

## Requests for clearance in death cases

### Part 46-01-02

This document should be read in conjunction with sections 1047, 1048 and 1051 of the 1997 Act.

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See also Tax and Duty Manuals

[Part 2 –Statement of Affairs \(Probate\) Form SA.2](#) (paragraph 4.1) for guidance for resident personal representatives or solicitors dealing with inheritance tax of a non-resident beneficiary under s.45AA CATCA.

Part 46-01-01 Dealing with Death Cases

[Information on Personal Representatives](#) is included on the Revenue website under Life events and personal circumstances / Death and bereavement / Information on tax after a bereavement.

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## 1 Summary

This manual explains the process for persons acting in a representative capacity to request clearance to distribute an estate after the death of a taxpayer. The guidance sets out:

- how the clearance request should be submitted (via MyEnquiries),
- the necessary advance actions, checks and due diligence, and
- the required documentation and returns.

This manual also outlines the process for caseworkers dealing with clearance requests. Information to assist in registering an estate is included in Appendix 8.

When a personal representative<sup>1</sup> makes a complete and accurate submission to Revenue (in accordance with paragraph 4 below) about the intended distribution of the assets of a deceased's estate; Revenue undertakes to reply within 35 working days if a compliance intervention on the deceased's or the estate's return is to be conducted, or if further information is required.

If Revenue does not reply within 35 working days, the personal representative who submitted a full and accurate clearance request may proceed to distribute the deceased's estate. If any subsequent review is conducted and a liability arises, the liability will not be sought from the personal representative. This is predicated on the submission of a complete and accurate clearance request submitted in accordance with the manner outlined below which confirms that the necessary due diligence as set out in paragraph 2 of this manual has been undertaken by the personal representative.

## 2 Due diligence in advance of submitting a clearance request

A request for clearance should be submitted only after the personal representative has carried out the necessary due diligence on the estate. A clearance request should only be applied for when the value of the estate has been ascertained.

Where it is required or intended to seek a grant of probate or administration from the Probate Office, that application should be made before clearance is applied for. Where probate or administration has been applied for electronically, Revenue will have the details of the estate as declared on the Form SA.2 (Statement of Affairs - Probate).

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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<sup>1</sup> A personal representative is legally appointed, following an application to the Probate Office of the High Court and the granting of a Grant of Representation. The Grant of Representation is also known as a Grant of Probate when there is a will or Letters of Administration when there is no will.

While a clearance request can be submitted before probate is granted, if the estate has materially changed and an amended Form SA.2 (Statement of Affairs – Probate) is delivered after an application for clearance has been submitted, the personal representative is **required** to notify Revenue that the deceased’s estate has changed. This notification will restart the 35-day clearance timeline. For further details see paragraph 4.2.

**The ‘deemed clearance’ process is based on the exercise of due diligence on the value, risk or potential issues in the estate or the pre-death tax affairs of the deceased**

[Appendix 1](#) of this manual sets out a number of questions that, based on Revenue’s experience, cover the broad range of issues that can arise in dealing with the estate of a deceased customer, and which should be queried or checked as part of a ‘due diligence’ review. This list is not exhaustive and should be tailored depending on the particular situation. Revenue accepts that some estates will be relatively straightforward to administer. For example, a PAYE (only) taxpayer may have a single source of income which is the State pension and may have assets such as his or her principal private residence and a bank account, where the balance of funds is in line with the stated source of income. In those cases, it is unlikely that the taxpayer has a tax agent acting on his or her behalf.

It is, however, acknowledged that the tax affairs of some customers may be very complex and require a more detailed review. In those cases, the personal representative may need to liaise with the deceased individual’s agent or advisor in order to satisfy themselves of the position. The level of due diligence expected from a personal representative (in conjunction with the relevant advisor or agent) in such a case should be commensurate with the circumstances of the case.

Where a Grant of Representation is not applied for, **where it is necessary or required**, such applications are outside the provisions of this deemed clearance process.

## 2.1 Estates not requiring a grant of probate or administration

A grant of probate or administration is not required in all cases, for example small estates or survivorship. In such cases, the representative is required to confirm that there is no requirement to seek a grant of representation in such cases and to provide the basis for that position. In such cases where there has been no requirement to file a Form SA.2, Revenue will need certain information when the application for clearance is made which is a Schedule of Assets and the information referred to in [Appendix 1](#).

