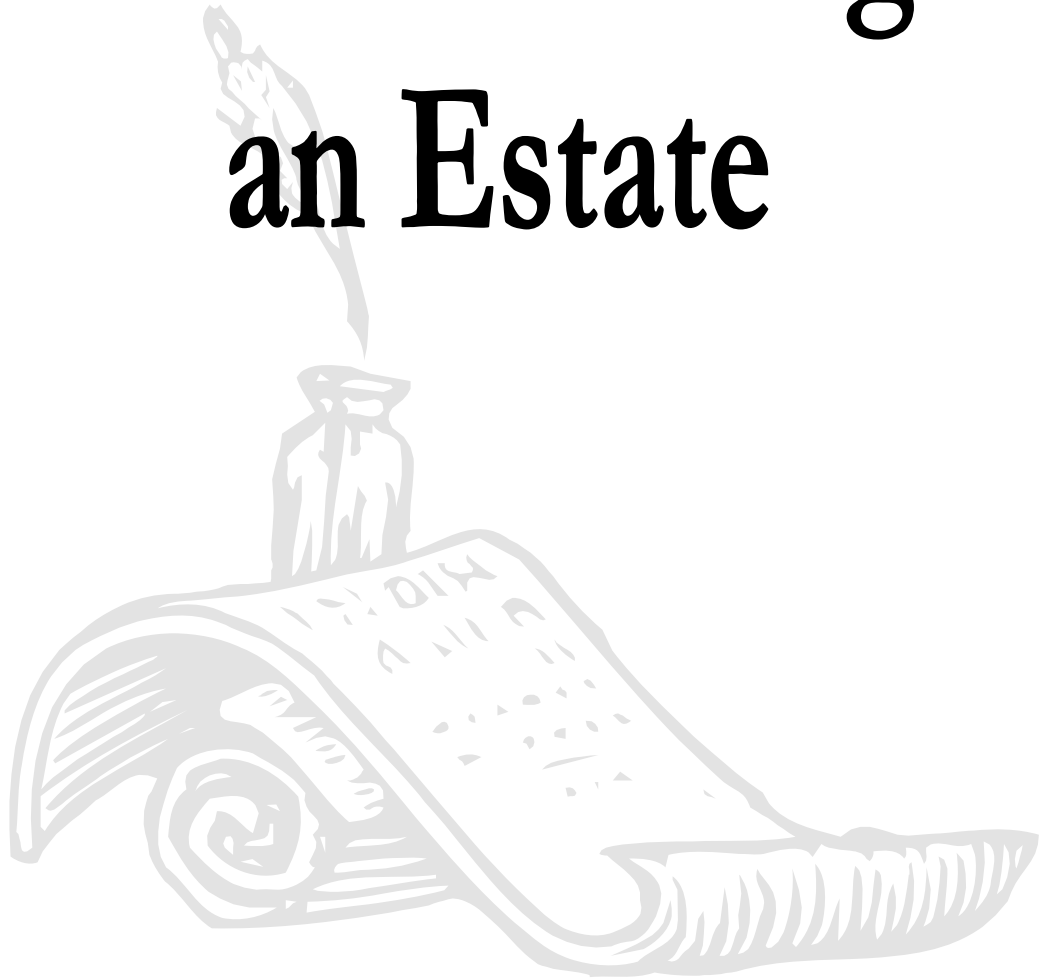


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# Administering an Estate



Prepared by  
the Public Information committee of the NH Bar Association  
And the Administrative Judge of the Probate Court  
Revised January 2007



**New Hampshire**  
**BAR ASSOCIATION**  
*Equal Justice Under Law*

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This booklet is based on NH law in effect at the time of publication. It is issued as a public service for general information only. It is not a substitute for specific legal advice.

Prepared by the Public Information committee of the NH Bar Association and the Administrative Judge of the Probate Court.

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## INTRODUCTION

This booklet is designed to help you carry out your duties as an executor or administrator of an estate. The information in this booklet is based on New Hampshire law in effect at the time of publication and is issued as a public service for general information only. It is *not* a substitute for legal advice. Rather, it is intended to help you recognize when you need legal advice and to help you understand the advice you receive. There are many circumstances that may arise which are not covered here and, in most instances, it is wise to consult an attorney. If you feel you need the advice of an attorney and don't know whom to call, the Lawyer Referral Service of the New Hampshire Bar Association can help. Call (603) 229-0002 for more information.

In New Hampshire, the administration of a decedent's estate comes under the jurisdiction of the Probate Court and a list of those courts is provided in the back of this booklet. Also included: a list of the forms used by the Probate Court and the state Department of Revenue Administration (DRA), a **Timeline** which gives some of the deadlines you should be aware of when administering an estate, and a basic **Glossary** of terms. (Italicized terms in the text are defined in the **Glossary**.) In addition, the **Estate Administration Checklist** will give you a guide to the information and documents you will need to carry out the administration of the estate.

