

Filing on Behalf of Decedent

The Final Tax Return, or a Prior Year Return for Deceased Taxpayer, Form 1040

- If there is a surviving spouse and the return is a MFJ return, then the surviving spouse may sign for the deceased spouse writing "Filing As Surviving Spouse".
- If a personal representative has been appointed, that person must sign the return. If it is a joint return, then the surviving spouse must also sign the return.
- If no personal representative has been appointed and if there is no surviving spouse, the person in charge of the decedent's property must file and sign as "personal representative".

Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer

- A form 1310 does not have to be filed if
 - You are a surviving spouse filing a joint return with the decedent OR
 - You are a court-appointed representative filing the decedent's return and a copy of the court certificate is attached to the return. **Note that this requirement precludes the ability to e-file the return in Taxslayer. However, in the case of a 1040-X, if the Certificate has already been filed with the IRS, then a form 1310 can be used, checking Box B in Part I.**
- In all other cases, a form 1310 is required. If a person, other than the surviving spouse or a court-appointed representative, is filing on behalf of the decedent, then form 1310 Part II must be filled in. You will not be allowed to file the return if you answer Yes to any question:
 - 2a. Has a court appointed a personal representative?
 - 2b. If not, will they?
- As might be expected, if you answer "no" when asked if you will pay out the refund according to the laws of the state, you will not be allowed to file. Your return will be rejected by the IRS.

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