## 3 How the clearance request should be submitted (by MyEnquiries)

A request for clearance, including confirmation that the necessary due diligence has been undertaken and the necessary attachments and returns as outlined in paragraph [4.2](#), should be submitted via MyEnquiries.

### MyEnquiries in ROS

Where an option is presented on the MyEnquiries screen to categorise the enquiry from a drop-down menu of possible categories, the appropriate categories are as follows:

Category (Enquiry relates to)	Sub-category (And More Specifically)
PAYE	Death case – clearance request
Income Tax	Death case – clearance request
Capital Gains Tax	Death case – clearance request

Where the deceased person was registered for multiple tax heads, the most appropriate category should be chosen.

### **MyEnquiries in myAccount**

When typing your request in the free text box, please insert 'Death case – clearance request' followed by the relevant taxhead either 'PAYE', 'Income Tax' or 'Capital Gains Tax'. Based on the wording in the free text box, the appropriate category will be applied by Revenue as per examples in [Appendix 6](#) (paragraph B)

### **Acknowledgement**

The submission of an enquiry whether self-categorised using the above category / sub-categories combinations or containing the reference 'DEATH CASE CLEARANCE', will result in a system acknowledgment as per Figure 1.

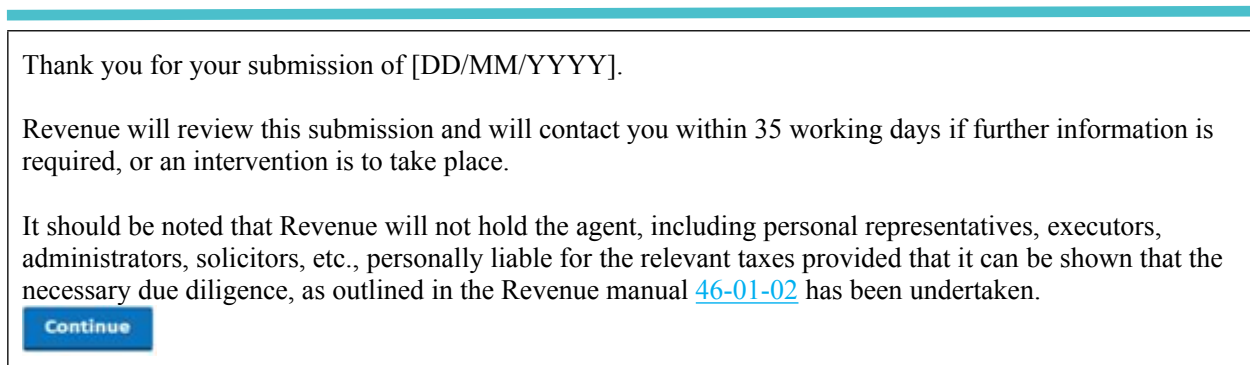


Figure 1: Automatic reply in MyEnquiries following submission of enquiry for clearance

### **Use of TAIN certificate for agent/advisor submissions**

Solicitors / agents should refer to the guidance outlined in TDM [Part 37-00-04b](#), Guidelines for Agents or Advisors Acting on Behalf of Taxpayers, when submitting clearance requests. Clearance requests should not be submitted under a solicitor's / agent's own tax registration number but by using a TAIN with its own TAIN ROS cert. See [Appendix 7](#) for more information on submitting client requests using a TAIN.

## **4 Liabilities of the deceased (pre-death taxes)**

### **4.1 Due diligence on deceased**

Revenue will regard the personal representative as acting honestly and in good faith once confirmation is provided that the necessary due diligence has been undertaken. Revenue expects that personal representatives will query matters fully and accepts that he or she will rely on the answers provided unless there is evidence to the contrary.

See [Appendix 1](#) for the Due Diligence Questionnaire / Template. Representatives should review these areas in conducting due diligence in advance of submitting a clearance request.

### **4.2 Required documentation and returns**

- (i) Confirmation that the necessary due diligence has been undertaken

- (ii) Where a grant of probate or administration has been applied for, the details of the application are available to Revenue via the Form SA.2 (Statement of Affairs - Probate). ([See Appendix 2](#)).