### THE EXECUTOR AND ADMINISTRATOR

As an *executor* or *administrator*, it is your responsibility, under the Probate Court's supervision, to ensure that the debts and assets of the estate are managed and distributed in accordance with New Hampshire law and the decedent's wishes if expressed in a *will*.

An executor is a person named by a decedent in a will to administer an estate (called a *testate* estate). An administrator is a person eligible under New Hampshire law, and who is approved by the Probate Court, to administer an estate when the decedent leaves no will (called an *intestate* estate) or when the executor(s) named in the will cannot serve. Whether you are an executor or an administrator (also referred to as a *fiduciary*), you must exercise the highest duty of good faith and candor in carrying out the administration of the decedent's estate.

Your responsibility as executor or administrator is to perform certain tasks to see that the estate is properly probated. The assets of the decedent's estate must be collected and its debts paid, if sufficient funds exist in the estate. The assets must be managed while awaiting approval to distribute them and estate funds must be kept separate from any other funds by opening an account in the name of the estate and depositing all estate funds and paying all estate bills from that account. The value of the estate's assets must be determined by an appraiser named by you and appointed by the Probate Court. This valuation is extremely important because it establishes the tax basis for federal and state death taxes and for heirs or legatees who inherit the property. You must inform all persons with any legal interest in the estate, including creditors and potential heirs, of any matters that might affect their interests.

While you do not need to be an attorney to serve as an executor or administrator, you should always consult an attorney when issues arise which you are not comfortable handling. If consulted for a proper purpose, attorneys' fees are payable out of the estate. The Probate Court Register's office, (similar to a Court Clerk's office), may be of some assistance in giving general advice and providing necessary forms, but it is not allowed to give legal advice.

If, for whatever reason, you do not properly perform your duties as executor or administrator, the Probate Court will appoint a "special fiduciary" to complete the administration of the estate. If you are unable or unwilling to serve, you may decline. You should file a "Declination" form (NHJB-2123-P) and the Probate Court will appoint a substitute executor or administrator pursuant to the decedent's instructions, or upon petition by other interested parties.

## THE ESTATE

The decedent's estate consists of any and all *real* and *personal property*, whether owned alone or in common with others. If, however, real or personal property is held as a "joint tenancy with right of survivorship," it is not part of the probate estate since title passes at death directly to the surviving joint tenant. The same principle applies to other jointly held property, such as joint bank accounts. The proceeds of a life insurance policy also pass directly to the *beneficiary*, and are not part of the decedent's probate estate. If any of the decedent's property is held in a *trust*, then you should consult an attorney to determine whether, or to what extent, the trust is involved in the probate process. Even if there are no assets, but there is a will, you must file the will, any *codicils*, and a death certificate with the Probate Court within thirty (30) days of the date of death. If the will was made out of state, an "Affidavit of Counsel as to Propriety of a Foreign Will/Codicil to be Admitted into Probate" (NHJB-2146-P) must be filed with the Probate Court.

The **Estate Administration Checklist** at the end of this booklet will help you to determine the assets and debts of the estate, as well as to gather necessary information for the probate process.

## SPECIAL RIGHTS OF A SURVIVING SPOUSE

You should be aware of special rights of a surviving spouse in the estate administration process. In some instances, a surviving spouse may receive a greater share of the estate than the will would have provided. A surviving spouse may waive the will provisions and his/her *homestead rights* and instead take his/her share of the estate as set forth by law. The surviving spouse must make this choice within six months of the executor's appointment. In an intestate estate, the surviving spouse's share is set forth by statute and is generally anywhere from half of the estate to the entire estate after payment of debts and expenses.

## NEW HAMPSHIRE INTESTACY STATUTE

The intestacy law (also called the law of descent and distribution, NH RSA 561) governs the distribution of property when the decedent dies without a will. Under state law, the order, or priority, of distribution of all property of a decedent after debts of the estate are paid, is as follows:

If there is a surviving spouse:

- the surviving spouse receives the entire estate if the decedent had no surviving parent or child;
- the surviving spouse receives the first \$250,000 of the estate plus one-half the balance if there is a surviving child of both the decedent and the surviving spouse, and there are no other children of the surviving spouse who survive the decedent;
- the surviving spouse receives the first \$250,000 plus three-fourths of the balance if there is a surviving parent of the decedent, but no surviving child;
- the surviving spouse receives the first \$150,000, plus one-half of the balance of the estate if there is a surviving child of both the decedent and the surviving spouse and the surviving spouse has a surviving child who is not the child of the decedent;
- the surviving spouse receives \$100,000 and one-half of the estate, if the decedent left children who are not also children of the surviving spouse.

