



## IRS Resuming Sending Collection Notices

### Article Highlights:

- COVID-19 Pandemic Notice Suspensions
- Resumption of Collection Letters in 2024
- Special First Letter
- Penalty Relief
- Taxpayers Qualifying for Penalty Relief
- Tax Returns Qualifying for Penalty Relief
- Reasonable Cause Criteria or First-Time Abate Relief

Due to the COVID-19 pandemic, the IRS suspended the mailing of automated reminders to pay overdue tax bills starting in February 2022. These reminders would have normally been issued as a follow up after the initial notice. Although these reminder notices were suspended, the failure-to-pay penalty continues to accrue for taxpayers who did not fully pay their bills in response to the initial balance due notice.

The IRS has announced a resumption of the collection notices in 2024, with some taxpayers already receiving a reminder letter; IRS will continue mailing resumption reminders through March of 2024. This communique may come as a surprise to some delinquent taxpayers since they may have not heard from the IRS in over a year. The first correspondence will be a special reminder letter that will alert taxpayers of their liability, easy ways to pay, and the amount of penalty relief, discussed below, if applied.

The IRS is taking steps to waive the failure-to-pay penalties for eligible taxpayers affected by this situation for tax years 2020 and 2021. The IRS estimates 5 million tax returns filed by 4.7 million individuals, businesses, trusts, estates, and tax-exempt organizations are eligible for the penalty relief. This represents \$1 billion in savings to taxpayers, or about \$206 per return.

The relief granted is available only to eligible taxpayers' additions to tax for the failure to pay during the relief period. An "eligible taxpayer" is any taxpayer:

- Whose assessed income tax for taxable year 2020 or 2021, as of December 7, 2023, is less than \$100,000, excluding any applicable additions to tax, penalties, or interest;
- Who was issued an initial balance due notice on or before December 7, 2023, for taxable year 2020 or 2021; and
- Who is otherwise liable during the relief period for additions to tax for the failure to pay penalty with respect to an eligible return for taxable year 2020 or 2021.

This penalty relief is automatic. Eligible taxpayers don't need to take any action to get it. Eligible taxpayers who already paid their full balance will also benefit from the relief. If a taxpayer already paid failure-to-pay penalties related to their 2020 and 2021 tax years, the IRS will issue a refund or credit the payment toward another outstanding tax liability<sup>1</sup>.

Eligible taxpayers include individuals, businesses, trusts, estates, and tax-exempt

00organizations that filed certain Forms 1040, 1120, 1041 and 990-T income tax returns for tax years 2020 or 2021, with an assessed tax of less than \$100,000, and that were in the IRS collection notice process, or were issued an initial balance due notice, between Feb. 5, 2022, and Dec. 7, 2023. The IRS notes the \$100,000 limit applies separately to each return and each entity. The failure-to-pay penalty will resume on April 1, 2024, for taxpayers eligible for relief.

Taxpayers who are not eligible for this automatic relief may also have options. They may use existing penalty relief procedures, such as applying for relief under the reasonable cause criteria or the First-Time Abate program.

If you have an outstanding liability from 2020 and/or 2021, please contact this office for assistance with ways to resolve the outstanding debt such as an installment agreement with the IRS or perhaps an offer-in-compromise to settle the debt for less than owed.

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## Death Of a Loved One

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### Article Highlights:

- Collecting Paperwork
- Decedent and Survivor Social Security Benefits
- Probate Decedent's Estate
- Decedent Final Tax Return
- Other Tax Returns
- Surviving Spouse
- Survivor Benefits
- Surviving Spouse Filing Status

The death of a loved one is one of life's most difficult times and a time for reflection and grieving. However, it also triggers unique financial and tax events that must be dealt with by the survivors. For a surviving spouse, this is an especially difficult time and can be devastating if the death was sudden with little or no time to make financial preparations.

This material is divided into several sections dealing with the various aspects of a passing and provides information to help you work through the various financial problems and details that must be attended to with the death of a loved one.

