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C O U N S E L L O R S   A T   L A W

## What Tax form do I use for Deaths in 2010

December 9, 2010 by Deirdre Wheatley-Liss



While there is no estate tax in 2010, there is still a tax form to be filed with the federal government in relation to the estates of people who died in 2010. As discussed in greater detail [here](#), where a person has died in 2010 their executor has an opportunity to allocate \$1.3 million to the basis of their assets (plus an additional \$3 million for assets passing to a surviving spouse). **The great question is "How?"**

We tax attorneys are good at following the often complicated rules the IRS lays out, but here there is a total absence of direction. The IRS has promised to issue a new Form 8939 to allocate basis as set forth in 1022 of the Code. However, this is what the website for that form currently says:

### *Form 8939 in Development*

Form 8939, Allocation of Increase in Basis for Property Acquired From a Decedent, is in development and will be posted here shortly. Disregard all prior drafts.

Not exactly helpful.

**So what is an Executor or Personal Representative to do to meet their tax filing obligations where a person died in 2010?** Our office is preparing a spreadsheet with all the information required under Section 1022 and having it attached to the decedent's final 1040 being filed April 15, 2011.

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