If there is not a surviving spouse or if parts of the intestate estate still have not been distributed under the above formula, the remainder of the estate passes in the following order:

- to the children of the decedent, in equal shares;
- if the decedent has no surviving children, then to the parent(s) of the decedent;

- if the decedent has no surviving children or parent(s), then to the surviving brothers and sisters of the decedent in equal shares and to the children of the decedent's deceased brothers and sisters by representation. (Representation means that these children share equally the portion their parent would have received had their parent survived the decedent.)
- if the decedent has no surviving children, parent(s), or brothers or sisters, or children of deceased brothers or sisters then, to grandparent(s);
- if there are no surviving children, parent, children of a parent, or grandparent, but there are children of decedent's grandparent who survive, one-half of the estate passes to the children of the paternal grandparent who are not beyond the fourth degree of kinship to the decedent; the other half passes to the children of the maternal grandparent who are not beyond the fourth degree of kinship; provided, however, that if there are no children of the decedent's grandparent within the fourth degree of kinship to the decedent on either the paternal or maternal side, the entire estate passes to the issue on the other side who are not beyond the fourth degree of kinship to the decedent.

No portion of a decedent's intestate estate shall pass to any person who is of the fifth or greater degree of kinship to the decedent. If no one is available to take the estate under the provisions of the intestacy law, the intestate estate passes to the State of New Hampshire by a process called "escheat."

Children born of unwed parents inherit through their mother, but can also inherit through their father if the father acknowledges paternity or is found to be the father through a court proceeding.

## **GETTING STARTED**

You must file your probate case in the Probate Court for the county where the decedent last resided. There are filing fees for all the types of administration described below. These fees are payable to the Probate Court and the cost of the fees comes out of the estate. The lists of forms included under each section will help you get started. There will be additional forms required as the administration progresses. A complete list of forms appears at the end of this booklet.

### **TYPES OF ADMINISTRATION**

#### *Waiver of Full Administration*

The probate process itself is much simpler when one of the sets of following conditions is present: (1) the decedent dies with a will and the surviving spouse (or, if no spouse, an only child) is named in the will as the sole beneficiary and is appointed to serve as executor; or (2) the decedent dies without a will and the surviving spouse (or, if no spouse, an only child) is the sole heir and is appointed to serve as administrator.

Under these circumstances, final administration of the will takes place when the executor/administrator files a "Waiver of Administration Affidavit" (NHJB-2144-P) within six months to a year of their appointment certifying that no outstanding debt exists. An inventory and appraisal of estate assets, a fiduciary bond and an accounting are not required under this form of administration. However, any interested person has the right to petition the Probate Court for a full administration at any time from the original granting of administration to the filing of the Waiver of Administration Affidavit.

In a waiver of administration proceeding, you, as the executor/administrator, must prepare and file the following documents:

## Forms Used to Begin a Waiver of Administration

<b>Number</b>	<b>Name</b>
NHJB-2145-P	Petition for Estate Administration.
NHJB-2120-P	Appointment of Resident Agent. This document is used if you reside outside New Hampshire. It appoints a New Hampshire agent to act for you. The resident agent is often an attorney.
NHJB-2150-P	Legatees and Devisees – Estate with Will.
NHJB-2151-P	Heirs-at-law – Estate without a Will.
Will and codicils	If the will was signed before 1986 or if the will was not acknowledged before a notary public or justice of the peace, you will need to “prove” the will, a process that is explained below under <b>Regular Administration</b> .
NHJB-2146-P	Affidavit of Counsel as to Propriety of a Foreign Will/Codicil to be Admitted into Probate. This form must be filed with the court if the will was made out of state.
Death Certificate	You must obtain a certified copy of the death certificate. This is usually provided by the funeral director or you may contact the clerk of the city or town where the death occurred.
NHJB-2144-P	Waiver of Administration Affidavit. This is provided by the Probate Court and completed after your appointment.

### *Voluntary Administration*

Small estates involving only personal property with a value of \$10,000 or less are eligible for a simplified form of administration called voluntary or small estate administration, if the decedent died prior to January 1, 2006. You may not file a voluntary administration if the decedent owned real estate of any value (other than by joint tenancy) at the time of death. For further information about voluntary administration, contact the Probate Court for the county where the decedent last resided.

### *Regular Administration*

Unless the conditions for a Waiver of Administration are present, regular administration is required. Under New Hampshire law, if you are named as executor of a will, you have thirty (30) days after the decedent’s death to file the will with the Probate Court. The Court will then inform you whether or not it is necessary to provide any witnesses to the signing of the will to “prove” its validity. You will be required to pay a filing fee and the cost of publication of the “Notice of Appointment” if publication is required. You must also file the forms listed below:

## Forms Used to Begin a Regular Administration

<b>Number</b>	<b>Name</b>
NHJB-2145-P	Petition for Estate Administration. This form is used to name an appraiser to value the estate.

