out if a beneficiary is presently entitled, and what information you need to give them.

[Tax rates – deceased estate](#)

Check the tax rates for the first 3 years of the deceased estate, and the rates for later years.

When and how to lodge returns for a deceased estate

- <https://www.ato.gov.au/Individuals/Deceased-estates/Doing-trust-tax-returns-for-the-deceased-estate/When-and-how-to-lodge-returns-for-a-deceased-estate/>
- Last modified: 24 Aug 2022
- QC 40483

Work out if a trust tax return is required, how to get a TFN and ABN, and how to lodge.

On this page

- [What a trust tax return is for](#)
- [Who can lodge a trust tax return](#)
- [When a trust tax return is required](#)
- [Getting a TFN and ABN for a deceased estate](#)
- [Lodging a trust tax return](#)
- [Income to include in a trust tax return](#)

What a trust tax return is for

There are no inheritance taxes in Australia.

Finalising a deceased estate typically takes 6 to 12 months, but can take longer.

Trust tax returns are used to:

- report the income of the estate after the person's death, such as rental income or share dividends
- claim any tax refund or franking credits owed to the estate.

If a return needs to be lodged, the estate is treated as a trust for tax purposes. Trust tax returns may need to be lodged each year until the estate is finalised.

This is different to:

- the [date of death tax return](#), which is for the period before the person died
- tax returns for a [testamentary trust](#), which is a separate trust created under the terms of a will and continues after the deceased estate is finalised.

Who can lodge a trust tax return

You can lodge a trust tax return once you [notify us](#) of the person's death and you have been entered on our records as the person who is managing their tax affairs.

Usually, the authorised [legal personal representative \(LPR\)](#) lodges trust tax returns for the deceased estate.

If you are not an authorised LPR, we will assess the lodged tax returns and determine the appropriate treatment within the law and our internal policies.

When a trust tax return is required

For the first 3 income years of a deceased estate, you must lodge a trust tax return if any of the following apply in that year:

- the deceased estate's net income is more than the [tax-free threshold for individuals](#)
- a beneficiary is [presently entitled](#) to any of the estate's income at the end of the income year
- a beneficiary of the estate is not an [Australian tax resident](#).

For income year 4 and later income years, you must lodge a trust tax return if the deceased estate earns any income (including capital gains).

You can lodge a trust tax return even if it is not required. For example, you may wish to lodge a return to claim franking credits on dividends paid to the estate.

The first income year of a deceased estate starts the day after the person died, and ends on the next 30 June.

Example: lodging tax returns for a deceased estate

Maree died on 4 March 2022. Her authorised LPR is her son, Zach.

Individual tax return

Zach lodges a [date of death individual tax return](#) for Maree. This covers Maree's income from 30 June 2021 to 4 March 2022.

Deceased estate trust tax returns

For Maree's estate, income year one is 5 March 2022 to 30 June 2022. In this income year:

- the estate's income is \$9,500, which is below the tax-free threshold
- there are no presently entitled beneficiaries or non-resident beneficiaries.

Therefore, Zach does not need to lodge a trust tax return for the estate.

Income year 2 is 1 July 2022 to 30 June 2023. In this income year:

- the estate's income is \$30,000, which is above the tax-free threshold
- therefore, Zach must lodge a trust tax return for the estate.

Income year 3 is 1 July 2023 to 30 June 2024. In this income year:

- the estate is finalised, on 31 August 2023
- the estate's income is \$5,000, which is below the tax-free threshold
- there are presently entitled beneficiaries at the end of the income year
- there are no non-resident beneficiaries.

Therefore, Zach needs to lodge a trust tax return for the estate as there are presently entitled beneficiaries at the end of the income year. He contacts us to advise that the deceased estate will lodge no further returns.

Getting a TFN and ABN for a deceased estate

You will need a trust TFN if you need to lodge a trust tax return for the estate. If the deceased estate is running a business, you will also need an Australian business number (ABN).

If the estate is not running a business

You can apply for the trust TFN online through the Australian Business Register.

Apply online for TFN

Alternatively, you can download and complete the paper form: [TFN application for a deceased estate](#).

Generally, the authorised LPR or their appointed representative applies for the trust TFN.

If there is no authorised LPR, and you are managing a small estate and wish to lodge a trust return to claim franking credits or other low value amounts, you will need to apply for a trust TFN. We will assess the trust returns to determine the appropriate treatment within the law and our internal policies.

If the estate is running a business

If you are the authorised LPR and are continuing the deceased's business in order to finalise the estate, you need to apply for a new ABN as well as a trust TFN. You cannot use the business's existing ABN.