As specified in paragraph [2.1](#), if the Form SA.2 is not available to Revenue, specific information is to be provided as part of the clearance request.

**Note:** Where, an amended Statement of Affairs (Form SA.2) is delivered after an application for clearance has been submitted, the personal representative is **required** to notify Revenue that the deceased's estate has changed. This notification will restart the 35 working days clearance timeline, both in cases where clearance has been granted or has not yet been granted. This notification should be made via MyEnquiries using the same category as the original clearance application. Any amendment to the clearance request remains subject to the required due diligence (as per paragraph [4.1](#)).

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[...]

- (iii) Submission of an income tax return for the year of death (from 1 January to the date of death).
- (a) For PAYE (only) customers, the required income tax return is the Form 12 where the surviving spouse is the assessable spouse or civil partner<sup>2</sup>.  
The Form 12 completed by the assessable spouse should include the deceased person's (non-assessable spouse's) income to the date of death.
- (b) For 'chargeable' persons, the required income tax return is the Form 11.
- Where the deceased spouse is the assessable spouse, the Form 11 should be completed from 1 January to the date of death.  
(Note: a further tax return may be required for the rest of the tax year).
  - Where the deceased person is the non-assessable spouse, the Form 11 should include the deceased person's income and gains to his or her date of death.

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## Revenue action on receipt of submission and reply

Information on the tax treatment following bereavement in [Joint Assessed cases](#) is available on the Revenue website. An overview is included at [Appendix 4](#).

<sup>2</sup> For ease of reading, spouse also refers to civil partner throughout the manual.

As per [paragraph 3](#) (Figure 1) the submission of an enquiry to a 'clearance' category or containing the 'DEATH CASE CLEARANCE' reference as appropriate, will generate an automatic reply.

The reply references the date the submission was received.

The submission - confirmation re due diligence checks, returns and any other relevant information provided - will be reviewed by a Revenue caseworker.

Revenue has a defined period to carry out that review and decide whether further review or an intervention is warranted. The defined period is 35 working days. **[This is subject to review as part of the ongoing review of this new process].**

If no contact is received from Revenue in the defined period the representative can proceed to distribute the deceased's estate and, **provided the required due diligence has been conducted**, the representative will not be personally liable for any liabilities that arise subsequently. Revenue caseworkers do not need to issue a reply where no further review or intervention is planned. A submission, in line with the due diligence checks and the contents of this manual, has 'deemed clearance' after the 35 days have elapsed so no further Revenue reply is required.

If the review results in the caseworker identifying matters that need to be clarified further, a Revenue reply will be sent to advise the representative that clearance is not granted. This must be sent within the 35 day period. The nature of the intervention that is commenced may vary depending on the matters identified in the review. Any communication about a Revenue intervention will be conducted in accordance with the relevant Revenue Codes of Practice.

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#### 4.4 Revenue action on receipt of representative's reply and follow up

After the queries raised about a clearance submission have been fully addressed and the intervention is being closed, a Revenue reply will be issued based on the information provided to the queries. If no additional liabilities arise and the Revenue caseworker is in a position to finalise the case, a letter will be sent to the Personal Representative or Agent, as appropriate. A sample form of wording for such a letter is included in Figure 3:

“Based on the tax returns and information submitted I confirm that all income tax / capital gains tax / other tax liabilities [**select or delete as applicable**] have been paid in full and there is no tax outstanding.

This position is subject to the proviso that, if any information comes to light that would indicate that the return submitted was materially incorrect, any necessary amended assessment or Revenue assessment may be made in accordance with Part 41 or Part 41A of the Taxes Consolidation Act 1997”.

Figure 2: Template wording for Revenue reply where queries on a submission have been fully addressed

If additional liabilities arise and it is not possible to get agreement, assessments should be amended as necessary. The personal representative will have a right of appeal against the amended assessment.

### 5 Liabilities of the estate (post-death taxes)

For the period between the date of death and the distribution of the estate, personal representatives are responsible for:

- registering the estate for the relevant taxes,
- ensuring that returns are filed, and
- taxes are paid.

Any CGT obligations of the estate must be fulfilled by the personal representative or administrator. The only situation where a beneficiary is the chargeable person for CGT is where they are a legatee or there is an appropriation of an asset of the estate to a beneficiary.