NHJB-2120-P	Appointment of Resident Agent. This form is used if you reside outside New Hampshire. It appoints a New Hampshire agent to act for you. The resident agent is often an attorney.
NHJB-2150-P	Legatees and Devisees – Estate with Will.
NHJB-2151-P	Heirs-at-law – Estate without a Will.
Will and codicils (if any)	If the will was signed before 1986, you may need to “prove” the will—a process that is explained above.
NHJB-2146-P	Affidavit of Counsel as to Propriety of a Foreign Will/Codicil to be Admitted into Probate. This form must be filed with the court if the will was made out of state.
Death Certificate	You must obtain a certified copy of the death certificate. This is usually provided by the funeral director or you may contact the clerk of the city or town where the death occurred.
NHJB-2137-P	Fiduciary Bond. The Probate Court will set the amount of the bond. (See Glossary <i>Probate Bond</i> .)

Once you have properly filed the above forms and the Probate Court has reviewed and accepted them, you will be issued a Certificate of Appointment (Letter of Appointment) as executor or administrator. In addition, the Probate Court will send a “Notice of Appointment” to area newspapers if publication is required. This acts as formal notice to the public, to potential heirs, and to creditors of your appointment.

## **AFTER YOUR APPOINTMENT**

### **THE INVENTORY**

After you are properly appointed as the executor or administrator you must determine and protect the estate’s assets. To show the court that this has been properly carried out you must prepare, with your appraiser, the “Inventory of Fiduciaries” (NHJB-2125-P). (The inventory is not required in a waiver of administration.) The inventory is sent to you by the Probate Court and must be filed within ninety (90) days after your appointment date. The inventory should contain an itemization of real and personal properties, their values as determined by the appraiser, and a description of real estate indicating the book and page number where the deed(s) is recorded at the County Registry of Deeds. The Probate Court must approve the inventory.

### **MANAGING THE ESTATE**

The nature of the assets involved (whether cash, real estate, stocks, or other personal property) will often determine the complexity of the estate’s management. For all forms of administration, the estate must remain open for at least six months from the date of appointment to allow creditors to present claims. If all claims have been paid, the estate may be closed and a final account filed after six months. If the estate is not closed within one year of the date of appointment, an annual accounting is due at that time showing the income and disbursements and the overall status of the estate. The Probate Court must approve each accounting.

### **DEBTS**

Your first duty is to see that the debts of the decedent are paid. New Hampshire law requires that certain debts receive priority in payment. These debts include: administrative expenses of the

estate, taxes, funeral bills and medical bills for the decedent's last sickness, debts owed to secured and general creditors and debts owed the state for Medicaid, in that order of priority. If there is insufficient cash in the estate to pay all of its debts, it will be necessary for you to sell enough of the assets of the estate to pay the outstanding debts. Sometimes the will may direct which assets, and in what order, should be sold to pay the debts. If not, generally personal property is sold before real estate. If you have any doubt about how and in what order you should sell off estate assets to pay debts, you should consult an attorney or petition the Probate Court for instruction. If the asset to be sold to pay debts is real estate, you must petition the Probate Court for a license to sell the real estate. You do this by filing the "Motion and License to Sell Real Estate to Pay Demands" (NHJB-2136-P). Whether the asset to be sold is real estate or personal property, you must attempt to obtain the best price for the property. You should use your appraiser's inventory value as a guide to the appropriate selling prices. Consult experts for any asset to be sold whose value is difficult to determine, such as stocks, bonds or real estate.

### REAL ESTATE

If it is not necessary to sell real estate to pay demands on the estate, title to that real estate passes to those designated to receive it by will or by law. You must file a "Notice to Towns & Cities pursuant to RSA 554:18 – a" (NHJB-2142-P) with the Probate Court and with the town in which the real estate is located. If, however, the real estate is located outside New Hampshire, the New Hampshire Probate Court has *no* jurisdiction. You should obtain legal advice concerning the probate laws of the state where the property is located. You may have to open a separate probate action in that state.

### TAXES

You are responsible for obtaining a federal tax identification number for the estate and for filing all federal and state tax returns for the decedent and the estate. The tax identification number is obtained by filing the Internal Revenue Service Form SS-4, "Application For Employer Identification Number," with the IRS. A state Legacy and Succession Tax return (for deaths occurring prior to January 1, 2003), a state estate tax return, and a federal estate tax return may be required. Any federal tax is payable to the Internal Revenue Service. Any New Hampshire taxes are payable to the state Department of Revenue Administration. All these tax returns, if required, must be filed within nine months of the date of death, unless an extension is obtained. Even if an extension is obtained, an estimated payment must be made during this period. Penalties are automatically applied for failure to timely file each of these tax returns. Consult an accountant, tax attorney or other tax specialist to determine which of these returns must be filed. A more detailed description of these taxes is found in the NH Bar Association booklet, *Wills, Trusts and Advance Directives*.

### CLOSING THE ESTATE

If the estate has been processed using Waiver of Full Administration, it will be closed as described in those specific sections. If the estate has been processed using regular administration, it may be closed one of two ways: either with full oversight by the Probate Court right through the distribution of any assets or through a process called summary administration.

