

Tax Issues for Personal Representatives

Estate Tax Fact Sheet

Minnesota forms you may need: M1, M2, M22, M23, M706, REV184

As personal representative—also called executor—for an estate of someone who has died, you have assumed many important duties and responsibilities. This fact sheet will help you understand the basic requirements of both the Minnesota Department of Revenue and the IRS.

Note: This fact sheet covers tax matters only. Contact your county court system for probate questions regarding the handling of estates and wills.

You are responsible for:

- Filing the decedent's final federal and state income tax returns for the year of death.
- Making sure all the decedent's federal and state income tax returns from previous years have been filed.
- Paying all outstanding tax liabilities of the decedent.
- Filing federal and state estate tax returns, if necessary.
- Filing federal and state income tax returns for the estate, if necessary.
- Paying any other taxes owed by the decedent, for example, property taxes, business taxes, etc.

Decedent's final income tax returns

The personal representative is responsible for filing the decedent's final individual income tax returns for the year of death, even if there is a surviving spouse. If a final federal income tax return is required to be filed for a decedent for the year of death, a final state income tax return, Form M1, is also required. Use the same filing status as was used to file the final federal return.

For additional information, see Income Tax Fact Sheet 9, Filing on Behalf of a Deceased Taxpayer.

Due date

Assuming the decedent's income meets the minimum filing requirement for the year, the decedent's final federal and state income tax returns are due on April 15 of the year following death.

Income tax returns from previous years

You should confirm that the decedent has filed returns or that no returns were due for the last several years. Federal and state law holds the personal representative responsible for any tax due on a decedent's final or previous years' returns and for the estate of the decedent.

Forms you may need:

- Form 1040, Federal Individual Income Tax Return
- Form M1, Minnesota Individual Income Tax Return
- Form M23, Claim for a Refund Due a Deceased Taxpayer

Income tax returns for estates

The decedent's estate starts on the death of the decedent. After that, income is usually no longer attributable to the decedent. Instead, probate income is reported as income of the estate and nonprobate income is reported by the individual or entity receiving the income.

The personal representative reports the estate's income by filing an income tax return for estates and trusts (Form M2) for each year the estate is open. A return is required for each tax year in which the estate has gross income of \$600 or more or has a non-resident alien as a beneficiary.

Due date

Form M2 is due the 15th day of the fourth month following the close of the tax year. The tax year begins on the day after death. It ends on the last day of any month chosen by the personal representative—but not to exceed one year after the date of death.

Forms you may need:

- Form 1041, U.S. Income Tax Return for Estates and Trusts
- Form M2, Minnesota Income Tax Return for Estates and Trusts

Estate tax return

Estate tax is a tax imposed on the value of the decedent's estate. Federal and state estate tax returns are required when the total gross estate exceeds:

Year of death	Value of estate*	
	Minnesota	Federal
2000-2001	\$ 675,000	\$ 675,000
2002-2003	700,000	1,000,000
2004	850,000	1,500,000
2005	950,000	1,500,000
2006-2008	1,000,000	2,000,000
2009	1,000,000	3,500,000

* These requirements are subject to change. Check our website for the most current information.

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Due date

The estate tax return is due nine months from the date of death.

Forms you may need:

- Form 706, Federal Estate Tax Return
- Form MN706, Minnesota Estate Tax Return (for deaths prior to January 1, 2002)
- Form M706, Minnesota Estate Tax Return (for deaths after December 31, 2001)

Other taxes

Business taxes

If the decedent had a business and it continues to operate after the date of death, any withholding, sales and payroll taxes, etc. will have to be kept current during the period of administration.

Property tax

If property taxes come due during the period of administration, the personal representative is responsible for paying them.

Property tax refund

The personal representative cannot claim the decedent's property tax refund. Only the decedent's surviving spouse or dependent may do so.

Income tax

A personal representative must treat as income any compensation he or she receives as a result of services performed.

Early audit request

If the personal representative wants to speed closing of the estate, he or she can file a request for early audit of the income tax return. The request asks the Department of Revenue to shorten the statute of limitations on auditing the income tax return from 3½ years to 18 months (after the date of filing). That means the department generally can't assess additional tax after the 18 months have elapsed.

An early audit request can be made only for Form M1 or Form M2. It does not apply to the estate tax returns, Forms MN706 or M706.

Use Form M22, Request for Early Audit of Minnesota Income Tax Returns.

Penalties for improper filing, failure to file or pay

Under Minnesota and federal law, penalty and interest relating to the decedent's income and estate tax affairs could be imposed for any of the following reasons:

- late filing
- late payment
- failure to file
- failure to pay
- fraud
- frivolous returns
- negligence
- substantial understatement of income

Personal liability

Federal and state law holds the personal representative liable for income and estate taxes where funds have been distributed without reserving enough to pay the various taxes.

Summary of forms you may need

Minnesota forms

- Form M1, Decedent's Final Individual Income Tax Return
- Form M2, Income Tax Return for Estates and Trusts
- Form M23, Claim for a Refund Due a Deceased Taxpayer
- Form MN706, Minnesota Estate Tax Return (for deaths prior to January 1, 2002)
- Form M706 Minnesota Estate Tax Return (for deaths after December 31, 2001)
- Form REV184, Power of Attorney

How to get Minnesota forms:

- download them from our website at www.taxes.state.mn.us
- call 651-556-3075 to have forms mailed to you

Federal forms

- Form 1040, Federal Individual Income Tax Return
- Form 1041, U.S. Income Tax Return for Estates and Trusts
- Form 706, Federal Estate Tax Return
- Form 2848, Federal Power of Attorney and Declaration of Representative

How to get federal forms:

- download them directly from the IRS website at www.irs.gov
- call the IRS at 1-800-829-3676 to have forms mailed to you.

For more information

See the federal Publication 559, Tax Information for Survivors, Executors, and Administrators.

Laws are subject to change. Please contact us for current information:

Internal Revenue Service: 1-800-829-1040, www.irs.gov

Minnesota Department of Revenue: 651-556-3075, www.taxes.state.mn.us