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## Appendix 1 – Due Diligence Questionnaire / Template (draft)

### A. Estate Details

- Name, Address and Tax Reference Number of Deceased
- Date of Death DD/MM/YYYY
- Name and Address of Executor / Personal Representative
- Copy of Will attached [Yes /No]





- 
12. Are there any outstanding tax compliance matters in respect of which a Qualifying Disclosure should be made? Yes/No
13. Are there any tax compliance matters of doubt that should be drawn to Revenue's attention in connection with this application for clearance? Yes/No
- For example, this includes any tax matters under appeal which are not yet finalised.**
14. Are there any pending legal actions? (if not covered by the SA.2) Yes/No

## Appendix 2 – Statement of Affairs (Probate) SA.2.

The paper CA24 – Inland Revenue Affidavit can be submitted online since September 2020, and it is known as the Statement of Affairs (Probate) SA.2.

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## Appendix 3 – Extract of relevant legislative provisions

### CHAPTER 1 - Income tax and corporation tax

1047 Liability of parents, guardians, executors, and administrators.

- (1) Where an individual chargeable to income tax dies, the executor or administrator of the deceased person shall be liable for—
  - (a) the tax charged on such deceased individual,
  - (b) the interest on late payment of tax in respect of which the deceased individual is liable, and
  - (c) any penalties in respect of which the deceased individual is liable,

and all such sums shall be a debt on the estate of the deceased individual and an executor or administrator may deduct all such payments out of the assets and effects of the person deceased.

- (2) Where an individual chargeable to income tax is an infant, the parent or guardian of the infant shall be liable for the tax in default of payment by the infant and a parent or guardian who makes such payment shall be allowed all sums so paid in his or her accounts.

1048 Assessment of executors and administrators.

- (1) Where a person dies, an assessment or an amended assessment, as the case may be, may be made for any year of assessment for which an assessment or an amended assessment could have been made on the person immediately before his or her death, or could be made on the person if he or she were living, in respect of the profits or gains which arose or accrued to such person before his or her death, and the amount of the income tax on such profits or gains shall be a debt due from and payable out of the estate of such person, and the executor or administrator of such person shall be assessable and chargeable in respect of such tax.
- (2) No assessment under this section shall be made later than 3 years after the expiration of the year of assessment in which the deceased person died in a case in which the grant of probate or letters of administration was made in that year, and no such assessment shall be made later than 2 years after the expiration of the year of assessment in which such grant was made in any other case; but this subsection shall apply subject to the condition that where the executor or administrator -
  - (a) after the year of assessment in which the deceased person died, delivers an additional affidavit under section 48 of the Capital Acquisitions Taxes Consolidation Act 2003, or
  - (b) is liable to deliver an additional affidavit under that section, has been so notified by the Revenue Commissioners and did not deliver the additional affidavit in the year of assessment in which the deceased person died,

such assessment may be made at any time before the expiration of 2 years after the end of the year of assessment in which the additional affidavit was or is delivered.

- (3) The executor or administrator of any such deceased person shall, when required to do so by a notice given to the executor or administrator by an inspector, prepare and deliver to the inspector a statement in writing signed by such executor or administrator and

containing particulars, to the best of such executor's or administrator's judgment and belief, of the profits or gains which arose or accrued to such deceased person before his or her death and in respect of which such executor or administrator is assessable under this section, and the provisions of the Income Tax Acts relating to statements to be delivered by any person shall apply with any necessary modifications to statements to be delivered under this section.

## CHAPTER 2 - Capital gains tax

1051 Application of Chapter 1 for purposes of capital gains tax.

Chapter 1 other than section 1050 shall, subject to any necessary modifications, apply to capital gains tax.