If full oversight is needed, you should pay all the estate's debts, and then prepare a final accounting using the form entitled "Executor's/Administrator's Accounting" (NHJB-2117-P). You must file it, along with a filing fee, with the Probate Court for its approval. Once the final account is accepted by the court, you should make the final distribution of assets. Fill out receipts



(NHJB-2139-P) reflecting the distributions, have them signed by the recipients of the property and then file the receipts with the Probate Court. The Probate Court will send you a certificate that you must forward to the surety company so that the bond may be released. At that point, the estate has been closed. Your duties as executor or administrator have been fulfilled.

Summary administration is available as an alternative to the above process if you would like to expedite the closing of the estate when further court supervision of the administration of the estate is no longer necessary. You may file a "Motion for Summary Administration" (NHJB-2149-P) to close an estate not less than 6 months after your appointment. In order to be eligible for this process, there should be no outstanding debts or obligations against the estate, any NH or federal estate taxes should have been paid if any were due, and all legatees or beneficially interested parties must agree to the process, as indicated by the filing of a "Receipt" (NHJB-2139-P) or "Assent for Summary Administration" (NHJB-2122-P). If the court approves the "Motion for Summary Administration," no final accounting will be required. The court will then close the estate and send you a certificate that you must forward to the surety company so that the bond may be released. You would then be obligated to complete the administration of the estate without further court supervision in accordance with the decedent's will and applicable law.

#### COMPENSATION

Under New Hampshire law, executors, administrators and their attorneys are allowed reasonable fees; these fees are determined by the nature of the estate. You may not take a fee for your services under a voluntary administration. Fees of fiduciaries are always subject to the approval of the Probate Court.

#### TIMELINE

For the most part, deadlines in the estate process proceed from the date the executor or administrator is appointed. The two exceptions, which proceed from the date of the death, are as follows:

**Within 30 days of death:**

File will with Probate Court in county where decedent last resided.

**9 months after death:**

Last day for a legatee or heir to file a disclaimer rejecting some or all of their inheritance. Federal Estate Tax Return due, if required. No federal estate taxes are due if the gross estate assets are under \$2 million. This amount increases to \$3.5 million in 2009.

NH Estate tax and Legacy and Succession tax, if required, are due and payable to the NH Department of Revenue Administration. The Legacy and Succession tax was repealed January 1, 2003, but may apply to estates for decedents who died prior to January 1, 2003. Such tax is not owed on property passing to lineal ascendants and descendants of the decedent, or to charity. A tax of 18% is imposed on the value of all other property (except life insurance) as in, for example, property left to a brother or a niece.

**At beginning of administration:**

File appropriate forms for type of administration being used. Administrator or executor of estate is then appointed by the Probate Court.

**Within 15 days of appointment:**

Register of Probate will provide for publication of notice of appointment.

**Within 60 days of appointment:**

Issue Notice to Surviving Spouse, Legatees, etc. (NHJB-2127-P) if there is a will.

**Within 90 days of appointment:**

File Inventory of Fiduciaries (NHJB-2125-P). File Notice of Surviving Spouse, Legatees, etc. (NHJB-2127-P) if there is a will.

**Six months after appointment:**

Deadline for creditors to file claims against the estate. Earliest date to close the estate if all the claims are paid. Deadline for surviving spouse to waive will provisions and then homestead rights. Earliest date to file Motion for Summary Administration (NHJB-2149-P) if this option is to be used.

**Six to 12 months after appointment:**

File "Waiver of Administration Affidavit" (NHJB-2144-P) if this is a waiver of administration proceeding.

**12 months after appointment:**

File Executor's/Administrator's Accounting (NHJB-2117-P) and do so every 12 months thereafter as long as the estate is open.

**ESTATE ADMINISTRATION CHECKLIST**

You may use this checklist as a guide to help you determine the assets and debts of the estate and to gather necessary information to process the estate.

**Documents to Gather:**

- Certified Copy of the Death Certificate.
- Original Will and Codicil, if any.
- Records of any public assistance received by the decedent. This includes: Old Age Assistance, Aid to the Permanently and Totally Disabled, and Medical Assistance (including Medicaid).
- Stocks and Bonds Certificates.
- Certificates of title to personal property such as automobiles.
- Insurance policies or any pension or profit sharing plan for which a death benefit is available.
- Decedent's last Federal income tax return and NH Interest and Dividends Tax return.  
(Find the name and address of the decedent's accountant, if any.)
- Gift Tax returns.
- Papers concerning Social Security and Veteran's Benefits.

**Documents regarding outstanding bills, debts, or claims against the decedent such as:**

- Medical or hospital expenses and other monies owing for the last illness.
- Mortgages due.

- Loans and notes due.
- Unpaid taxes.
- Other general obligations.
- Funeral charges and monument expenses.
- All important records of any business that the decedent owned, either totally or in part, including information regarding assets and debts.

