

mclaren knight

taxation &
deceased
estates



taxation & deceased estates



Contact: Justin Cadman
Jim Cadman
Team: business services

Although there is no death duty in Australia, the Income Tax Assessment Act 1997 ("the act") does tax certain income or capital transactions that occur as a consequence of a persons death.

This guide will assist you in understanding general taxation issues as they apply to a deceased person. The guide is published to provide a general overview and we would strongly advise that you seek professional assistance.

Wherever the word 'executor' is used in this publication, it applies equally to an executrix, trustee, administrator or legal personal representative.

■ executor's taxation responsibilities

The following is a list of general tax obligations of the executor:

- notifying the Australian Taxation Office of the death
- lodging all prior year outstanding tax returns on behalf of the deceased
- lodging 'date of death' (final) personal tax return on behalf of deceased
- applying for a trust tax file number for the estate of the deceased (if required)
- preparing and lodging trust tax returns on behalf of the deceased estate (if necessary)

■ is a tax return necessary?

In some cases the deceased may not have been lodging prior year tax returns. Notwithstanding this fact, the executor needs to determine whether a tax return is required for the current year.

There may be a number of reasons why a current year tax return might be required for the deceased. For example:

- tax has been withheld from income earned by the deceased prior to death
- income earned by the deceased prior to death exceeded the tax free threshold.

If in doubt as to whether a transaction is assessable pursuant to the act, we suggest that you retain all supporting documentation and seek professional assistance.

■ date of death & estate returns

More often than not, a date of death return will need to be lodged by the executor on behalf of the deceased.

The relevant return will normally cover from the 1st July through to the date of death. The date of death return should include all assessable income derived by the deceased person and all tax deductible expenses incurred up to the date of death. Income derived and expenses incurred after the date of death are assessed in the deceased estate's trust return. After the date of death, the deceased estate may receive income from various sources. A trust tax return will need to be lodged for the deceased estate if there is tax payable on the income, or if tax has been withheld from the income.

A trust tax return will need to be lodged for each income year until the deceased estate is fully administered and no longer deriving income.

Deceased estate returns can be complex and we recommend that such returns be prepared by experienced professionals.

■ document checklist

The following list is to be used as a guide only; it is not an exhaustive list and reader's discretion is warranted.

- copy of the deceased's will and death certificate
- copy of last tax return lodged by the deceased
- notice of probate / letter of administration
- listing of all assets sold, monies received and all payments made on behalf of the deceased or deceased estate
- records of income earned and expenses paid (prior and post death)
- tax offset records (prior and post death)
- medical expenses.

■ other publications

To assist our clients and partnered professionals we publish various flyers and brochures as part of our MENTOR PROGRAM. Please visit our website to obtain a current list of publications. You can also contact our office to obtain a full suite of our publications.

mclaren knight is staffed by experienced, committed professionals, who are selected and trained to identify the needs and goals of clients, and to work with them to achieve the desired result.

At **mclaren knight** we take our reputation extremely seriously. We only adopt the latest practices and use the most current information.

To learn more, please visit your local **mclaren knight** office or visit www.mclarenknight.com.au