**Collecting Paperwork** – Gathering the proper paperwork is the first step in settling a decedent's affairs. These documents will be necessary to file and collect benefits, file taxes, etc. This task is generally the responsibility of the decedent's surviving spouse or, if unmarried, whoever is responsible for the decedent's affairs.

*Death Certificate* - The death certificate will be needed for many financial procedures that will be encountered. Request several copies (ten is recommended in most cases). These are usually available from the funeral director. If not, they will be available from the county health department.

*Decedent's Insurance Policies* - These will help you determine the benefits entitled to by the survivors. In addition to looking for life insurance policies, don't overlook veteran's policies, mortgage insurance policies and death benefits associated with car loans, credit cards, installment accounts, health policies, employer plans and retirement plans.

*Surviving Spouse's Insurance Policies* - If the decedent is the beneficiary of the spouse's policies, the surviving spouse may wish to file change of beneficiary notices with the insurance carrier.

*Marriage Certificate* - A surviving spouse will sometimes need to provide proof of the marital relationship to apply for certain benefits. If you are unable to find one, a copy can usually be obtained from the county offices of the place where the couple was married.

*Birth Certificates* - For dependent children birth certificates may also be needed when applying for certain benefits. If copies cannot be found, one can be obtained from the county

or state in which a child was born.

*Certificate of Discharge from the Military* - If your spouse was in the military, you may need his or her certificate of discharge to collect certain benefits. If discharge or separation documents are lost, veterans or the next of kin of deceased veterans may obtain duplicate copies by completing forms found on the Internet at <https://www.archives.gov/personnel-records-center/military-personnel> and mailing or faxing them to the NPRC. Alternatively, write the National Personnel Records Center, Military Personnel Records, 1 Archives Drive, St. Louis, MO 63138. It is not necessary to request a duplicate copy of a veteran's discharge or separation papers solely for the purpose of filing a claim for VA benefits. If complete information about the veteran's service is furnished on the application, the VA will obtain verification of service.

*The Deceased's Will or Trust Documents* - The decedent may have had a will or trust. A copy of the will or trust will be required. The decedent's attorney will have copies of these documents.

*Decedent's IRA and Pension Plans* - Compile a list of the decedent's IRA accounts and retirement plans and determine who the beneficiary or beneficiaries are for each.

*Spouse's IRA and Pension Plans* - If the decedent is the beneficiary of the spouse's IRA or retirement plans, the surviving spouse may wish to file change of beneficiary notices with the plans.

*Complete List of All Property* - Generally, the assets of all decedents will go through state probate, estate, or trust proceedings and a complete inventory of the decedent's assets will be needed. The date-of-death value of each of the assets owned by the decedent will need to be determined for the probate or trust administration. For some assets, such as real estate, a professional appraiser may need to be hired to determine the amount. In most cases it is advisable for the surviving spouse, executor and/or trustee to meet with an attorney, as well as their tax and financial advisors, who will guide them through this process.

Frequently, taxpayers maintain their most important documents in a safe deposit box. Where possible, the contents should be removed before the decedent's passing. Depending upon the jurisdiction, sometimes the boxes are sealed upon the owner's or joint owner's death. If the box is sealed, it will require a court order to gain access to the box.

**Social Security** – The Social Security Administration (SSA) should be notified as soon as possible when a person dies. In most cases, the funeral director will report the person's death to the SSA. The funeral director must be furnished with the deceased's Social Security number so that he or she can make the report.

Some of the deceased's family members may be able to receive Social Security benefits if the deceased person worked long enough under Social Security to qualify for benefits. Get in touch with the SSA as soon as possible to make sure the family receives all the benefits to which they may be entitled. The following is information on the benefits that may be available.