You can apply for the TFN and ABN at the same time.

Apply online for TFN and ABN

In the online application you will be asked 'For taxation purposes which type of entity is the applicant?'

- select Company, Partnership, Trust or other organisation
- select Trust / Deceased estate.

Only the authorised LPR or their appointed representative can apply for the ABN.

Lodging a trust tax return

You can lodge a trust tax return for the deceased estate using the paper form [Trust tax return](#). Refer to [Appendix 8: Instructions to trustees of deceased estates](#).

If you are the authorised LPR of the deceased estate and have appointed a tax agent to help you, the agent can prepare and lodge the return online.

Income to include in a trust tax return

You need to include all income the deceased estate has earned since the date of

death, including:

- capital gains on the sale or transfer of assets, if this was not done as part of the will or the rules of succession
- super lump sums or employment termination payments.

Capital gains

If an asset passes to a beneficiary of the estate (for example, under the will or rules of succession):

- you do not include the capital gain or loss in the trust tax return
- if the beneficiary is a [foreign resident, charity or super fund](#), you report the capital gain or loss in the deceased's [date of death tax return](#).

If you transfer or sell an asset of the estate for any other reason, you need to include any capital gain or loss in the trust tax return. This applies even if the transfer or sale is to a person who is a beneficiary.

If the deceased had any unapplied net capital losses when they died, these cannot be used to offset against any net capital gains of the deceased estate.

Employment termination payments

The deceased person's employer may pay their estate a death benefit employment termination payment (ETP).

You will receive a *PAYG payment summary – employment termination payment*. It will show the tax-free and taxable components.

The [ETP is taxed](#) as if it was made directly to the beneficiaries, except that the Medicare levy does not apply.

Who pays tax on deceased estate income

- <https://www.ato.gov.au/Individuals/Deceased-estates/Doing-trust-tax-returns-for-the-deceased-estate/Who-pays-tax-on-deceased-estate-income/>
- Last modified: 27 May 2022
- QC 49907

How tax works during administration of the estate, and whether to pay tax for beneficiaries.

On this page

- [How estate income is reported and assessed](#)
- [Reporting income and paying tax in the stages of administration](#)

- [Beneficiaries the trust reports and pays for](#)

How estate income is reported and assessed

You may need to lodge trust tax returns for a deceased estate if it earns income after the person's death.

If a return needs to be lodged, the estate is treated as a trust for tax purposes. The trustee is usually the deceased person's [legal personal representative \(LPR\)](#).

As trustee, you:

- report all income of the deceased estate after the date of death in the [trust tax return](#)
- pay any tax on the net income of the estate, unless a [beneficiary is 'presently entitled' to that income](#).

Generally, beneficiaries will only become presently entitled to the income of a deceased estate when it is fully administered.

This means you, as trustee, will normally be responsible for any tax on the estate's net income in the years before the estate is fully administered.

If a beneficiary is presently entitled to income of the estate, and is not under a legal disability or non-resident, then the beneficiary:

- will report their share of the net income in their individual tax return
- is responsible for paying any tax due.

Different rules apply if a [beneficiary is a non-resident or under a legal disability](#). In these situations, you (as trustee) pay the tax on their share of the net income on their behalf.

Reporting income and paying tax in the stages of administration

Before probate or letters of administration are granted

At this stage, beneficiaries are not presently entitled to the income of a deceased estate.

This means you include any net income of the estate in the trust tax return, and you (as trustee) are responsible for paying any tax on this amount.

Probate or letters of administration are granted but final distribution is not ready

At this stage, beneficiaries are generally not presently entitled to the net income of a deceased estate.

However, you (as trustee) can make an interim distribution if you are certain that the remainder of the estate is sufficient to cover any outstanding liabilities.

If you pay any income to a beneficiary before the estate is fully administered, they are considered to be presently entitled to it.

If you distribute any income and the beneficiary is:

- a resident and not under a legal disability, the beneficiary is responsible for including their share of the net income in their own tax return and paying any tax owing
- under a legal disability (such as being under 18), you include their share of the net income in the trust tax return and pay tax on their behalf on this amount
- a non-resident, you include their share of the net income in the trust tax return and pay tax on their behalf on this amount.

Superannuation death benefits and death benefit termination payments received by the estate are considered income to which no beneficiary is presently entitled.

Administration is complete and estate is distributed

At this stage, obligations are paid or provided for in full, and the net income of the estate is available for distribution.