## Appendix 4 - Overview of Joint Assessment Position

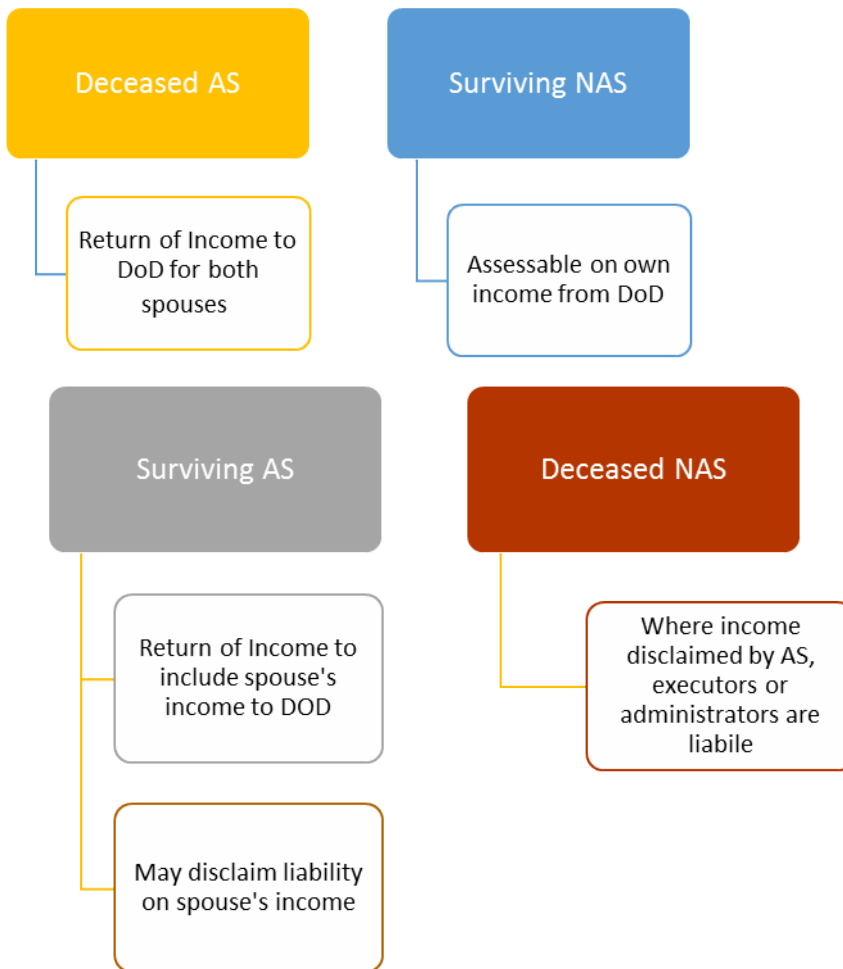


Figure 3: Overview of Joint Assessment Position

Where the Surviving Assessable Spouse disclaims liability.

Section 1022 of the 1997 Act provides the option for the assessable spouse to disclaim liability for tax on the deceased spouse's income for any year of assessment for which they were assessed jointly. This is provided under subsection (6).

The assessable spouse must give a valid notice of disclaimer to the deceased spouse's executors or administrators and to the inspector. Where that is done, the Revenue Commissioners can exercise the powers contained in section 1022(6) to recover the tax from the executors or administrators.

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## Appendix 6 - Reference required on enquiry

A. Where the option to categorise the enquiry from a drop-down menu is available: in the 'Enquiry relates to' field, select 'Income Tax' or 'PAYE' or 'CGT' as appropriate. In the 'More specifically' field, 'Death Case – clearance request' should be selected.

The screenshot shows a form titled 'Add a new enquiry' with a 'Back' button. The form includes the following fields:

- TAIN \***: A text input field.
- Client Tax Reference Number \***: A text input field.
- Client Tax Reference Type \***: A dropdown menu.
- Enquiry relates to \***: A dropdown menu with 'Income Tax' selected.
- More specifically \***: A dropdown menu with 'Death case - clearance request' selected.
- More Info**: A link with an information icon.

The 'Enquiry relates to' and 'More specifically' dropdown menus are highlighted with a red rounded rectangle. The 'More specifically' dropdown menu is also highlighted with a blue rounded rectangle.

Figure 4: Reference text to be included in Enquiry if self-categorisation is available (ROS)

B. Where the option to categorise the enquiry from a drop-down menu is not available: 'DEATH CASE CLEARANCE' should be inserted into the 'My reference (optional)' field and should also be included in the 'Enquiry details' field in addition to the text of the query.

