

Progress of implementation of recommendations arising from IGTO's review into the ATO's administration of deceased estates as at 17th August 2022.

Rec #	Recommendation	Expected Due Date	Status
1	a. the ATO provides clear guidance on the rules for engaging with representatives of the deceased taxpayer, including the Legal Personal Representative (LPR) (particularly those who are not required to seek grants of probate or letters of administration),	31/10/2021	Completed and closed December 2021
	c. the ATO to clarify which parts of the trust return are mandatory and which can be ignored;	1/07/2022	Completed and closed June 2022 Recommendations 1c requested that the ATO improve its ATO guidance on how to prepare a deceased estate trust return. Appendix 8 of the trust tax return instructions 2022 was updated based on feedback received from consultation with external stakeholders which was then reviewed by ATO technical areas. Updates were published 26 May 2022 and included in the 2022 Trust Tax Return instructions.
	d. the ATO consolidate the above and leverage end-of-life processes to distribute the Information Guide or otherwise make the Guide available to individuals who directly notify the ATO of the death of a taxpayer.		Recommendation 1d requested that the ATO consolidate its deceased estate guidance in an easy to understand and easily accessible guide and leverage end of life processes to distribute it. Based on feedback received (as per 1a consultation process) the ATO developed and updated a Checklist, which summarises what next of kin need to understand and do from a tax perspective in the event of a death. This guide was published as part of the recommendation 1a updates and was then disseminated to funerary industry representatives and state public trustee and Births Deaths and Marriages offices around Australia on 17 May 2022. The Australian Funeral Directors Association (AFDA) has since linked their website to this content and to help further spread this information. The ATO has also prepared a 700 word article for inclusion in the AFDA's Sept 2022 quarterly magazine which is distributed to their 500+ members.

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2	<p>a. Better integrate notification of death across whole of government</p> <p>b. Liaise with key stakeholders on end of life such as Serv Australia, funeral homes, religious inst. to further enhance notification of death processes.</p>	31/03/2022	<p>Completed and closed March 2022</p> <p>The ATO actively collaborated in two 'tell us once' national digital death notification initiatives.</p> <ul style="list-style-type: none"> • Australian Death Notification Service (ADNS). The ATO provided feedback to the ADNS. The ATO position is that documents, including a last will and testimony, grant of probate or letters of administration are required to evidence the authorisation of the person to manage the deceased estate. • Digital Transformation Agency (DTA). The ATO has engaged in multiple consultations regarding their 'death of a loved one' life event and ATO notification of death requirements. <p>The ATO will continue to monitor whole of government death notifications. The ATO consulted with Services Australia and other key stakeholders to explore potential options to enhance the notification of deceased process, including NSW Registry of Births, Deaths & Marriages, QLD Department of Justice and Attorney-General (QLD RBDM, DOJ AG), tax agents, Department of Home Affairs, and end of life services.</p> <p>Update on action taken since closure: Since the closure of this recommendation, the ATO has continued to explore additional enhancements to death data.</p>
3	<p>a. Digital notification of death</p> <p>b. Digital notification of death by tax agent</p>	31/03/2022	<p>Completed and closed March 2022</p> <p>The ATO explored the implementation of a digital official notification of death channel and will continue to monitor the progress of potential tell us once solutions, as referenced in Recommendation 2.</p> <p>The ATO consulted with tax agents through the Tax Practitioner Stewardship Group (TPSG) to better understand their role in the deceased client process. Outcomes of the consultation determined tax agents do not require a digital notification of death channel.</p>
4	a. Promote the digital channel for obtaining a Trust TFN.	1/04/2021	Completed and closed March 2021