When you distribute the income and a beneficiary is:

- a resident and not under a legal disability, the beneficiary is responsible for including their share of the net income in their tax return
- under a legal disability (such as being under 18), you include their share of the net income in the trust tax return and pay tax on their behalf on this amount
- a non-resident, you include their share of the net income in the trust tax return and pay tax on their behalf on this amount.

In the income year in which the deceased estate is fully administered, you may be able to apportion the net income. In this case:

- Income derived in the period between the beginning of the income year and the day administration is complete is assessed for tax in your hands as the trustee of the estate.
- Income derived in the period between the day administration was complete and the end of the income year is assessed for tax to the beneficiaries who are presently entitled.

If you want to apportion the net income:

- you need evidence that it was actually derived during these periods – you cannot apportion income into the two periods merely on a time basis
- you or the beneficiaries must request that the income be apportioned in this way.

Beneficiaries the trust reports and pays for

Beneficiary under a legal disability

A beneficiary is under a legal disability if they are:

- under 18 years of age on 30 June of the income year
- bankrupt
- declared legally incapable due to a mental condition.

You include the beneficiary's share of the net income in the trust tax return and pay tax on their behalf.

The estate is assessed separately for each beneficiary who is presently entitled but under a legal disability.

- The general individual income tax rates apply. (Normally, unearned income of minors is taxed at higher rates, but this rule does not apply to income from a deceased estate.)
- The Medicare levy and Medicare levy surcharge apply.
- You can claim any tax offsets to which the beneficiary would be entitled.
 - The low-income and low-and-middle income tax offsets are automatically applied by our systems if the beneficiary's income is below the threshold.
 - For other offsets, you need to include a statement with the estate's trust tax return showing the type and amounts of tax offsets claimed.

Beneficiary is a non-resident

If the beneficiary is presently entitled and a [non-resident of Australia for tax purposes](#) at the end of the income year:

- you pay tax on their share of the estate's net income at the non-resident tax rates
- no Medicare levy is payable.

Deductibility of legal personal representative legal costs

- <https://www.ato.gov.au/Individuals/Deceased-estates/Doing-trust-tax-returns-for-the-deceased-estate/Deductibility-of-legal-personal-representative-legal-costs/>
- Last modified: 06 Sep 2022
- QC 70328

In general, legal costs you incur as the legal personal representative (LPR) in administration of a deceased estate are not deductible. There isn't a sufficient connection or relationship between the legal cost and the production of income from the estate.

Legal costs are also considered capital in nature.

Legal costs you incur may, however, form part of the [CGT cost base](#) of the estate assets.

Example: legal costs to confirm the validity of the deceased's will and obtain probate

Miranda is the executor (LPR) of a deceased estate. The deceased's will provides for distributions to be made to specific beneficiaries.

However, a number of the beneficiaries contested their entitlements.

As a result, Miranda incurred legal costs on behalf of the estate to defend the action against the will. Miranda successfully obtained a grant of probate.

Miranda can't claim a deduction for these legal costs as they are capital in nature.

When a beneficiary is presently entitled to income

- <https://www.ato.gov.au/Individuals/Deceased-estates/Doing-trust-tax-returns-for-the-deceased-estate/When-a-beneficiary-is-presently-entitled-to-income/>
- Last modified: 27 May 2022
- QC 40484

Work out if a beneficiary is presently entitled, and what information you need to give them.

On this page

- [Work out if a beneficiary is presently entitled](#)
- [Provide information to beneficiaries](#)

Work out if a beneficiary is presently entitled

Generally, beneficiaries will not be presently entitled to the income of a deceased estate until it has been fully administered.

If any income is distributed to a beneficiary before the estate is fully administered, they are considered to be presently entitled to it.

A beneficiary is presently entitled to income of a deceased estate if they have:

- an indefeasible, absolutely vested interest in the income – in other words, they have a claim or interest in the income that cannot be defeated by another person
- the right to demand immediate payment of the income – this means a beneficiary can be presently entitled even though they may not have actually received the income.

However, you (as trustee of the deceased estate) can make an interim distribution if you are certain that the remainder of the estate is sufficient to cover any outstanding liabilities. If you pay income to a beneficiary before the estate is fully administered, they are considered to be presently entitled to it.

If a beneficiary is presently entitled to any of the estate's income at the end of an income year, and is not under a legal disability or non-resident, then the beneficiary:

- reports their share of the net income in their individual tax return
- is responsible for paying any tax due.

However, if the [beneficiary is under a legal disability or a non-resident](#), you (as trustee) pay the tax on their share of the net income on their behalf.

Work out present entitlement at 30 June each year

A beneficiary's present entitlement to income of the deceased estate is determined on the last day of each income year (30 June).