- A one-time payment of \$255 can be paid to the surviving spouse if he or she was living with the deceased; or, if living apart, was receiving certain Social Security benefits on the deceased's record. If there is no surviving spouse, the payment is made to a child who is eligible for benefits on the deceased's record in the month of death.
- Certain family members may be eligible to receive monthly benefits, including:
  - A widow or widower aged 60 or older (age 50 or older if disabled).
  - A surviving spouse at any age who is caring for the deceased's child under age 16 or disabled.
  - An unmarried child of the deceased who is:
    - Younger than age 18 (or age 18 or 19 if he or she is a full-time student in an elementary or secondary school); or
    - Age 18 or older with a disability that began before age 22.
  - Parents, age 62 or older, who were dependent on the deceased for at least half of their support; and
  - A surviving divorced spouse, under certain circumstances.

If the deceased was receiving Social Security benefits, the benefit received for the month of death, or any later months must be returned. For example, if the person dies in July, the benefit paid in August must be returned. If benefits were paid by direct deposit, contact the bank or other financial institution. Request that any funds received for the month of death or later be returned to the Social Security Administration. If the benefits were paid by check (a rarity these days), do not cash checks received for the month in which the person dies or later. Return the checks to the SSA as soon as possible.

**Probate** – This is the legal process of settling the estate of a deceased person, specifically resolving all claims, and distributing the deceased person's remaining property per the decedent's wishes under a valid will. This process is generally handled by a probate court which protects the wishes of the deceased, confirms the executor (usually named in the will) as the personal representative of the estate, protects the interests of family members who may have claims against the estate, and protects the executor against claims and lawsuits. If there is no will, the court will appoint a personal representative, usually the decedent's spouse if married at the time of death. In general, the probate process normally entails the following:

- In most cases, the survivors will engage an attorney to handle the probate and petition the court to begin the probate proceedings.
- The cost of probate is generally based on the value of the decedent's assets and is usually set by law.
- The court will appoint a personal representative.
- Notices in local newspapers will be published informing creditors, heirs, and beneficiaries of the probate proceedings, allowing them ample time to make claims.
- The assets will be appraised.
- The creditors will be paid.
- The remaining assets will be distributed to the heirs and beneficiaries.

Note: Assets held in a living trust are not required to be probated and skip the probate process; this saves the beneficiaries both time and money. Also, assets that are jointly owned by the deceased and someone else are not subject to probate. IRA accounts with a named beneficiary and the proceeds from life insurance policies are also not subject to probate.

**Decedent's Final Tax Return** - Upon the death of a taxpayer, a personal representative (e.g., estate executor/executrix) takes charge of the decedent's property. This person may be named in the decedent's will or trust document, or appointed by the court if there is no will or trust. When the taxpayer is married, that person is generally the surviving spouse. The duties of the representative include collecting all the decedent's property, paying creditors, and distributing assets to the heirs, or in some cases selling property that was the decedent's. In addition, the representative is responsible for filing various tax returns and seeing that the taxes owed are properly paid. The decedent's final income tax return is filed on a 1040 series return.

Filing Requirements - The requirements for filing a return for a deceased taxpayer are generally the same as if the taxpayer were still living--based on income level, age and filing status.

Due Date – The due date for a decedent's final return is the same as for any other individual (generally April 15 of the following year, but extendable to October 15). Note: if either April 15 or October 15 fall on a Saturday, Sunday, or legal holiday the due date is the next business day.

Filing Status - Generally, if the taxpayer was married at the time of death, the decedent will file a joint return with the surviving spouse; otherwise, he or she will file as an unmarried individual. However, a taxpayer who was married at the time of death may not file a joint return with the surviving spouse where (1) the spouse refuses to file jointly, (2) the surviving spouse has remarried, or (3) the executor of the estate does not agree to the joint filing status.

Refunds - If a decedent's return claims a refund, Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, should be filed. However, Form 1310 is not needed if the person claiming the refund is the surviving spouse of the decedent, filing a joint return with the decedent, or a court-appointed or certified personal representative is filing an original return for the decedent.



