



## Who is taxed and when “QUICK REFERENCE GUIDE”

Type of tax return	Tax issues to consider
Date of death return	Includes the taxpayer's income from 1 July to date of death. A Capital Gains Tax (CGT) K3 event occurs if a CGT asset passes to a tax advantaged entity. i.e. a Charity without DGR status or an overseas resident. The taxpayer will be assessed under marginal tax rates.
Estate return (first 3 years)	Include income from date of death to the finalisation of estate administration. Where there is no beneficiary presently entitled to the income, the executor will be taxed at the same marginal tax rate as an individual for the first three years from date of death.
Estate return (post 3 years)	On income where there is no beneficiary presently entitled, the Commissioner can exercise his discretion to tax the executor at Section 99 marginal tax rates, rather than the punitive highest marginal tax rate of 49%.
Testamentary trust on death of a life tenant	A deemed capital gains tax event occurs on the assets acquired by the trustee during the operation of the testamentary trust. Any income to date of death of the life tenant including accrued income is distributed to the life tenant or his/her estate. Any income thereafter is distributed to the remainder beneficiaries as they are presently entitled to income upon the death of the life tenant. This includes any capital gains.
Trust with contingent beneficiary (ie. An aged based contingency)	Income is assessed to the trustee unless there is a present entitlement to income during the year, such as the payment of school fees or medical costs. A deemed capital gains tax event on those assets acquired by the Trustee during the operation of the trust can occur when the Beneficiary becomes absolutely entitled to the trust's assets.
Trust/Estate with foreign beneficiary	The trustee pays the tax on behalf of the non-resident beneficiary at non-resident individual tax rates. No CGT event is triggered on vesting day when the beneficiary has a fixed entitlement to both the income and capital of the trust.
Testamentary discretionary trusts	A trustee generally has the discretion as to the payment of income and capital to a range of Beneficiaries under the Will. Beneficiaries will be assessed on that amount of the trust income and capital to which they are made presently entitled at year end.