

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

TSB-M-79 (1)
March 9, 1979
Estate & Gift Tax

Subject: Requirements and general information for
Release of Lien of Estate Tax on Real Property
of decedents
Section 249bb of the Tax Law

To bring to the attention of the public the reasons for and the manner of obtaining an estate tax Release of Lien, the following informational guidelines have been prepared.

A Release of Lien is a legal document issued by the State Tax Commission which discharges the lien for Estate Tax for a particular estate on a specific parcel of real estate for the purpose of transferring title. The lien is automatic upon death for any parcel of real estate owned by the decedent, whether in his own name, as a tenant in common or jointly with another and remains in effect for 15 years unless released.

A Release of Lien is required for real property of a decedent where such property is to be sold or otherwise disposed of prior to determination of the amount of estate tax due. (A release of lien may also be required in situations where a tax proceeding is held in one county and the real estate is located in a different county.)

A Release of Lien will be issued by the State Tax Commission upon submitting the statutory fee of \$5.00, two copies of the deed description and an application thereof, in accordance with the following rules:

1. Where an Order exempting the estate from tax has been made by Surrogate's Court, a Release of Lien will be issued for any real property disclosed in the tax proceeding (included in the decedents gross assets.)
2. Where an Order assessing estate tax has been made by Surrogate's Court a Release of Lien will be issued for any real property included in the gross assets of the decedent as set forth in the estate tax Petition provided the amount of tax as fixed, together with interest thereon, if any, is paid in full.
3. Where a formal proceeding to determine the estate tax is pending at the time application for Release of Lien is made, such release will be issued if an adequate estimated payment on account of the estate tax has been made.
4. Where no Order either assessing tax or exempting the estate from tax has been made by Surrogate's Court, no formal proceeding to determine the estate tax is pending and no estimated payment has been made, no Release of Lien will be issued. However, in such cases, the following procedure should be followed:

- a. If the time elapsed since the date of death is less than 15 years, the executor, administrator, trustee or beneficiary of an estate may make application for a Release of Lien by submitting either a Resident Affidavit, form TT-102, for residents, or an Estate Tax Domicile Affidavit, form TT-141A, for non-residents setting forth thereon all the decedents assets, allowable deductions, and all other related information. (In the case of a non-resident, a Release of Lien is required only for real property located in New York State.)

The following substantiating material must be submitted with either of the above Affidavits:

1. two legal descriptions of the real property
2. a bona-fide real estate brokers appraisal of said property or other reliable evidence of value
3. Documentary proof substantiating any claim for an outstanding mortgage against such property
4. a check for \$5.00. (If a release of lien is required for more than one piece of real property and such properties are located in different counties, separate fee checks are required.)
5. a copy of decedents Will

If it is determined that the estate is exempt from tax, a Release of Lien will be issued immediately.

If it is determined that an estate tax is due such tax, plus interest, if any, must be paid in full before the Release of Lien will be issued.

- b. If more than 15 years has elapsed since the date of death, the lien on the property has terminated and a Release of Lien is not required.

Releases of Lien may be obtained at the following locations based on the decedents county of residence at the time of death:

<u>Decedent's county of residence</u>	<u>Address for obtaining releases of Lien</u>
Bronx County	1375 Jerome Avenue Bronx, NY 10452
Broome County	Governmental Civic Center 44 Hawley St. Binghamton, NY 13901

<u>Decedent's county of residence</u>	<u>Address for obtaining releases of lien</u>
Erie County	908 Ellicott Square Bldg. Buffalo, NY 14233
Kings County (Brooklyn)	141 Livingston St. Brooklyn, NY 11217
Monroe County	Room 1300 One Marine Midland Plaza Rochester, NY 14604
Nassau County	114 Old Country Road Mineola, NY 11501
New York and Richmond Counties	Two World Trade Center New York, NY 10047
Oneida County	State Office Bldg. 207 Genesee St. Utica, NY 13501
Onondaga County	State Office Bldg. 333 East Washington St. Syracuse, NY 13202
Queens County	97-77 Queens Blvd. Rego Park, NY 11374
Suffolk County	State Office Bldg. Veterans Memorial Highway Hauppauge, NY 11787
Westchester County	99 Church St. White Plains, NY 10601