**Income to Include** - Generally, the decedent's income on the final return only includes income derived up to the date of death. Post-death income is taxable to the decedent's estate or trust, but the estate or trust will generally pass the taxable income on to the beneficiaries for inclusion in their individual returns if the income has been distributed to the beneficiaries during the same reporting period.

**Tax Attributes** - Tax attributes are exemptions, deductions, and carryover items. Where a decedent was married, the attributes must be allocated to the decedent and the surviving spouse based on ownership and state property laws. For example, a married couple has a capital loss carryover of \$10,000. Assuming the losses came from jointly owned property, one-half of the capital loss carryover would belong to the decedent and half to the surviving spouse, allowing the surviving spouse to continue to carry over his or her share of the capital loss. The decedent's share of the carryover can only be used on the final return and any leftover is lost. The following is the treatment of some of the more common tax attributes:

**Carryovers** – Generally, except as noted below, carryover deductions and credits can be used to the extent normally permitted on the decedent's final return, but any excess does not carry over to the estate or beneficiaries. The carryovers included in this category are net operating loss (NOL), investment interest deduction, capital loss, business credit, minimum tax credit, passive loss credit, and the charitable contribution deduction.

**Medical Expenses** - Medical expenses paid before death are claimed on the decedent's final return as an itemized deduction in the usual manner. Medical expenses not deductible on the final return become liabilities of the estate, and they are deducted on the estate tax return (Form 706) if one is required to be filed. However, expenses that were paid out of estate funds within one year after death can be, at the discretion of the executor, treated as if paid by the decedent and claimed on the decedent's final return instead. To make the election, file a statement with the

**Charitable Contributions** - As noted previously, charitable contribution carryovers are lost if not used on the final return. The fair market value of property of an individual that is donated to charity after the individual's death may be claimed as a charitable contribution by the beneficiary who was designated to inherit the property.

**Foreign Tax Credit Carryovers** - Foreign tax credit carryovers can be used by the taxpayer's estate or heirs.

**Passive Losses** - When a passive interest is transferred due to death, the accumulated suspended losses from the activity are deductible on the decedent's final return. The deduction amount is limited to the excess of the basis of the property in the hands of the transferee (heir) over the decedent's adjusted basis in the property just before death. In other words, the amount of the passive activity loss that equals the step-up in basis due to the decedent's death is not allowed as a deduction to anyone in any tax year.

*Example: Robert was the sole owner of a residence used as a rental, a passive activity, when he died. In his will, he left the property to his brother Tom. At Robert's date of death, the value of the rental was \$500,000, his adjusted basis was \$494,000, and he had unused passive activity losses of \$8,000. Since Tom's inherited basis of the rental, \$500,000 (FMV at date of death), is increased by \$6,000 over Robert's adjusted basis of \$494,000, the deduction on Robert's final return for the year of death would be limited to \$2,000 (\$8,000 - \$6,000). If the inherited basis had been \$502,000 or more, none of the suspended passive loss would have been deductible (\$502,000 - 494,000 = \$8,000; \$8,000 - \$6,000 = \$2,000).*

**Exemptions** – Normally the full value of the decedent's exemption is claimed on the final return; proration based on the time the taxpayer was alive for the final year is not required. Since 2018, the first year that the Tax Cuts and Jobs Act (TCJA) was effective, personal tax exemption deductions are no longer allowed. However, TCJA expires after 2025 and the exemption deduction may return.

**Unrecovered Investment in Pensions** - If a retired person dies before recovering the entire basis in a pension or annuity (that started after 1986), the unrecovered portion is allowed as a deduction on the retiree's final return. However, if the annuity is for the joint lives of a retiree and a designated beneficiary, the deduction would apply to the final return of the last to die.

**Funeral Expenses** - Are NOT deductible on the decedents or survivor's income tax returns. If an estate tax return is required to be filed, funeral expenses are an allowed deduction on it.