A beneficiary who is presently entitled on 30 June is assessed on their share of the net income for the whole of the income year.

The income is assessable in the year the present entitlement arose, not the year the amount is received.

For example, if a beneficiary was presently entitled to deceased estate income on 30 June 2022 but did not receive it until September 2022, they are personally assessable on that amount in the income year ended 30 June 2022.

Provide information to beneficiaries

As trustee of the deceased estate, you should provide the following information to beneficiaries so they can prepare their tax returns:

- their share of trust income to which they were presently entitled
- the amount of their entitlement that was paid to someone else for their benefit
- the amount of the trust's net income they are assessable on
- their share of franking credits associated with any dividends in the trust distribution.

Any beneficiaries who are under a legal disability also need to know:

- the amount of tax the estate has paid on their behalf. They are entitled to a tax credit for this, so the same amount is not taxed twice.

Any non-resident beneficiaries also need to know the amount of:

- interest in their distribution, and the withholding tax paid
- unfranked dividends in their distribution, and the withholding tax paid
- franked dividends in their distribution
- tax the estate has paid on their behalf.

Tax rates – deceased estate

- <https://www.ato.gov.au/Individuals/Deceased-estates/Doing-trust-tax-returns-for-the-deceased-estate/Tax-rates---deceased-estate/>
- Last modified: 27 May 2022
- QC 49909

Check the tax rates for the first 3 years of the deceased estate, and the rates for later years.

On this page

- [First 3 income years](#)
- [Fourth income year and later](#)

First 3 income years

Normally, a trustee who is assessed on the net income of a trust pays tax at the top marginal tax rate.

When you lodge your first trust tax return for the deceased estate, you can apply for a concessional rate of tax.

- The concessional rate is the same as the [individual income tax rates](#), with the benefit of the full tax-free threshold.
- The concessional rate will apply for the first 3 income years of the deceased estate, unless there are material changes to the estate's circumstances.
- Deceased estates do not get the benefit of tax offsets (concessional rebates), such as the low-income tax offset. No Medicare levy is payable.

You cannot extend this concessional period beyond the first 3 income years.

Example – first 3 income years

Joan passed away on 5 April 2022.

The first income year for Joan's deceased estate is 6 April 2022 to 30 June 2022.

The second income year is 1 July 2022 to 30 June 2023.

The third income year is 1 July 2023 to 30 June 2024.

If Joan's deceased estate earned taxable income of \$18,200 or less during these years, there is no tax payable.

Fourth income year and later

For deceased estates that continue to be administered beyond the third income year, the following tax rates apply.

Tax rates 2020–21 and 2021–22

Deceased estate taxable income (no present entitlement)	Tax rates
\$0 – \$416	Nil
\$417 – \$670	50% of the excess over \$416
\$671 – \$45,000	\$127.30 plus 19% of the excess over \$670 If the deceased estate taxable income exceeds \$670, the entire amount from \$0 will be taxed at the rate of 19%
\$45,001 – \$120,000	\$8,550 plus 32.5 cents for each \$1 over \$45,000
\$120,001 – \$180,000	\$32,925 plus 37 cents for each \$1 over \$120,000
\$180,001 and over	\$55,125 plus 45 cents for each \$1 over \$180,000

Tax rates 2019–20

Deceased estate taxable income (no present entitlement)	Tax rates
\$0 – \$416	Nil
\$417 – \$670	50% of the excess over \$416
\$671 – \$37,000	\$127.30 plus 19% of the excess over \$670 If the deceased estate taxable income exceeds \$670, the entire amount from \$0 will be taxed at the rate of 19%

\$37,001 – \$90,000	\$7,030 plus 32.5% of the excess over \$37,000
\$90,001 – \$180,000	\$24,255 plus 37% of the excess over \$90,000
\$180,001 and over	\$57,555 plus 45% of the excess over \$180,000

Confirming tax obligations are complete

- <https://www.ato.gov.au/Individuals/Deceased-estates/Confirming-tax-obligations-are-complete/>
- Last modified: 24 Aug 2022
- QC 67526

Check that all tax obligations are complete before the final distribution of the deceased estate.

On this page

- [Checklist for finalising the estate's tax affairs](#)
- [Liability of the authorised legal personal representative](#)
- [Certainty for deceased person's tax affairs](#)

Checklist for finalising the estate's tax affairs

You have finalised the tax affairs of a deceased estate when:

1. the [date of death tax return](#) for the deceased person (and any outstanding tax returns for previous years) has been lodged and finalised
2. any other returns or information required to be provided by the deceased person have been submitted and finalised – for example, business activity statements
3. the deceased estate is no longer earning any taxable income, and the [deceased estate's last trust tax return](#), if one is required, has been lodged and finalised
4. all tax liabilities have been paid
5. you have reported any issues you have identified with the deceased's tax affairs and these have been finalised
6. any credit amounts due the deceased person or the deceased estate have been claimed
7. any business tax registrations held by the deceased estate have been cancelled – for example, their Australian business number, GST and pay as you go (PAYG) withholding registrations.

