

Deceased Taxpayer Refund Delay

Cross References

- <https://www.taxpayeradvocate.irs.gov/news/nta-blog/are-you-still-waiting-on-a-refund-from-a-deceased-taxpayers-return/2024/08/>

The following article is from the National Taxpayer Advocate (NTA) blog dated August 13, 2024.

Are you still waiting for the IRS to issue a refund for a deceased taxpayer's tax year 2022 or 2023 final income tax return? You are not alone. The IRS significantly delayed issuing refunds for final income tax returns filed with an attached Form 1310, *Statement of Person Claiming Refund Due a Deceased Taxpayer*.

This year, the Taxpayer Advocate Service (TAS) saw a spike in requests for assistance for the processing of deceased individuals' returns and reached out to the IRS to find the source of the issue and solution. The cause of the problem was identified, and the IRS is working to reduce the backlog of unprocessed Forms 1310, which will allow the processing of the remaining returns and issuance of any outstanding refunds.

Background on filing requirement. IRS Form 1310 is filed to claim a refund on behalf of a deceased taxpayer. When a taxpayer dies, the taxpayer's personal representative or surviving spouse must file a final income tax form (Form 1040 or 1040-SR) for the year of death (in addition to any returns not filed in preceding years). If a refund is claimed on a final income tax return or an amended return for that final tax year, the personal representative or surviving spouse must attach a Form 1310, unless an exception applies. Attaching Form 1310 notifies the IRS that the taxpayer has died and directs the IRS to send the refund to the beneficiary. Form 1310 is not required if the surviving spouse is filing a joint original or amended return claiming a refund. However, a surviving spouse may file the form to request the IRS reissue a check originally issued in the name of the deceased taxpayer and surviving spouse. In addition, Form 1310 is not required if the personal representative files the return with an attached court certificate showing the appointment.

Backlogs in the processing of Form 1310. TAS estimates that the IRS received nearly 18,000 paper Forms 1310 for 2022 and, through the end of April, the IRS received nearly 14,000 paper Forms 1310 for 2023. Upon receipt of a return with an attached Form 1310, it is our understanding that the IRS separates the paper form from the return for different processing streams. Normally, the IRS processes Form 1310 before processing the return. While the IRS has added Form 1310 to its Modernized e-File platform, depending on the boxes checked on the form, not all Forms 1310 are supported and require paper filing. Unfortunately, the paper Forms 1310 were not properly processed, which created a backlog of unprocessed 2022 and 2023 Forms 1310.

If the Form 1310 is unprocessed, the IRS cannot process the associated final return and issue the refund. Once the Form 1310 is secured and processed, the IRS must manually

issue the refund. There were significant processing delays in issuing refunds for the 2022 and 2023 returns filed with an attached Form 1310. After identifying and correcting the root cause of the issue, the IRS has worked to decrease the backlog of unprocessed Forms 1310 and to manually issue the associated refunds.

The IRS informed TAS that it has recently processed over 70 percent of the backlog, with about 1,100 returns remaining to be processed as of the beginning of August. In addition, the IRS took several steps to prevent future backlogs:

- 1) Requested a programming update to enable the issuance of systemic refunds once the Form 1310 is processed or any other missing information is secured;
- 2) Evaluated the centralization of its transcript inventory system to enable the IRS to find and prioritize overaged cases;
- 3) Improved employee instructions for processing decedent returns and emphasized the proper use of these codes in training; and
- 4) Implemented programming designed to detect coding inconsistent with return information and to send the return to an examiner for manual review and correction, rather than locking the account.

It is anticipated that these steps will prevent future delays.

Conclusion. The IRS backlog of unprocessed Forms 1310 and the resulting refund issuance delays caused significant taxpayer burden. As the IRS addresses the challenges associated with paper filing through its modernization efforts, we hope in the future those individuals filing a final return due to the passing of a loved one will not face the same delays.

The IRS is now prioritizing processing these forms and is working through the backlog to manually issue the associated refunds. In the meantime, the IRS can improve its transparency by reporting its progress on the IRS.gov website's IRS Operations: Status of Mission-Critical Functions page. In addition, the IRS should provide internal guidance to taxpayer-facing IRS employees (e.g., customer service representatives and TAS employees) so that they can provide useful information to taxpayers and representatives when they contact the IRS inquiring about the status of these refunds. Losing a loved one is difficult and filing a final tax return should not cause undue burden in a difficult time.