

PERSONAL INCOME TAX

Under federal law, any earned personal income must be reported to the Internal Revenue Service. All individuals who meet the criteria for annual reporting of personal income tax must file a return the year following a death.

A survivor spouse may file a joint return in the year of a death. In addition, for two years following a death, a widowed individual with at least one dependent child may file at joint return rates, provided a remarriage does not occur before the end of the taxable year. The widowed parent may file as head of household provided they remain unmarried after the two- year period.

Those individuals who are widowed before the deceased spouse has received any pension benefits may be entitled to special income tax death benefit exclusion.

SINGLE INDIVIDUAL

Upon death, an individual who meets the requirements for filing personal income tax transfers this duty to the named personal representative. All payments due, or refunds payable by the IRS, will be applied to the deceased's estate.

While a person's estate is being settled, the spouse or personal representative filing the personal income tax return may be required to file a fiduciary income tax form 1041. This form is used for the interim period when an estate is held open into the next year.

The following items should be available to complete tax forms:

- Previous year's tax return.
- Form W-2 for the current year earnings.
- Form W-2p for current earnings from pensions, stocks, dividends, capital gains, etc.
- Certified death certificate.
- Form 1099, interest reported from banks, etc.

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LAST WILL & TESTAMENT

A Will is a document that names the people you want to receive your property when you die and the person who will be responsible for insuring that your wishes are carried out.

GENERAL INFORMATION

- After death, it is the responsibility of the named personal representative to contact an attorney and begin estate proceedings, including the filing of the current Will with the Court.
- Your personal representative should petition the court for authority to act as personal representative. He or she will then have the duty of collecting all the assets of the estate, paying all legal debts and obligations, having the assets appraised, and distributing the estate to those persons designated in the Will.
- The personal representative is entitled to a fee for administering the estate. This fee depends upon many factors including the demands put upon the individual. The personal representative has the option of waiving the fee.
- A valid Will must be filed with the court within 10 days from the date of death.
- Should an individual die possessing real property and personal assets without having a current Will, it is the duty of the heirs to engage an attorney. The attorney will properly open the Estate and file it with the probate division of the court.
- Probate is the legal process of concluding the affairs of the deceased; accumulating their assets, paying valid debts, and distributing the assets to the heirs as designated in the Will. If no Will exists, the courts will determine the legal heirs.

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