Liability of the authorised legal personal representative

The authorised [legal personal representative \(LPR\)](#) may be personally liable for any outstanding tax liabilities of the deceased estate and the deceased person.

The authorised LPR should ensure that all tax obligations have been met, or fully provided for, before making a final distribution of the deceased estate's net assets to the beneficiaries (or to a testamentary trust, if there is one).

Certainty for deceased person's tax affairs

We have issued a [guideline](#) that explains when an authorised LPR who is managing a smaller, less complex estate can finalise the estate without concern they will incur a personal liability for the deceased person's tax.

If certain conditions are met, and there is no fraud or evasion, the estate can be finalised without waiting for the expiry of the period we have for amending income tax assessments.

The conditions are as follows:

- The LPR has obtained probate or letters of administration so is authorised to access information about and represent the deceased in their tax affairs.
- In the 4 years before the person's death, they
 - did not carry on a business
 - were not assessable on a share of the net income of a discretionary trust
 - were not a member of a self-managed super fund.
- The estate assets consist only of
 - public company shares or other interests in widely-held entities
 - death benefit super
 - Australian real property
 - cash and personal assets such as cars and jewellery.
- The total market value of the estate assets at the date of death was less than \$5 million, and none of the estate assets are intended to pass to a foreign resident, tax exempt entity or complying super entity.
- The authorised LPR has met all tax obligations of the deceased person.
- The authorised LPR does not have notice from us of
 - a claim against the estate
 - our intention to review or audit the deceased person's affairs.

The guideline applies only to the tax affairs of the deceased person. It does not apply to the tax obligations of the deceased estate – that is, to liabilities for the period after the death of the deceased person.

Example: straightforward small estate

Alfred died on 1 June 2020.

The value of his estate is less than \$1 million, made up of:

- his main residence

- shares in publicly listed companies
- money in a bank account.

Alfred had been receiving a pension for a number of years prior to his death, and fully franked dividends from his shares. He had advised the ATO in 2015 that he was not required to lodge further income tax returns.

Yiannis is the executor of Alfred's will. He obtains a grant of probate in July 2020.

From the information available to him, Yiannis determines that he does not need to lodge a date of death tax return for Alfred. Yiannis lodges a non-lodgment advice on 31 October 2020.

As of 30 April 2021 (6 months after Yiannis lodged the non-lodgment advice), the ATO has not notified Yiannis that it intends to review Alfred's tax affairs. Therefore, the ATO considers that Yiannis does not have a notice of any claim relating to Alfred's estate.

Yiannis can distribute the estate to beneficiaries without risk of personal liability for the deceased person's tax.

If you are a beneficiary of a deceased estate

- <https://www.ato.gov.au/Individuals/Deceased-estates/If-you-are-a-beneficiary-of-a-deceased-estate/>
- Last modified: 27 May 2022
- QC 40485

Work out if there is tax on money or assets you inherited, or are presently entitled to.

On this page

- [Inheriting money and assets](#)
- [Receiving income of a deceased estate](#)
- [Receiving a super death benefit](#)

Inheriting money and assets

There are no inheritance or estate taxes in Australia.

However, you may have tax obligations for the assets you inherit:

- [capital gains tax](#) may apply if you dispose of an asset inherited from a deceased estate
- income tax applies as usual to any dividends or rental income from shares or property you inherited.

Receiving income of a deceased estate

Until the deceased person's estate is finalised, it may continue to earn income. For example, the estate may have income from a rental property or other investments.

If you become [presently entitled](#) to income of the deceased estate, you need to include it in your tax return.

If this happens, the legal personal representative (LPR) of the estate should provide you with the necessary information to complete your tax return.

Receiving a super death benefit

If the deceased person had super, the super fund's trustee will work out who will receive benefits. Super paid after a person's death is called a 'super death benefit'.

The tax on a [super death benefit](#) depends on:

- whether you were a dependant of the deceased under tax law
- whether it is paid as a lump sum or income stream
- whether the super is tax-free or taxable (and whether the super fund has already paid tax on the taxable component)
- your age and the age of the deceased person when they died (for income streams).

To find out about your entitlement you will need to contact the super fund trustee directly.

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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