**Other Tax Returns** – In addition to the decedent's final return, there are other returns that may need to be filed, along with taxes paid. All income of the decedent both before death and after death is taxable, unless specifically exempt by law. Since the decedent's final return only includes income up to the date of death, the income after death, such as income from investments and businesses, is included on a "fiduciary" income tax return (Form 1041 for federal and an equivalent state return). Whether the tax on this income is paid by the estate (or trust) or the beneficiary depends on whether the income is retained by the estate or trust or passed on to the beneficiary during the applicable tax period. It is not unusual for a Form 1041 to have to be filed for more than one tax year (or partial year), as settling an estate or trust often can take over a year.

**Estate Tax** - For 2024, the Federal estate tax exemption is \$13.61 million (up from 12.92 million in 2023) and a top tax rate of 40%. Form 706 must be filed if the decedent's estate value exceeds the \$13.61 million exemption. CAUTION: The federal estate tax exemption was approximately doubled by the TCJA back in 2018 and has been inflation adjusted since. However, TCJA expires after 2025 and without Congressional action the estate tax exemption will be approximately cut in half starting with deaths in 2026, potentially subjecting a larger number of estates to the estate tax.

State laws vary, but an estate which pays a federal estate tax may also be required to file a state estate or death tax form and pay the state death tax. However, most states do not impose an inheritance tax. Consult this office for further information.

**Surviving Spouse** – Getting one's financial issues in order after the passing of a spouse can be a difficult and emotional time. Hopefully, you and your deceased spouse had preplanned for this eventuality. If your spouse managed your financial affairs, taking over these affairs and those associated with his or her passing can seem overwhelming. A surviving spouse will need to carefully assess his or her financial situation. If the breadwinner passed away, his or her earned income will probably go away too. If the opposite is the case and there are children, the surviving spouse will need to plan so that he or she can continue working. If the couple was retired, will the retirement income be lost or reduced? Unless you have significant financial resources, these issues need to be addressed rather quickly. However, avoid any immediate long-term decisions; they will probably be emotionally based.

**Survivor Benefits** – One of the first steps should be assessing what benefits you qualify for and then applying for those benefits.

Insurance – Hopefully, you have a list of policies issued to your spouse. If not, contact those companies that might have a policy on your deceased spouse. Inquire at your insurance agency and look in the safe deposit box. In addition to your life insurance policies, don't overlook the following:

- Veteran's life insurance coverage
- Installment accounts with life insurance coverage
- Mortgages with life insurance coverage
- Employer group term policies
- Credit card accounts with life insurance coverage
- Car loans with life insurance coverage
- Health insurance policies
- Retirement plans with death benefits.
- Annuities

*Note: Be aware of all possible settlement options. Insurers may offer various settlement terms, such as a lump sum payment or annuitized payments (fixed amounts) over a period of years. Carefully consider your circumstances before deciding. A lump sum can help pay off immediate financial needs, but a payment plan can provide long-term income security. Consult with your financial advisor before deciding.*

Social Security – As discussed earlier, you may qualify for Social Security benefits or an adjustment in the benefits you already received.

*Veteran's Benefits* – If your deceased spouse was a veteran, you may be eligible for one or more of the benefits provided by the U.S. Department of Veterans Affairs. These include assistance with burial, plot, and grave markers. The funeral home may be able to help you apply for these benefits. If your spouse was receiving veteran's disability benefits, you and your dependent children may also be entitled to continued payments. Contact your area's VA office for assistance.

*Employee Benefits* – If your deceased spouse was already retired and receiving pension payments from past employers, you will need to contact those employers to see if the pension will continue to pay the full or a reduced monthly amount, or whether it will cease paying benefits upon your spouse's passing. Some employer pension plans also provide a small death benefit. Most employer pension plans, at the time of initial retirement, offer a choice for the retirement plan to pay only over the life of the retiree or a reduced amount over the joint lives of the retiree and spouse. Hopefully, you and your spouse chose the latter.

