



ESTATE TAX GUIDE

2023-24

RESIDENT TAX RATES

Adult individuals and deceased estates for first 3 years

TAXABLE INCOME	TAX PAYABLE
0 - \$18,200	Nil
\$18,201 - \$45,000	Nil + 19% on excess over \$18,200
\$45,001 - \$120,000	\$5,092 + 32.5% on excess over \$45,000
\$120,001 - \$180,000	\$29,467 + 37% on excess over \$120,000
\$180,001 and over	\$51,667 + 45% on excess over \$180,000

Testamentary trusts and deceased estates after 3 years

TAXABLE INCOME	TAX PAYABLE
0 - \$416	Nil
\$417 - \$670	50% on excess over \$416
\$671 - \$45,000	Entire amount from \$0 taxed at 19%
\$45,001 - \$120,000	\$8,550 + 32.5% on excess over \$45,000
\$120,001 - \$180,000	\$32,925 + 37% on excess over \$120,000
\$180,001 and over	\$55,125 + 45% on excess over \$180,000

Medicare levy applies to testamentary trusts (but not to estates) at 2%.

DO YOU NEED TO LODGE PERSONAL RETURNS FOR THE DECEASED?

The legal personal representative of a deceased person is responsible for lodging any outstanding tax returns and paying any liabilities owing to the ATO. This would include reviewing the deceased's personal tax obligations prior to finalising the estate.

For smaller and less complex estates, refer to PCG 2018/4 published on the ATO legal database regarding the liability of a legal personal representative of a deceased person.

DO YOU NEED TO LODGE AN ESTATE TAX RETURN?

An estate tax return would generally be required for a year of income, except if:

- the deceased person died less than 3 years before the end of the income year.
- no beneficiary is presently entitled to a share of the income of the trust estate
- the net income of the trust estate under section 95 of the ITAA 1936 is less than \$18,201
- there are no non-resident beneficiaries of the trust estate.

A tax return can be lodged to claim withholding or franking credits.

MINOR BENEFICIARIES

Where a minor beneficiary is presently entitled to trust or estate income, the trustee is required to pay tax on their behalf on their share of net income. The beneficiary may also need to lodge a personal income tax return for example, if they have income from other sources or to claim any franking credit refund. They will receive a credit for any tax paid by the trustee.

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LUMP SUM SUPERANNUATION DEATH BENEFITS TAX RATES

COMPONENT	DEPENDANT	NON-DEPENDANT
Taxable element – taxed	Tax-free	The lower of marginal tax rate or 15%
Taxable element – untaxed	Tax-free	The lower of marginal tax rate or 30%
Tax-free	Tax-free	Tax-free

WHO IS A DEATH BENEFITS DEPENDANT?

For tax purposes, a 'death benefits dependant' of a person who has died is:

- the spouse or former spouse of the deceased
- a child of the deceased aged under 18
- any other person with whom the deceased had an interdependency relationship just before he or she died
- any other person who was financially dependant on the deceased person just before he or she died.

DEATH BENEFITS EMPLOYMENT TERMINATION PAYMENT

COMPONENT	DEPENDANT	NON-DEPENDANT
Taxable element – up to ETP cap*	Tax-free	Taxed at maximum rate of 30%
Taxable element – over ETP cap*	Taxed at 45%	Taxed at 30%
Tax-free	Tax-free	Tax-free

*2023-24 ETP cap amount \$235,000

Scan here for  posts on estate tax by Ian Raspin



FOREIGN RESIDENT TAX RATES

Income for individuals, estates and testamentary trusts not subject to withholding tax

TAXABLE INCOME	TAX PAYABLE
0 - \$120,000	32.5% for each \$1
\$120,001 - \$180,000	\$39,000 + 37% on excess over \$120,000
\$180,001 and over	\$61,200 + 45% on excess over \$180,000

Medicare levy does not apply.

Note: If a non-resident beneficiary is presently entitled to trust income or specifically entitled to capital gains, the trustee may be required to pay tax on their behalf at non-resident rates. A separate notice of assessment will be raised against the trustee on behalf of the non-resident beneficiary. The beneficiary will also be required to lodge their own income tax return.

FUTURE TAX RATES (FOR THE INCOME YEAR ENDING 30 JUNE 2025 AND LATER YEARS)

Be aware that the tax rates are to be reduced from 1 July 2024. This may have an impact on existing estates or related entities. For example, the rates for resident adult individuals and deceased estates for the first three years will be:

TAXABLE INCOME	TAX PAYABLE
0 - \$18,200	Nil
\$18,201 - \$45,000	19% on excess over \$18,200
\$45,001 - \$200,000	\$5,092 plus 30% for each \$1 over \$45,000
\$200,001 and over	\$51,592 plus 45c for each \$1 over \$200,000