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	b. In the longer term, implement options to enable easier applying for a (deceased)Trust TFN.		
5	a. Simplify lodgment of deceased tax returns b. Consider options for hiding unnecessary labels and expand prefill c. Develop a bright line test for simple returns	1/07/2025	On track Recommendation 5 aims to make it easier to complete the trust return for deceased estates, exploring options for a deceased estate specific return form and whether pre-filling is possible within the existing legal framework. Recommendation 1c has been implemented with updates designed to simplify completion of trust returns for deceased estates now made to the 2022 Trust return instructions. Investigation into the options continues with exploration planned into the digitisation of trust returns, prefilling of information and the development of a possible new return. The opportunity costs associated these options will be considered with respect to the prioritisation of the ATO's limited IT resources and government priorities.
6	a. Explore with externals the issue of applying trust principles with deceased estates b. Where appropriate make submissions to Treasury etc about potential law changes	7/07/2022	Completed and closed June 2022 <ul style="list-style-type: none"> • Consultation undertaken with external stakeholders on the consequences and challenges associated with applying general taxation of trust principles to deceased estates. • Written submissions requested from external stakeholders in October and November 2020. 16 submissions received in total. • Face-to-face consultation held in April 2021. Attendees from seven stakeholder groups with expertise in deceased estates. • PAL determined it was appropriate to make submission for further enquiry to Treasury. • Minute sent to Treasury on 5 July 2022 outlining results of consultation and potential for law change, subject to Government priorities.

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			• Board of Tax updated at meetings in February 2022, April 2022 and July 2022.
7	<p>a. Confirm legal positions in relation to state law and the requirement to obtain probate</p> <p>b. Review options with stakeholders and advocate a suggested law change if needed.</p>	1/07/2023	<p>On track</p> <p>Recommendation 7a requests that the ATO confirm its legal position in relation to that of state law about the requirement to obtain probate. Research has been undertaken into the various state law requirements and ATO is confirming their position with a view to determine if changes to administrative process and practice may be possible.</p> <p>Recommendation 7b is to review options for change with stakeholders and to advocate for change is appropriate. The ATO will consult with external stakeholder groups when they have established what options for change may be available in line with the confirmed ATO view.</p>
8	<p>The IGTO recommends that the ATO provide registered tax practitioners (appointed by LPRs with whom the ATO is authorised to engage with a grant of probate or letters of administration) with access to any correspondence sent to the deceased taxpayer's MyGov that is not otherwise accessible through Online Services for Agents.</p>	1/07/2023	<p>On track</p> <p>Changes have been made to the way ATO systems determine who is able to view a client's communications in our Online services. In the future this will allow legal personal representatives to view communications for deceased clients.</p> <p>Additionally as new communications are built on our enterprise communication platform, they are enabled for viewing by agents, and clients, in the clients' communication history in our Online services and via software where implemented by Digital Service Providers (DSPs).</p>

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9	<p>The IGTO recommends that the ATO:</p> <ul style="list-style-type: none"> a. engage with external stakeholders, especially tax practitioners, solicitors and barristers with expertise in succession law, wills and estates to identify the key enquiries that may require escalation; b. develop escalation channels to dedicated areas within the ATO who are trained to provide specialist advice on deceased estate issues; and c. recognise and acknowledge the needs of bereaving family members – so that advice is delivered with empathy and sensitivity. 	1/07/2021	Completed and closed June 2021
10	<p>The IGTO recommends that the ATO conduct a post implementation review, in consultation with external stakeholders, within five years to assess the effectiveness of:</p> <ul style="list-style-type: none"> a. improvements to the administration of deceased estates including the measures recommended in this report that aim to deliver greater certainty for representatives of deceased estates; b. PCG 2018/4 in providing sufficient certainty for LPRs to finalise an estate, as necessary. 	31/12/2024	<p>On track</p> <p>Recommendation 10a is a post implementation review of improvements made to the administration of deceased estates. The review has been added into forward works plans to ensure it factored into corporate priorities.</p> <p>Recommendation 10b is a review of Practical Compliance Guideline (PCG) 2018/4 Liability of a legal personal representative of a deceased person. PCG 2018/4 outlines when a Court appointed Executor or Administrator of a Deceased Estate will be treated as having ‘notice’ of a tax liability and provides safe harbour guidelines for distribution of the Estate without personal liability for tax. The ATO has commenced a review of this PCG and will look to consult in the coming months</p>