REVENUE

The Kentucky Department of Revenue presented the following information at the National Association of Tax Professionals Seminar on June 24, 2019. This presentation provides an overview of the requirements for fiduciary returns.

The information in this presentation was prepared from information the Department of Revenue possessed and believed to be accurate and relevant on the date of the meeting. This information does not constitute a final ruling, order, or determination of the Department of Revenue and cannot be appealed.

Individual Income and Fiduciary Taxes

National Association of Tax Professionals Seminar

June 24, 2019

Kentucky Fiduciary Filing Requirements

Kentucky Filing Requirements:

- Every estate with gross income for the taxable year of $1,200 or more; and
- Every trust with gross income for the taxable year of $100 or more must file a fiduciary return

Fiduciary Return

Kentucky Form 741 should be filed in the event a Fiduciary return is required.

Form 741 is very similar to Form 740 (Individual Income Tax Return for full year residents). Federal Adjusted Gross Income is the starting point for Form 741. Kentucky tax law has conformed with the IRC code as of 12/31/2018.

As a general rule, the fiduciary return follows individual income tax rules.

Estimated Tax Payments for Fiduciary Returns

Estimated tax payments are required to be made for fiduciaries in the same manner and same time as estimated tax payments for federal income tax purposes under 26 USC Section 6654. Penalties will apply for late payment of estimated tax payments.

Form 740-ES will be used to make estimated fiduciary tax payments. Changes will be made to the 2020 version of this form to include a check box for fiduciary payments.

Exceptions to Estimated Penalties

1. You're filing a decedent's estate return for any tax year ending before the date that is two years after the decedent's death
2. You're filing a trust return for a trust that was owned by the decedent for any tax year ending before the date that is two years after the decedent's death.

Death of a Taxpayer

A Kentucky Individual Income Tax Return must be filed for all years and partial years the taxpayer was alive and met the filing threshold.

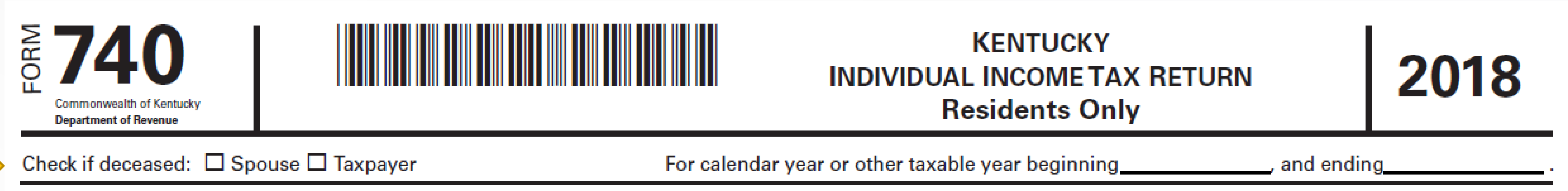
This return may need to be filed by the taxpayer’s spouse or a personal representative of the taxpayer.

NOTE: A personal representative can be an executor, administrator or anyone who is in charge of the deceased taxpayer’s property.

If the deceased taxpayer did not have a filing requirement but had tax withheld a return may be filed to get a refund of that withholding.

Death of a Taxpayer continued...

The person filing the return should check the "deceased" box at the top of the return as shown below.



FORM 740
Commonwealth of Kentucky
Department of Revenue

KENTUCKY
INDIVIDUAL INCOME TAX RETURN
Residents Only

2018

Check if deceased: ☐ Spouse ☐ Taxpayer   For calendar year or other taxable year beginning ________, and ending ________.

Check whichever box refers to the person who became deceased within the tax year.

Surviving Spouse of Deceased Taxpayer

If your spouse died and you did not remarry within the same calendar year, you can file your Kentucky Income Tax Return jointly or separately on a combined return.

The return should include your spouse's income before their death and all of your income for the year.

If your spouse died early in the calendar year before you filed your Kentucky Income Tax Return for the previous year you can file as the surviving spouse.

> Write "Filing as surviving spouse" in the area where you sign. If someone else is the personal representative, he or she must also sign.

Recent Fiduciary Changes

The following items are not deductible on the 741 and must be added back on Form 741, Schedule M:

- Real estate, local, and property taxes deducted on federal Form 1041
- Fiduciary fees deducted on federal Form 1041 other than those described in IRC Section 67(e)
- Qualified Business Income (QBI) deduction listed on the federal Form 1041

More information is available in the KY-TAM-19-01 at the following link https://revenue.ky.gov/TaxProfessionals/PublishingImages/Pages/Guidance/KY-TAM-19-01%20%20Deductibility%20of%20IRC%20Section%2067(e)%20Fiduciary%20Expenses%20TAM%20FINAL%203-28-19.pdf

Allowable Fiduciary expenses

The following items are still allowable on the 741 and do not need to be added back on Form 741, Schedule M:

- Fiduciary fees paid or incurred to the fiduciary for administering the estate or trust during the tax year
- Attorney, accountant, and return preparer fees paid for preparation of fiduciary income tax returns, the decedent's final individual income tax returns, and all estate and generation skipping transfer tax returns.

Individual Income and Fiduciary Taxes

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The information in this presentation is for educational and informational purposes only and does not constitute legal advice. Information is presented as an overall review that is subject to law changes and may not apply to all states. For accurate information on issues related to Individual Income and Fiduciary Taxes, please reference KRS 141 and 103 KAR.

Information in this presentation is believed to be accurate as of the date of publication. In the event that any information in this presentation is later determined to be in error, this presentation cannot be used by taxpayers in supporting a specific position or issue before the Department of Revenue, as it does not have the statutory or regulatory authority.

Kentucky Department of Revenue

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