



Executor Obligations

February 13, 2023

Have you agreed to become the executor, personal representative, or trustee of someone's estate—say, a parent, brother or sister? Has anyone asked you to take on those responsibilities? If so, you might not realize all the things that you're agreeing to.

You start with the loss of a close friend or family member, which means you're probably grieving. During what is probably one of the most difficult times in your life, you find yourself handling a blizzard of paperwork, paying final expenses, ensuring that final legal and tax requirements are met, and managing the distribution of the deceased person's assets. You're responsible for filing the final individual return and an estate or trust return (or both).

The ordeal starts with the requirement to file the deceased's final Form 1040, which reports all income received during the year up to their date of passing. (If the deceased person is married, a joint return can be filed and signed by the surviving spouse.) Of course, this requires you to collect a lot of information that you might not have had access to previously. If a refund is due, be sure to include Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer.

After that, you need to start in on the deceased's estate income tax return (Form 1041), which reports all income received after death. This form is generally required if the individual's estate received gross income of \$600 or more after their death, or in rare cases where the beneficiary is a nonresident alien.

In order to report income received after death, you, as the executor, have to apply for a tax ID number for the estate, also called an employer identification number or EIN. In not-uncommon cases where the decedent had created a revocable living trust, the trust usually becomes a separate entity and will require a unique tax ID number (EIN). A trust income tax return is generally required if there is gross income of \$600 or more in the tax year, or a beneficiary who is a nonresident alien. If the trust document requires income to be paid to a beneficiary, a Form K-1 is usually generated to pass that income to individuals. If no distributions are made or required to be made, the trust typically pays tax on income earned.

In many cases, the executor must file an estate and generation-skipping transfer) tax return (Form 706). There are two possible reasons to file Form 706. One is that the estate's assets exceed the estate tax exemption amount (\$12.92 million for 2023) and estate taxes are owed to the government. Form 706 should also be filed for deceased spouses where there is a surviving spouse who wants to claim estate tax exemption "portability." The form announces to the IRS the intention to transfer any unused exemption to the surviving spouse.

Many states also have estate or inheritance tax filing requirements. Have you taken the time to review the filing requirements for the individual's state of residence, as well as any state where the individual owns real estate, has a business or other property, to determine if returns are required or tax is due?

Before you take on the role of executor, you might think about whether these are responsibilities that you want to bear while you're mourning the death of someone close to you. There are attorneys and others who can handle this burden, who are probably more familiar with the forms, processes and requirements than you as a layperson.

Sources:

<https://www.elderlawanswers.com/what-is-required-of-an-executor-6434>

https://www.americanbar.org/groups/real_property_trust_estate/resources/estate_planning/guidelines_for_individual_executors_trustees/

If you have any questions about this article or want to discuss your family finances, investment portfolio, or financial planning advice, please call on me anytime at my number [\(215\) 325-1595](tel:2153251595) or you can [click here to schedule a meeting](#).

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