**Personal Information — Decedent:**

- Full Name.
- Home Address.
- Home Telephone.
- Date of Birth.
- Place of Birth.
- Social Security Number.
- Place of Employment.
- Occupation.
- Date of Death.
- Place of Death.
- Attending Physician.
- Funeral Home.
- Was the decedent a veteran?
- If yes, will funeral home apply for VA benefits?

**If decedent left no surviving spouse:**

- Name and date of death of spouse.
- If divorced or legally separated, name of spouse and date of divorce. (If date of divorce unknown, place where divorce granted.)

**Personal Information — Surviving Spouse:**

- |  |  |
|--|--|
| <input type="checkbox"/> Full Name.              | <input type="checkbox"/> Date of Marriage to Decedent. |
| <input type="checkbox"/> Home Address.           | <input type="checkbox"/> Place of Marriage.            |
| <input type="checkbox"/> Date of Birth.          | <input type="checkbox"/> Place of Employment.          |
| <input type="checkbox"/> Social Security Number. | <input type="checkbox"/> Office Telephone Number.      |

## **Decedent's Family Members**

- Full Name.
- Home Address.
- Date of Birth.
- Social Security Number.
- Date of Marriage to Decedent.
- Place of Marriage.
- Place of Employment.
- Office Telephone Number.

When you make your list of family members, use the guide below. Note the relationship of each person to the decedent. For an intestate estate, see the **NH Intestacy Statute** on page 4 to determine how far down the list to go.

Gather the names, addresses, social security numbers, and phone numbers of:

- Children. (Note if any are stepchildren.)
- Parents.
- Brothers, sisters.
- Grandchildren, nieces, nephews.
- Grandparents, aunts, uncles and cousins to the fourth degree.

## **Others mentioned in the will**

- Names, addresses, phone numbers, social security numbers or tax identification numbers, of legatees (note relationship to decedent).

## **Bank Accounts**

Indicate if the assets are in the decedent's name alone or jointly held. If jointly held, indicate with whom.

- Name and Address of Bank(s).
- Safe Deposit Box Number(s).
- Location of Key(s).
- Contents of the Safe Deposit Box(es).
- Savings Account Numbers.
- Checking Account Numbers.
- Balance(s) at date of death.
- Certificate of Deposit numbers and amounts.
- Investment or Money Market Account numbers and amounts.

## **Real Estate**

List the following for *all* real estate owned by the decedent, whether or not it was held in joint tenancy.

- Location. (If the real estate is located out of state, you should consult an attorney in that state to determine the correct procedures.)

- Deed Reference (book and page number at County Registry of Deeds).
- Mortgage and name of bank holding mortgage.
- Mortgage Insurance
- Assessed Value at date of death (on tax bill).
- Name(s) on deed.

### **Securities**

If possible, photocopy certificates. If not, list the following information:

- Name of Corporation.
- Certificate Number.
- Common or Preferred stock
- Number of shares.
- Value at date of death.
- Name(s) on certificates.
- Type of bond (i.e. US Treasury, Savings, municipal etc.).
- Series number.
- Numbers on the bonds.
- Face value of the bonds.
- Value at date of death.
- Name(s) on certificates.
- Name and account number for all brokerage accounts.
- Monthly or year-end account statements from which decedent's investment holdings can be determined.

*NOTE: The actual investment certificates can either be held by the brokerage firm ("in street name") or, by the decedent. If the latter, you will need to look for the stock or bond certificate among the decedent's effects.*

### **Personal Property**

Include the titles, registrations and insurance policies for the following:

*NOTE: if the vehicles are being operated while probate is pending, make sure the insurance company is notified and the policies are fully paid.*

- Automobiles
- Motorcycles
- Recreational Vehicles
- Boats
- Airplanes

List the following:

- ❑ Valuable personal property, such as coin or stamp collections, camera or video equipment, jewelry, antiques or art collections.
- ❑ Make arrangements for any pets which may need to be removed from the decedent's premises and cared for.

Life insurance

- ❑ Company name.
- ❑ Policy number.
- ❑ Amount.
- ❑ Beneficiary.
- ❑ Insurance agent's name address and telephone number.
- ❑ Where the policies are located?

*NOTE: If death occurred accidentally on a trip paid for, at least in part, with a credit card, the card issuing company will often provide life insurance and/or medical coverage. Therefore, the decedent's credit card records should be reviewed. If there are no records, contact the card-issuing company.*

**Debts**

- ❑ Credit card records and statements, issuers, and account numbers.
- ❑ Loans and notes due (including mortgages): name of the lender(s) and the amount(s) owed at death.
- ❑ Unpaid taxes – income, property, business enterprise, interest and dividends, etc.
- ❑ General obligations.

