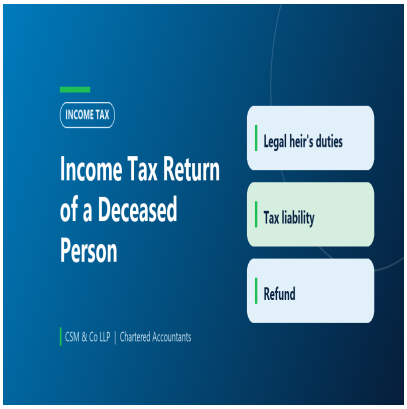


Income Tax Return of a Deceased Person: Legal Heir’s Duties, Liability and Refund (Tax Year 2026-27)

Description

Last updated: 19 September 2026 · Written and reviewed by CA Meet Dhrangadhariya, CSM & Co LLP

Quick summary

- When a person dies, his legal representative is liable to pay any tax the deceased would have owed, and proceedings against the deceased continue against the legal representative (section 302 of the Income-tax Act, 2025).
- The legal representative is deemed an assessee, so the return of the deceased must be furnished by the usual due date and a pending refund is claimed by the legal representative (section 432(2)).
- Liability is limited to the estate, but a legal representative who creates a charge on or disposes of estate assets while the tax is unpaid becomes personally liable to the value of those assets.
- Income earned by the heirs after the death is taxed in their own hands.

Death does not end a person’s tax obligations. A return may be due for the year of death and for earlier years, a refund may be waiting, and a notice may arrive months later. The Income-tax Act, 2025 deals with this through the **legal representative** (section 302).

Who is the legal representative

The person who in law represents the estate of the deceased, such as an executor, administrator or, where there is no will, the heirs who take the estate. A legal representative is deemed to be an assessee for the purposes of the Act (section 302(3)). A will with probate, a succession certificate or a legal heir certificate is the usual evidence of status.

What must be filed

- The **return of income** of the deceased for the tax year of death, covering income **up to the date of death**, if the deceased was required to file under section 263 (for example, income above the exemption limit or foreign assets). The due dates are the same as for any person in that category.
- **Earlier years** for which the deceased had not filed a required return.

- **Proceedings continue.** Any assessment, reassessment or other proceeding started against the deceased before death is deemed to have been taken against the legal representative and continues from the same stage. A proceeding that could have been taken against the deceased may also be taken against the legal representative (section 302(2)).

The legal representative signs and verifies the return in that capacity. Give the date of death and your relationship in the return, and attach nothing; keep the death certificate, the legal heir certificate or the will and probate on file.

Liability limited to the estate

- The legal representative is liable to pay any sum that the deceased would have been liable to pay, in the same manner and to the same extent (section 302(1)).
- The liability is **limited to the extent the estate is capable of meeting it** (section 302(4)).
- **Exception:** a legal representative is **personally liable** for any tax payable in that capacity if, while the liability remains unpaid, he **creates a charge on, disposes of or parts with** any asset of the estate that is or comes into his possession. The personal liability is limited to the value of that asset (section 302(5) and (6)).

Practical point: **pay or provide for the deceased's tax before distributing or selling estate assets.**

Refund of a deceased person

A person who cannot claim or receive a refund because of death can have it claimed by his **legal representative, trustee, guardian or receiver**, for the benefit of the person or his estate (section 432(2)). The refund is claimed by furnishing the return (section 433).

What is taxed to the heirs

- Income **earned by the deceased up to the date of death** is the deceased's income and is assessed through the legal representative.
- Income that accrues **after the death** (rent from an inherited house, interest on inherited deposits) belongs to whoever holds the asset, which is the heir, in proportion to the share, or the estate while it is not yet distributed.
- Inheriting an asset is not income. If the heir later sells it, the cost of acquisition is the cost to the previous owner, the deceased (section 73, Table serial 1).

Example

A salaried person dies on 10 November 2026. His salary and interest up to that date, say ?9,00,000, are taxed through a return for tax year 2026-27, due by 31 July 2027. The employer's TDS and the advance tax paid are shown in the return. If the tax is less than the TDS, the legal heir claims the refund on behalf of the estate. If there is tax to pay, the estate pays it before assets are distributed.

Common mistakes

- Treating the death as the end of the matter and ignoring a notice or a pending return.
- Distributing the estate before the tax is cleared and becoming personally liable.
- Taxing post-death income as the deceased's income, or vice versa.

Before you file

1. Collect the **PAN** of the deceased, the **death certificate** and the **legal heir certificate** or will.
2. Check the **annual information statement** and TDS records for the deceased.
3. File the return as legal representative of the deceased.
4. Take advice if the estate includes foreign assets or business income.

Frequently asked questions

Who files the return of a person who has died?

His legal representative, who is deemed an assessee for this purpose (section 302(3)). The legal representative files the return the deceased would have had to file, and pays any tax due from the estate.

Does the deceased's tax liability pass to the heirs?

The legal representative is liable to pay any sum the deceased would have owed, but only to the extent the estate of the deceased is capable of meeting it (section 302(1) and (4)).

Can a legal heir be personally liable?

Yes, if while the tax remains unpaid he creates a charge on, disposes of or parts with any assets of the estate that are or come into his possession. The liability is limited to the value of those assets (section 302(5) and (6)).

Who gets the refund of a deceased person?

The legal representative, trustee, guardian or receiver, who may claim or receive it for the benefit of the person or his estate (section 432(2)).

Is the deceased's income taxed in the heirs' hands?

Income of the deceased up to the date of death is taxed as his income and assessed through the legal representative. Income that arises from the estate after the death is the income of the heirs or of the estate, depending on the succession, and is taxed accordingly.

Do pending notices continue after death?

Yes. A proceeding taken against the deceased before death is deemed taken against the legal representative and continues from the stage it had reached, and any proceeding that could have been taken against the deceased may be taken against the legal representative (section 302(2)).

Official sources

- Income Tax Department: Income-tax Act, 2025 (sections 263, 302, 432)

Related reading

- Income Tax Assessee under the Income Tax Act

Disclaimer

This article is for general informational purposes only and should not be considered professional advice. Please consult a qualified expert for advice tailored to your specific situation. The author and website owner are not liable for any errors or actions based on this content.

Date
25/11/2026
Date Created
05/07/2026
Author
meetsoni