The screenshot shows a form titled 'Add a new enquiry' with a 'Back' button. The form includes the following fields:

- Tax reference number**: A text input field.
- Tax reference type**: A dropdown menu with 'CUST' selected.
- My reference (optional)**: A text input field containing 'DEATH CASE CLEARANCE'.
- For attention of (optional)**: A text input field.
- Enquiry details**: A text input field containing 'Ref. Death Case Clearance'.

The 'My reference (optional)' field and the 'Enquiry details' field are highlighted with a red rounded rectangle. The 'Enquiry details' field is also highlighted with a blue rounded rectangle.

Figure 5: Reference text to be included in Enquiry if option to categorise from menu is not available (myAccount)

## Appendix 7 – Using a TAIN when submitting a clearance request

Clearance requests should not be submitted under an agent’s / solicitor’s own tax registration number and should be submitted using a TAIN with its own TAIN ROS certificate.

When an agent or solicitor uses his or her own (personal business) Tax Reference Number (TRN) for the clearance request for the client or estate, the issues that arise for Revenue are:

- the client / estate information submitted is linked to the agent’s or solicitor’s own Revenue record, and
- the information is incorrectly linked to the agent / solicitor.

Such submissions require further review as Revenue staff need to check the agent’s or solicitor’s record and remove information that should not be on his or her own business / personal record. The submission needs to be recreated or linked to the actual customer’s or client’s record(s).

The screenshot shows a web form titled 'MyEnquiries' with a 'Back' link and the heading 'Add a new enquiry'. The form contains the following fields and options:

- TAIN \***: A text input field with a red callout bubble pointing to it containing the text "Client TRN or PPSN must be included here".
- Client Tax Reference Number \***: A text input field.
- Client Tax Reference Type \***: A dropdown menu with 'Income Tax' selected.
- Enquiry relates to \***: A dropdown menu with 'Income Tax' selected and an information icon.
- More specifically \***: A dropdown menu with 'Death case - clearance request' selected and an information icon.
- More Info**: A link with an information icon.

Figure 6: Submitting a death clearance request in ROS using a TAIN

If an agent / solicitor has a TAIN, they need a ROS certificate for that TAIN. This has the advantage that advisors are not sharing their own ROS certificate or creating sub-certificates on it.

Process to login to ROS on the TAIN certificate:

- Select the ‘MyEnquiries’ Link under ‘Other Services’
- Submit the relevant documentation and attachments as set out in [paragraph 3](#) of this manual



- This documentation can include the signed 'Advisor Link' notification to show the necessary authorisation to deal with Revenue on the case. Note: if the case / client is linked for CAT, that is sufficient for authorisation purposes.

Please also see TDM [Part 37-00-36c](#) Submitting and Managing Enquiries in ROS, for more information on the MyEnquiries process.

## Appendix 8 – Registering an Estate using eRegistration

eRegistration was updated to enable agents to do online registration of Estate cases (using a TAIN). Information is included below including screenshots of the process. The additional functionality in eRegistration was included as part of updates to the 'Register a Trust' options. [Note that executors/personal representatives are required to complete a form [TR1](#).]