## LIST OF FORMS

### PROBATE COURT FORMS

The following forms are available from the Probate Court or online at:  
<http://www.courts.state.nh.us/probate>

<b>Name</b>	<b>Number</b>
NHJB-2117-P	Executor's/Administrator's Accounting
NHJB-2118-P	Trustee's Accounting
NHJB-2120-P	Appointment of Resident Agent
NHJB-2121-P	Assent
NHJB-2122-P	Assent for Summary Administration
NHJB-2123-P	Declination
NHJB-2125-P	Inventory of Fiduciary
NHJB-2127-P	Notice to Surviving Spouse, Legatees, Heirs at law and Return of Notice
NHJB-2130-P	Motion to Prove Will by Deposition
NHJB-2131-P	Motion for Order of Distribution
NHJB-2132-P	Motion for Extension of Time
NHJB-2133-P	Petition to File and Record Authenticated Copy of Will and Probate
NHJB-2136-P	Motion and License to Sell Real Estate to Pay Demands
NHJB-2138-P	Petition for Trustee
NHJB-2139-P	Receipt
NHJB-2140-P	Resignation of Fiduciary
NHJB-2141-P	Petition for Small Estate Administration
NHJB-2142-P	Notice to Town and Cities Pursuant to RSA 554:18-a
NHJB-2143-P	Statement of Voluntary Administration
NHJB-2144-P	Waiver of Administration Affidavit
NHJB-2145-P	Petition for Estate Administration
NHJB-2146-P	Affidavit of Counsel as to Propriety of a Foreign Will/Codicil To Be Admitted
NHJB-2149-P	Motion for Summary Administration
NHJB-2150-P	Legatees and Devisees – Estate with Will
NHJB-2151-P	Heirs-at-law – Estate without Will
NHJB-2137-P	Fiduciary Bond

## DRA LEGACY & SUCCESSION TAX RETURNS

These tax return forms are available from the DRA by calling (603) 271-2191 or online at:  
<http://www.state.nh.us/revenue/forms/legacy+succession.htm>

<b>Number</b>	<b>Name</b>
AU 101	List of Legatees
AU 101A	List of Heirs
AU 101B	Report of Gifts, Transfers, Joint Tenancies and Trusts
AU 101C	Trust Report

## DRA LEGACY & SUCCESSION FORMS

The following forms are available from the DRA by calling  
(603) 271-2191 or online at:  
<http://www.state.nh.us/revenue/forms/legacy+succession.htm>

<b>Number</b>	<b>Form</b>
DP-145	Legacy and Succession Tax Return
DP-145-ES	Estimate for New Hampshire Legacy and Succession Tax
DP-146	New Hampshire Non-Resident Personal Property Transfer Tax Return
DP-146-ES	Estimate for New Hampshire Non-Resident Personal Property Transfer Tax
DP-147	Application for 6-Month Extension To File NH Non-Resident Personal Property Transfer Tax Return
DP-148	Application for 6-Month Extension To File Legacy and Succession Tax Return
NH-706	New Hampshire Estate Tax Return
NH 706-ES	Estimate For New Hampshire Estate Tax



## **GLOSSARY**

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Administrator</b>	A person named by the Probate Court to administer and settle an estate usually of a person who dies without leaving a will. The administration of an intestate estate is done in accordance with the laws of descent and distribution, also known as the laws of intestacy. An administrator can be needed even with a valid will if the named executor(s) cannot serve.
<b>Beneficiary</b>	A person or organization designated to receive money or property under a will or trust.
<b>Codicil</b>	An amendment or addition to a will.
<b>Conservatorship</b>	A process by which a person who needs assistance in managing his/her affairs asks the Probate Court to appoint a conservator to help.
<b>Executor</b>	A person named in a will to administer and settle an estate and to carry out the directions of the decedent.
<b>Fiduciary</b>	One who holds property in a position of trust for the benefit of another, such as an executor, administrator, attorney, trustee, guardian or conservator.
<b>Guardian</b>	A person given the power and duty by a Probate Court of managing the property and/or providing for the personal care of a minor or an incapacitated adult.
<b>Heir</b>	Under the strict legal definition, an heir is a person who inherits according to the laws of intestacy when there is no will. (See also, “legatee” below.)
<b>Homestead Rights</b>	A surviving spouse’s right to up to \$100,000 in the value of the couple’s principal residence.
<b>Intestate</b>	The estate of a person who dies without a valid will. The administration of an intestate estate is done in accordance with the laws of descent and distribution, also known as the laws of intestacy.
<b>Legatee</b>	A person or organization designated to receive money or property under a will.
<b>Personal Property</b>	Property not classified as real property, such as: cash, bank accounts, shares of stock, bonds, automobiles, household furnishings and personal effects.
<b>Probate</b>	The functions of the Probate Court, whether the probate of a will, the approval of the accounts of an administrator of a decedent’s estate or any other judicial act within the authority of the Court, including guardianships, conservatorships, etc.
<b>Probate Bond</b>	A promise by a fiduciary to replace any funds up to the amount of the bond to fulfill the faithful performance of the fiduciary’s duties. This protects the estate’s beneficiaries against the fiduciary’s neglect or wrongdoing. A bond guaranteed by a third party, such as an insurance company, is called a surety bond. For small estates the third party guarantee may be waived; then the bond is called a personal bond. The cost of the bond is an expense of the estate.
<b>Real Property</b>	Real estate such as a home, land or farm, including a condominium unit or mobile home.
<b>Testate</b>	The estate of a person who dies with a valid will.
<b>Trust</b>	A type of ownership where property, real or personal, is held by one party for the benefit of another.
<b>Will</b>	A written legal declaration of a person’s wishes concerning the distribution of his/her property after death.

