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Rights and Things

A second tax return could save your estate some money

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This article outlines the rights and things tax return, which can be filed by your executor upon your death to reduce the taxes owed on your estate.

The terminal return

As you may be aware, when you die, the executor of your estate must file a final personal income tax return on your behalf. This final income tax return is also known as your terminal tax return or date of death tax return. The terminal tax return generally includes taxable income earned by you from January 1 of the year of death up to your date of death.

Personal tax credits such as the basic personal amount, spouse or common-law partner amount and age amount are not prorated on your terminal tax return for the number of days you were living in your year of death.

The rights and things return

In addition to reporting income received on your terminal tax return, an executor has the option of including certain types of taxable income on a rights and things tax return. Generally income owing that is unpaid as of the date of death is considered as rights and things.

Common types of income that may be considered as rights and things are:

- Dividends declared but unpaid
- Salary owing but unpaid
- Vacation pay owing but unpaid
- Matured but uncashed bond coupons

There are two main benefits to declaring income considered as rights and things on a separate tax return:

- **Double the use of the personal tax credits — Some personal tax credits, such as the basic personal amount, spouse/common law amount and age**

amount, can be claimed on both the terminal return and the rights and things return

For example, if in the year of death, the deceased had regular taxable income and income considered as rights and things, the estate could "double dip" and earn income up to the basic personal amount, tax-free on both tax returns.

- **Double the use of the low tax bracket rate —** Since a rights and things return is taxed as a separate person at graduated tax rates, the lowest tax rate may be used twice (on the terminal tax return and the rights and things return) to minimize your estate's tax liability.

Alternative treatment of rights and things

As an alternative, if the rights and things income is transferred to your beneficiary within one year of your death or 90 days after the assessment of your terminal tax return (whichever is later), then the rights and things income can be included on the tax return of your beneficiary rather than on the rights and things return.