

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

TSB-M-78 (4) (R).1
Estate & Gift Tax
January 21, 1981

This Memorandum should be attached to TSB-M-78(4)(R) dated November 30, 1978

Subject: Amendment to Estate Tax
Secrecy 962(h), by
ch 417 of the Laws of 1980.

The secrecy provision for estate tax under section 962(h) of the Tax Law has been amended by chapter 417 of the laws of 1980.

The new law broadens the category of persons authorized to receive information contained in Tax Department records. Provided such persons have a material interest which will be affected by information contained therein, these persons include:

1. Any heir at law
2. Next of kin
3. Beneficiary under the will
4. A donee of property
5. The executor of the estate as defined in the original TSB-M-78(4)(R)

The statute has also been amended by adding the following sentence:

"Nothing herein shall be construed to prohibit the disclosure of any of the papers or documents which constitute part of a proceeding provided for in section 2004, 2005 or 2006 of the SCPA., including, but not limited to, the petition, appraisal or application for a supplemental determination or any order issued in any such proceeding."

The language quoted above clearly provides that the restrictions under section 962(h) of the Tax Law does not include petition, appraisal and supplemental determination proceedings in the Surrogates' Court.

The Internal Revenue Service has determined that no violation of confidentiality would occur by declaring the estate tax petition etc. part of the court records which are open to the public. Therefore, there is no requirement for the surrogates' court to hold estate tax proceedings or related information under seal regardless of the filing date of such proceeding.