

Before the completion of final distributions to beneficiaries from a deceased estate, it is important that all tax matters are finalised and there is confirmation that there is no further liability to the ATO.

Any debts payable will come from the estate assets first, however if all monies have already been distributed to beneficiaries, the executor is personally liable for the debts to the ATO. It is then up to the executor to seek remediation from beneficiaries independently.

It is therefore critical to be confident of ATO obligations before the distributions to beneficiaries conclude.

## The First Steps

If the deceased isn't already a client, we will add them to our tax agent list and review the status of their tax returns.

For us to be able to do this the following needs to be done.

- 1** We need to view *in paper form* the original copy or a certified copy of the following documents
  - **Will / Grant of Probate**
  - **Death certificate**

*We do not need to keep these documents once a member of our team has viewed the documents. Once we have viewed these versions, we can then also certify further copies for you.*
- 2** The executor needs to sign our **Terms of Engagement** form (which can be found on our website under resources / forms) to authorise us to act for the deceased individual and the estate.
- 3** The ATO needs to be notified of the death and our appointment as tax agent.
  - This can be done by your solicitor, or the executor can lodge the form along with their ID and the relevant documents at a Post Office.
  - An online form of notification can be found on the ATO website under the search 'Notification of a deceased person'.
  - This form can take up to 28 days to process. You will receive notification from the ATO once the authority has been processed.

## Individual Returns Required

The individual's tax returns need to be lodged or have no return necessary forms lodged for all financial years up to the individual's date of death.

The final individual return dates from 1 July of the financial year in which they died and ends on their date of death.

## Estate Returns Required

From date of death forward the Estate is a separate entity for tax purposes and requires its own TFN (if tax returns need to be lodged for the estate).

- We can apply for a TFN or your solicitor can apply and may already have done so in the course of administering the estate.
- Any tax return lodged for the estate is lodged as a trust return rather than as an individual entity. This means that the estate is more complex to prepare than individual returns.
- The estate is entitled to the same tax treatment (marginal rates) as a taxpaying individual for 3 tax returns after the date of death. It does not need to pay the Medicare Levy but also doesn't have an entitlement to income offsets.



### ***The estate may not need to lodge any tax returns.***

The requirement to lodge will depend on the assets of the estate and what happens as part of the administration of the estate. We can provide guidance on what is involved and make suggestions for finalising the tax side of the estate to help minimise tax payable and maximise distributions to beneficiaries.