1. On the TAIN screen, under 'Manage Tax Registrations', select 'Register New Revenue Customer

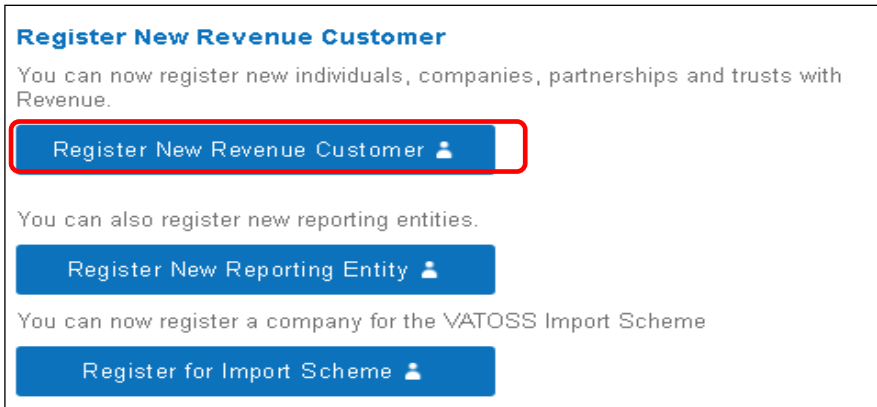


Figure 7: eRegistration: Register New Revenue Customer

2. Select 'Register a Trust'

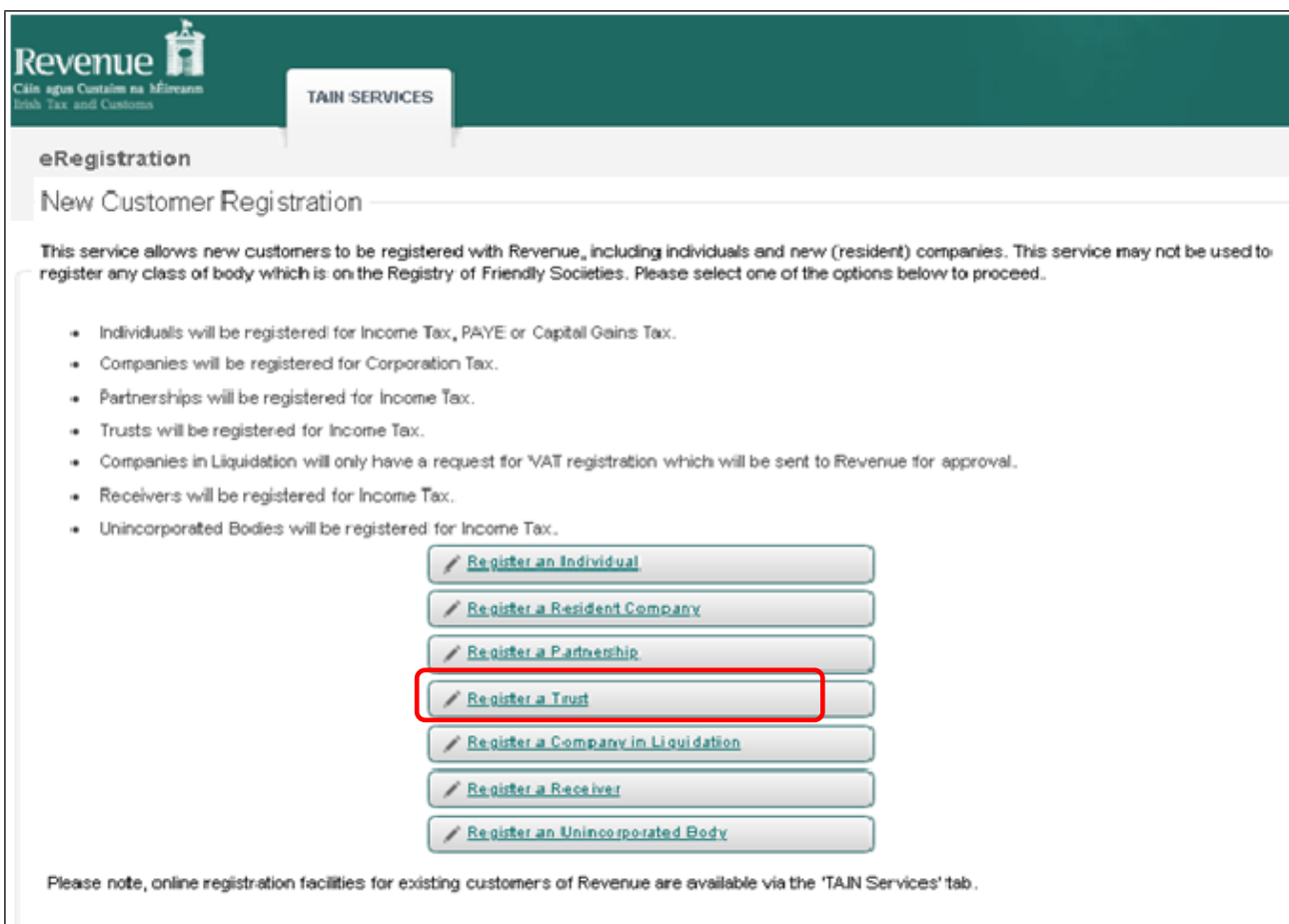


Figure 8: New customer - Register a Trust

Trust Registration

**You will be required to upload an 'Agent Link Notification' letter authorising this request before completion.**

Electronic copies of signed letters must be in the tif, tiff or pdf format and be **less than 5 megabytes in size.**

Please note, under new Regulations introduced by the Revenue Commissioners, returns/payments due after 1 June 2011 must be made on-line for all companies, trusts and partnerships, where they are not already the subject of such a requirement.

