



**Department of  
Taxation and Finance**

OFFICE OF COUNSEL

January 12, 2021

MARK ANNUNZIATA  
MONROE COUNTY SURROGATE'S COURT  
99 EXCHANGE BOULEVARD  
ROOM 541 - HALL OF JUSTICE  
ROCHESTER, NY 14614-2186

**Re: Request for Court Assistance – Waivers of Citation Turnaround**

Dear MARK ANNUNZIATA:

The NYS Department of Taxation and Finance routinely appears and participates in hundreds of estate proceedings each month in the Surrogates Courts throughout New York State. We are writing to advise the courts that we have been experiencing much more frequent document production deficiencies from estate representatives in matters served on the Department, which is causing delays and difficulties in timely responding to important requests, such as the issuance of waivers of citation. With the increase in telecommuting and remote functioning of late, these deficiencies have caused a heightened disruption in turnaround processing, challenges in meeting court deadlines, and an increasing necessity for hearing adjournments.

To assist all interests involved, we are reaching out to all the Surrogate's Courts for assistance. The Department's web site contains information and links to guidance and instructions pertaining to the required documentation an estate must provide the Department to obtain a waiver of citation. (Form AU-67 attached, and at [www.tax.ny.gov](http://www.tax.ny.gov)). It is extremely important that estate representatives comply with these document demands when serving initial notice on the Department. Without these documents, we cannot satisfactorily conduct our review, and so we must do outreach to estate representatives to obtain the missing information/forms, which causes needless delay. This becomes even more problematic with more and more estate attorneys working remotely and often difficult to reach.

There is clearly a gap in compliance at the initial point of the pleading process. Therefore, we are asking the Surrogate's Courts to consider establishing a clear prompt or reminder within the court's live database (and on its main website), directing

practitioners and estate representatives to the Department's Form AU-67 and its critical importance to obtaining timely waivers of citation to move estate proceedings along. While we routinely refer reps to our resources, nothing substitutes for getting it right at inception. We believe that the courts' active participation to facilitate early compliance with the Department's requirements will help prevent needless document gathering delays down the road. In turn, this will undoubtedly lead to fewer court delays and adjournments.

Of course, we are available to provide whatever assistance you require to make this as seamless as possible. We also welcome your feedback on any measures you decide to implement. To that end, please respond directly to Ms. AnnaMaria Guida of our Waivers of Citation Unit at her below contact information. Ms. Guida is the Department's interface on this project, and she can address any questions regarding the Department's current document gathering requirements/guidance.

NYS Tax Department  
TDAB/Estate Tax Audit  
Waiver of Citation Unit  
W A Harriman Campus  
ATTN: AnnaMaria Guida  
Phone: (518) 473-5817  
Email: AnnaMaria.Guida@Tax.ny.gov

We appreciate in advance the Court's assistance in this meaningful endeavor. Please feel free to contact me if you have any general questions or concerns about this project.

Very truly yours,

Amanda Hiller  
Deputy Commissioner and Counsel

By: /s/ John C. Miller  
JOHN C. MILLER  
District Tax Attorney

cc: Hon. John M. Owens, Surrogate  
"Encl. Form AU-67"

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# Important Notice

## Instructions to Request a Waiver of Citation and Consent

(Requests for a Release of Lien should be sent to the address on Form ET-30 or Form ET-85)

**Note:** If a **citation** is being served upon the department, submit the required documents noted below with the citation.

All requests for a Waiver of Citation and Consent on any estate tax matter pending before the Surrogate's Court are handled by Estate Tax Audit. To ensure a timely issuance, you must mail the appropriate documents and information listed to the address shown below.

### Ancillary Probate/Administration of a Nonresident Decedent

- Copy of death certificate
- Decedent's social security number
- Copy of will, if any
- Copy of the probate/administration petition from the original state/country
- Copy of proposed ancillary petition
- Three *Stipulations Reserving Domicile* (Form ET-20); **all three must have original signatures** (no copies)
- Estate Tax Domicile Affidavit (Form ET-141 for date of death after 5/25/90 or Form TT-141A for date of death prior to 5/26/90).

### Original Probate/Administration of a Nonresident Decedent

Same as Ancillary above, except that you must submit a copy of the **proposed** probate/administration petition. A copy of the proposed ancillary petition is not necessary.

### Compromises/Settlements (for example, wrongful death, personal injury, and so on)

- Copy of death certificate
- Decedent's social security number
- Copy of petition being submitted to Surrogate Court
- Copy of the New York State Estate Tax Return, if required. If a return is not required, list the value of the decedent's assets (wherever located), including any personal injury or conscious pain and suffering awards.

### Accounting (final, interim, or voluntary)

- Copy of death certificate
- Decedent's social security number
- Copy of proposed accounting petition with all schedules
- Copy of the New York State Estate Tax Return and proof of payment of the tax due. (If there was no requirement to file a return, list the value of the decedent's assets, wherever located.)

**Questions/Other actions** — Call the Waiver of Citation Unit at (518) 591-3049 for instructions.

Mail to:

NYS TAX DEPARTMENT  
TDAB/ESTATE TAX AUDIT  
WAIVER OF CITATION UNIT  
W A HARRIMAN CAMPUS  
ALBANY NY 12227

#### Need help?



Internet access: [www.tax.ny.gov](http://www.tax.ny.gov)  
(for information, forms, and publications)



Estate Tax Information Center: (518) 457-5387  
To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline  
(for persons with hearing and  
speech disabilities using a TTY): (518) 485-5082

