

**MAP 19  
ESTATES AND TRUSTS**

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**19.1 INTRODUCTION**

Estates and Trusts are audited by the Estates and Trusts Unit within the Pass-Through Entity Program.

**Trusts**

A trust is a legal relationship governed by state law. It involves the creation of a fiduciary relationship between a grantor, trustee, and beneficiary. It may be created by the owner during their lifetime or by an instrument taking effect upon the death of the owner.

**Estates**

An estate is created to settle the final matters of an individual upon death. It is a taxable entity separate from the person who died. It exists until all the person's assets are distributed. Income tax on the estate is generally computed in the same manner as an individual. It is administered by a fiduciary.

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**19.2 ESTATE INCOME TAX CERTIFICATES**

As of January 1, 2014, estate income tax clearance certificates are no longer required. Please refer to Assembly Bill 672 for additional information.

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**19.3 SHORT STATUTE  
REQUESTS - PROMPT  
ASSESSMENTS**

R&TC Section 19517 provides that a fiduciary or other person liable for the tax may request, in writing, to shorten the period for mailing notices proposing to assess tax, to 18 months on all income received or accrued during the decedent's lifetime or by the estate or trust during the administration period.

Under Fed Reg. Section 301.6501(d)-1, the request must:

1. Be transmitted separately from any other document.
2. Indicate clearly that it is a request for prompt assessment under the provisions of R&TC Section 19517.
3. Indicate the kind of income tax, the name and the account number shown on the previously filed California income tax return.
4. Specify the taxable periods for which the prompt assessment is requested.
5. Specify if the request is for the decedent individual income tax returns or for the decedent's estate.

We do not have a form comparable to the IRS Form 4810. We will accept the federal form if it is completed to request a prompt assessment.

Things to keep in mind when a short statute has been requested:

- A request under R&TC Section 19517 does not extend the statute
- Filing an amended return will negate all prior requests for that taxable year.
- R&TC Section 19517 does not limit the assessment period on a **Married Filing Joint** return because of the survivor's joint and several liabilities.

The Estates and Trusts Unit enters a comment on the entity's Taxpayer Folder indicating that a short statute has been granted. Check all comments on the entity's Taxpayer Folder to see if the statute is still open before using audit resources on a case.

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<b>19.3.1 Processing and Recording Short Statute Requests</b>	<p>The technician processes the requests for a short statute as follows:</p> <ul style="list-style-type: none"><li>• Update address and code the account <b>DECEASED</b>.</li><li>• Verify that the return is filed for years subject to the short statute request. Inform the fiduciary if we have no record of a return filed.</li><li>• Reverse discharged liabilities.</li><li>• Provide a copy of the request to collections if the account is assigned.</li><li>• Add a comment on the entity's Taxpayer Folder indicating the Statute date.</li><li>• Acknowledge receipt of the short statute request to the fiduciary.</li></ul> <p style="text-align: right;">Rev. 7/17</p>
<b>19.4 REQUEST FOR COPIES OF ESTATES AND TRUSTS RETURNS</b>	<p>You may furnish copies of the decedent's individual and estate returns to the fiduciary or the attorney for the fiduciary or to the surviving spouse, if the surviving spouse signed the returns. All such requests are routed to the Data Services and Storage Section, RID unit, Mail Stop C-2. We charge taxpayers for copies of the returns if an issue we opened did not cause the request. See MAP 2.10.1 Taxpayer's Request for Copy of Tax Return.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>19.5 DISCLOSURE - ESTATES</b>	<p>The Security and Disclosure procedures provide that disclosure of information from the return of an estate is authorized to:</p> <ul style="list-style-type: none"><li>• The administrator, executor, or trustee of the estate.</li><li>• Any beneficiary in those years he/she received a distribution from the estate.</li><li>• The duly constituted attorney-in-fact of any of the foregoing persons, subject to the conditions of inspection prescribed for such person.</li></ul> <p style="text-align: right;">Rev. 7/17</p>
<b>19.6 DISCLOSURE - TRUSTS</b>	<p>The Security and Disclosure procedures provide, in part, that disclosure of information from the return of a trust is authorized to the trustee or trustees, jointly or severally.</p> <p>A beneficiary is entitled to receive information regarding the extent of their interest in the trust. For example, a beneficiary entitled to the income from a certain asset in corpus would be entitled to know anything affecting the asset and the income it produces. The</p>

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same beneficiary would not be entitled to information relating to another asset also held by the trust in corpus.

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**19.7 PENALTIES ON ESTATE RETURNS**

All penalties applicable to a living individual's personal income tax return are applicable to the individual returns of a deceased taxpayer. See MAP 2.7 Disclosure for Individuals.

**Delinquent Penalty (Late Filing Penalty)**

A delinquent penalty is due from an estate under the following circumstances:

- Returns due, but not filed by the decedent before date of death. Unless due to reasonable cause, the **delinquent penalty** imposed by R&TC Section 19131 is assessed in accordance with the length of the delinquency at the time of death.
  - Example: Assume the taxpayer (1) died June 20, 19X3, without filing 19X1 and 19X2 calendar year returns, and (2) the fiduciary or the decedent's estate filed the returns subsequent to date of death. The length of the delinquency would be computed from the due date of the returns to the date of death.
- Returns for the year in which taxpayer died. Returns for the year of death must be filed by the fiduciary of the taxpayer's estate. The return is due three months and 15 days after the close of the taxable year, the taxable year being the normal 12-month period beginning with the first day of the decedent's taxable year.

The fiduciary, if one is appointed, or beneficiary must file the return. The surviving spouse may file a joint return if (1) no fiduciary is appointed, or (2) if the appointed fiduciary does not file a Single return for the decedent, and if (3) the surviving spouse did not remarry during the taxable year. Unless there is reasonable cause, the penalty for failure to file a timely return is assessed.

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