The following information will be requested in relation to the trust being registered:

- ✓ Trust name, trading name and a description of the business
- ✓ Date the business/activity commenced
- ✓ Trust type, subtype and a description
- ✓ Appointees names and contact details
- ✓ Details of the responsible person
- ✓ An 'Agent Link Notification' letter authorising this request

Figure 9: Details needed to proceed with the Trust (Estate) registration

3. Complete the Trust Registration Business Details, including description of activity and NACE code. The NACE code selected should reflect the activity of the estate or the former activity of the deceased person where there is a continuing source of income. For example rental income, farming, investment income, etc.

eRegistration

Trust Registration - Business Details

\* Denotes a required field

**Registered Body Name \***

**Does the business have an alternative trading name? \***  Yes  No

**Date Business/Activity Commenced \***

**Business/Activity Description \***

**NACE Code (click search for more details) \***

**Trust Type \***

Figure 10: Registration Business Details 1 including NACE Code

4. Complete the Trust Registration Business Details by selecting 'Estate' for Trust Type, which is a mandatory field

Figure 11: Registration Business Details 2: Trust Type options

Figure 12: Registration Business Details 3: 'Estate' Trust Type selected

5. Selecting the 'Estate' option, results in the Appointee Details screen being presented.

Figure 13: Trust Registration Appointee Details – select 'Executor', 'Personal Representative' or 'Executor'

6. Select either of the three options presented and click 'Next'. You are presented with a screen to input the details of the Deceased person.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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Figure 14: Trust Registration Deceased Details – showing mandatory fields for the PPSN and dates of birth and death  
 There is validation on the PPSN field. If the PPSN and the date of birth as per the DSP records do not match, an error message is presented.

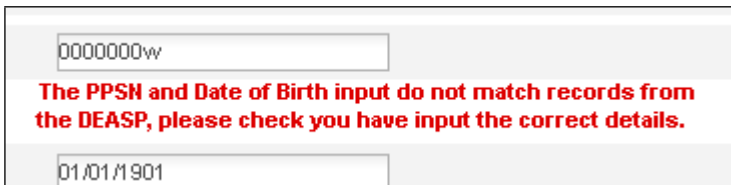


Figure 15: Warning message presented

7. After inputting the details of the Deceased, you are presented with a screen to input the details of the Responsible Person.

Trust Registration - Responsible Person Contact Details

\* Denotes a required field

Please provide contact details for the person responsible for this trust below.

Please supply at least one of phone number or mobile number.

**Name \***

Address

**Address Line 1 / Company Name \***

**Address Line 2 \***

**Address Line 3**

**County/City \***

**Eircode**

Contact Details \*

**Email Address**

**Phone (STD Code and Number)**

**Mobile Contact Name**

**Mobile Number**

**Fax (STD Code and Number)**

Figure 16: Responsible Person Contact Details. Mandatory fields of name, address and a phone number marked.


8. After inputting the details of the Responsible Person Contact Details, you are presented with a screen to input the Business Contact Details. If the Business Contact Details are the same as for the Responsible Person Contact details, there is the option to 'Copy' those details. If selected, the screen is prefilled with the details from the previous screen.

**Trust Registration - Business Contact Details**

\* Denotes a required field

Please supply at least one of phone number or mobile number.

If the business address and contact details required below are the same as the official address and contact details entered on the previous screen, please click the 'Copy' button and the details will be automatically entered.

 Copy

**Business Address**

<b>Address Line 1 *</b>	<input type="text"/>
<b>Address Line 2 *</b>	<input type="text"/>
<b>Address Line 3</b>	<input type="text"/>
<b>County/City *</b>	<input type="text"/>
<b>Eircode</b>	<input type="text"/>

Figure 17: Business Contact details screen

9. Once the registration is done, you are presented with a Summary screen and the option to 'generate a client consent letter'.

Clicking 'Next' brings you to the 'TAIN Link Attachment' screen and the option to upload an agent link. The registration is completed only when it has been signed and submitted.