

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-89 (3)
Estate & Gift Taxes
May 4, 1989

Subject: Procedures for obtaining the release of contents of safe deposit boxes of deceased residents

Part 360, Subchapter D, Chapter III, Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended effective May 24, 1989.

The following procedures illustrate the department's regulations concerning the opening of a safe deposit box held in the name of a decedent.

1. Opening of a safe deposit box of a decedent to copy papers regarding burial.

Any individual who is a joint lessee of a safe deposit box with the decedent, or a deputy authorized by the decedent to have access to the safe deposit box, may enter the safe deposit box without the consent of the department solely for the purpose of copying any papers needed for the disposal of the deceased's remains as he or she intended.

An officer of the institution that possesses the safe deposit box must be present while the box is opened and the papers copied, and must reseal the box without releasing the contents.

2. Opening of a safe deposit box of a decedent under a will-search order.

After a will-search order is obtained from the County Surrogate Court and application is made to the department on form AU-92, Application for Release of Safe Deposit Box, for opening the safe deposit box, the department will notify the estate's representative as to the time and date a department representative will appear for the opening of the decedent's safe deposit box.

When the box is opened, the department representative will make a complete inventory of its contents and will release to the estate's representative:

- a. a will, deed to a burial plot, or insurance policy, to be delivered as provided in the will-search order;
- b. papers, other than securities, which have no apparent monetary value;
- c. United States bonds or other securities with a readily ascertainable value not exceeding \$30,000 in aggregate, that are registered in the name of a person other than the decedent.

The department representative may issue a waiver and release other contents of the safe deposit box, or may require the safe deposit box to be resealed until waivers are obtained by the estate's representative.

3. Opening of a safe deposit box of a decedent when there is no will-search order.

In the absence of a will-search order, the estate's representative must submit a properly completed form AU-92 to the department along with a copy of the supporting documents indicated on the application (eg, death certificate, letters testamentary or letters of administration). The local district tax attorney may be contacted concerning the opening of a safe deposit box in those counties not serviced by a district office.

The department may at its discretion, either notify the estate's representative of the time and date a representative of the department will appear for the opening of the safe deposit box, or advise them that the attendance of the department is not required and furnish a waiver authorizing the release of the contents of the box.

If the estate's representative is advised that the presence of a department representative is not required at the box opening, the estate representative must make a complete inventory of the safe deposit box and submit a signed copy to the department within five business days after the date the box is opened. The signature of the estate's representative on the inventory must be acknowledged by a notary public.

Applications and information on box openings may be obtained from local district offices, district tax attorneys or by calling 1-800-641-0004. Forms can also be obtained by calling 1-800-462-8100 or 1-518-438-1073 (outside of New York State).