



# Instructions to Request a Waiver of Citation and Consent

If you have an estate proceeding pending in a New York Surrogate’s Court, you may request a Waiver of Citation and Consent from the New York State Tax Department. A Waiver of Citation and Consent is a document that allows a Surrogate’s Court proceeding to continue without the issuance of a citation to the Tax Department. A citation is a notice issued to a creditor of the decedent which provides the creditor with time to challenge a taxpayer’s petition.

The Tax Department’s Waiver of Citation and Consent Unit in the Estate Tax Audit group handles all requests for a Waiver of Citation and Consent. To request a Waiver of Citation and Consent from the Tax Department for any estate tax matter pending before a Surrogate’s Court, you must mail the appropriate documents and information, as described below, to the Waiver of Citation and Consent Unit (see step 3).

The turnaround time for issuing a waiver is approximately four weeks.

**Note:** To transfer real property from a decedent’s estate, you must request a release of lien by completing Form ET-117, *Release of Lien of Estate Tax*, and mailing it to the address on the form. Do **not** submit requests for a release of lien to the Waiver of Citation and Consent Unit.

## 1. Determine which documents are needed

Use the chart below to determine the documents required for each type of petition.

If you need to request a waiver because of	submit
ancillary probate or administration of a nonresident decedent	<input type="checkbox"/> copy of death certificate <input type="checkbox"/> decedent’s Social Security number <input type="checkbox"/> copy of will, if any <input type="checkbox"/> copy of the probate or administration petition from the original state or country <input type="checkbox"/> copy of proposed ancillary petition <input type="checkbox"/> three stipulations reserving domicile (Form ET-20, Stipulation Reserving Domicile), all 3 must have <b>original</b> signatures (no copies) <input type="checkbox"/> estate tax domicile affidavit (Form ET-141, <i>New York State Estate Tax Domicile Affidavit</i> )
original probate or administration of a nonresident decedent	Same as ancillary above, except that you must submit a copy of the proposed <b>probate</b> or <b>administration</b> petition instead.
compromises or settlements (for example, wrongful death, personal injury, and so on)	<input type="checkbox"/> copy of death certificate <input type="checkbox"/> decedent’s Social Security number <input type="checkbox"/> copy of petition being submitted to Surrogate’s Court <input type="checkbox"/> list of the value of the decedent’s assets (wherever located), including any awards for personal injury, or conscious pain and suffering
accounting (final, interim, or voluntary)	<input type="checkbox"/> copy of death certificate <input type="checkbox"/> decedent’s Social Security number <input type="checkbox"/> copy of proposed accounting petition with all schedules <input type="checkbox"/> list of the value of the decedent’s assets (wherever located)
sale of real property	<input type="checkbox"/> copy of death certificate <input type="checkbox"/> decedent’s Social Security number <input type="checkbox"/> copy of petition being submitted to Surrogate’s Court <input type="checkbox"/> address and approximate value of the property being sold <input type="checkbox"/> list of the value of the decedent’s assets (wherever located)

## 2. Review our filing tips before sending

### What to send

**To avoid delay, send all the required documentation.** If a citation is being served on the department, send the required documents noted above with the citation. If you do not provide the paperwork listed above with your citation, we may file an objection on the grounds of *Missing Paperwork*.

**Send a copy of the petition.** The first page of the correct document will most often state *Petition* on the top right, rather than *Account*, *Affirmation*, or some other title. The Petition must clearly state what you are seeking from the Surrogate's Court.

**Send the petition for the current proceeding.** For example, if you are requesting a waiver in a wrongful death matter, please do not send the previously filed probate or administration petition.

**Send photocopies of all forms, except Form ET-20.** A copy of the proposed petition is fine in all cases. We do not need a copy signed by a judge or clerk. The petition must clearly state what we're agreeing to.

**Send three stipulations reserving domicile** (Form ET-20, *Stipulation Reserving Domicile*), **all 3 must have original signatures** (no copies). **Note:** When there is no lawyer representing the estate, the person who is seeking to be the executor in New York (or administrator, if no executor was named in the will) must complete and sign **each Form ET-20**.

### What not to send

**Do not include additional documents** (such as police reports, affidavits, and previous proceedings) unless you are specifically requested to.

**Do not send a waiver.** You do not need to prepare your own waiver, and we do not accept or sign waivers sent to us. If we approve your application, our system will generate a waiver.

**Submit multiple proceedings separately.** If you are submitting more than one proceeding at a time (such as two decedents or separate defendants), send them in separate envelopes, or clearly divide them in a single envelope with paper or binder clips. Otherwise, we may inadvertently treat the petitions as a single submission, and you may not receive all the waivers you require.

**If the decedent was legally domiciled in New York State at the time of death**, do not include Form ET-20, *Stipulation Reserving Domicile*, and Form ET-141, *New York State Estate Tax Domicile Affidavit*. You must include the domicile information on the petition.

**Send paperwork for a release of lien separately.** If you are also requesting a release of lien, you must send that paperwork separately and to the correct address. The Waiver of Citation and Consent Unit **cannot** process a release of lien. To learn how to submit your request, visit *Release of estate tax lien* on our website at [www.tax.ny.gov](http://www.tax.ny.gov) (search: *release*).

### Questions and other actions

For instructions or updates on the status of your request, call the Waiver of Citation Unit voicemail at 518-591-3049. Our goal is to respond to all inquiries within one business day. We can also be reached with questions at *TDAB.WOC@tax.ny.gov*, however we cannot accept waiver requests or submissions at this address.

For more information, visit our website at [www.tax.ny.gov](http://www.tax.ny.gov) (search: *estate*).

## 3. Send us your documents

Mail to:

NYS TAX DEPARTMENT  
TDAB/ESTATE TAX AUDIT – WAIVER OF CITATION UNIT  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-2994

Private delivery companies cannot deliver to PO Box addresses. If you will be using a private delivery service, and the mailing address listed in the instructions for your form is a PO Box, use the following address instead:

NYS TAX DEPARTMENT  
TDAB/ESTATE TAX AUDIT – WAIVER OF CITATION UNIT  
90 COHOES AVE  
GREEN ISLAND NY 12183

For more information, see Publication 55, *Designated Private Delivery Services* (search: *delivery*).