If your deceased spouse was still working at the time of death, there are several things you should check into, such as:

- Does the employer provide survivor benefits?
- Are there 401(k) or similar type retirement savings plans that you are entitled to?
- Are you entitled to accrued vacation and sick leave payments?
- Was the deceased covered under any life insurance policy provided by the employer?
- Was your spouse a member of a union or professional association that might provide death benefits?
- If the death was work-related, are you entitled to worker's compensation benefits?

*Creating a Budget* – Depending upon your overall financial situation, it may be appropriate for you to develop a budget based on your new financial circumstances. This is especially important if your income has been reduced. The sooner you have your finances in order, the better. Estimate your income first; include your wages if working, Social Security and retirement benefits, investment income and other sources.

Next, list your expenses. These include housing, food, utilities, taxes, medical care and insurance, entertainment, internet and streaming services fees, clothing, transportation, insurance, school expenses for your children, etc. Be sure to set aside an amount that can be added to reserves for unexpected expenses, such as a broken water heater, car repair, etc. Also, if you are not already retired, be sure to set aside amounts to fund your future retirement as well.

Now compare your income with your expenses. If your expenses exceed your income, you will need to reduce spending. If the income exceeds your expenses, you can save the difference. Be conservative for the first year or so while you fine-tune your budget.

*Change Designations* - You will want to begin the process of removing your deceased spouse from title to property, credit accounts, vehicle registrations, bank accounts, investment accounts, etc. Also review your beneficiary designations on your own life insurance, IRA accounts and will to ensure who inherits them from you. You may also need or wish to change the executor designation in your own will.

**Surviving Spouse Filing Status** – Generally, an individual's filing status is predicated on their marital status at the end of the tax year. However, there are special rules related to the spouse of a deceased taxpayer. In the year of death, a surviving spouse is no longer considered married for tax purposes but can still file jointly with the deceased spouse if the executor of the decedent's estate agrees. Generally, the surviving spouse will file jointly with the deceased spouse. If not, and if the surviving spouse has not remarried, then he or she would file using the married separate status or as head of household if he or she qualifies. If the surviving spouse has remarried, then he or she would file either married joint with the new spouse or married separate.

In the years following the death of a spouse and assuming the surviving spouse has not remarried, he or she would file as follows:

*Qualifying Surviving Spouse* – If the surviving spouse has a dependent child living at home,

the widow or widower can file as a qualifying surviving spouse. This favorable filing status is essentially the same as filing a joint return, except that there is no deduction for the deceased spouse's exemption. (Through 2025, no exemption deduction is allowed anyway.) The widow or widower can use this status for a period of two years if he or she meets the requirements for the filing status.

Head of Household – If the surviving spouse can no longer qualify for the qualified surviving spouse status, and he or she provides over half the household expenses for a qualified child or dependent, he or she may qualify for the Head of Household rates, which are not as beneficial as those for a qualified surviving spouse but are significantly better than filing as a single individual.

Single – If the surviving spouse does not qualify for one of the filing statuses described above, then he or she would be required to file as a single individual for years after the deceased spouse's death.

Widows and widowers should be aware that the head of household and single filing statuses, result in higher marginal tax rates and reduced standard deductions when compared to the joint status. This could, without proper planning, lead to unpleasant taxes due or a significantly reduced refund when the return is filed.

### **Other Issues**

Decedents E-mail Account – Plan should be discussed in advance. The deceased may or may not want to allow access to their e-mail account after they have passed. If the decedent wants to provide access, they should have left information on how to access the account. In some cases, the deceased may want someone they trust to simply delete the account.

Cell Phone – Similarly what are the decedents wishes regarding their cell phone. Allow access to a trusted friend or relative before the service is terminated. Also, consideration should be made concerning family photos that may be on the phone.

If you have questions or need assistance, please give this office a call.

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Thank you for selecting our firm for your tax and accounting needs. We appreciate the confidence you have shown in us, and we remain ready to assist you at any time.

Aaron Bagby  
Kramer, Jensen & Bagby, LLC

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