## ADDRESSES AND PHONE NUMBERS

### **Administrative Judge**

Probate Court Administrative Office  
107 Pleasant St. 2<sup>nd</sup> floor  
Concord NH 03301  
(603) 271-7525  
Judge: David D. King

### **Hillsborough County Probate Court**

30 Spring Street  
PO Box 387  
Nashua NH 03061-6015  
(603) 424-7844 or (603) 882-1231  
Judge: Vacancy  
Register: Robert R. Rivard

### **Belknap County Probate Court**

64 Court Street  
PO Box 1343  
Laconia NH 03247-1343  
(603) 524-0903  
Judge: Christina M. O'Neill  
Register: Karen Brickner

### **Merrimack County Probate Court**

163 North Main Street  
Concord NH 03301  
(603) 224-9589  
Judge: Richard A. Hampe  
Register: Jane D. W. Bradstreet

### **Carroll County Probate Court**

Carroll County Administration Bldg.  
96 Water Village Road, Box 1  
Ossipee NH 03864  
(603) 539-4123  
Judge: James R. Patten  
Register: Gail A. Monet

### **Rockingham County Probate Court**

Rockingham County Courthouse  
PO Box 789  
Kingston NH 03848  
(603) 642-7117  
Judge: Peter Hurd  
Register: Debra Crapo

### **Cheshire County Probate Court**

12 Court Street  
Keene NH 03431-3499  
(603) 357-7786  
Judge: Albert H. Weeks  
Register: Anna Tilton

### **Strafford County Probate Court**

266 County Farm Road  
PO Box 799  
Dover NH 03821-0799  
(603) 742-2550  
Judge: Gary R. Cassavechia  
Register: Kimberly Wood

### **Coos County Probate Court**

55 School Street, Suite 104  
Lancaster NH 03584-0306  
(603) 788-2001  
Judge: David D. King  
Register: Terri L. Peterson

### **Sullivan County Probate Court**

14 Main Street  
PO Box 417  
Newport NH 03773  
(603) 863-3150  
Judge: Michael R. Feeney  
Register: Diane M. Davis

### **Grafton County Probate Court**

3785 Dartmouth College Highway, Box 3  
North Haverhill NH 03774-4936  
(603) 787-6931  
Judge Gary W. Boyle  
Register: Rebecca R. Wyman

### **Department of Revenue Administration**

PO Box 457  
Concord NH 03302-0457  
(603) 271-2191  
[www.revenue.nh.gov/forms/Legacy\\_Succession.htm](http://www.revenue.nh.gov/forms/Legacy_Succession.htm)

## **PUBLIC SERVICES PROVIDED BY THE NEW HAMPSHIRE BAR ASSOCIATION**

### **LAW LINE**

Volunteer lawyers are available to answer your legal questions. Call 1-800-868-1212 on the second Wednesday of each month between 6:00 p.m. and 8:00 p.m. for free legal information.

### **A QUESTION OF LAW**

This column, published regularly in local newspapers, provides general legal information on various topics of interest to the public. If you have a question of law, send it to: Question of Law, New Hampshire Bar Association, 2 Pillsbury Street, Suite 300, Concord, NH 03301. A library of recent "Question of Law" columns is also posted, by topic, at [www.nhbar.org](http://www.nhbar.org) under the "For the Public" heading.

### **SPEAKERS BUREAU**

Schools, clubs, civic and other groups can contact the New Hampshire Bar Association at (603) 224-6942 to arrange for a lawyer who will speak on any legal topic requested.

### **LAW-RELATED EDUCATION (LRE)**

To improve young people's understanding of the law, the NH Bar Association sponsors programs and competitions such as "We the People - The Citizen and the Constitution," and the Mock Trial Program, and maintains a resource library of law-related education curricula, publications and videos.

### **LAWYER REFERRAL SERVICE (LRS)**

LRS provides referrals statewide for those who can afford to pay for an attorney's Services (603) 229-0002. E-mail [lrsreferral@nhbar.org](mailto:lrsreferral@nhbar.org) for more information, or visit our web site at [www.nhbar.org](http://www.nhbar.org), under the "Need a Lawyer?" heading.

### **REDUCED FEE REFERRAL PROGRAM**

Reduced Fee provides referrals statewide to qualified individuals who can afford to pay something for an attorney's services, but who cannot afford an attorney's regular fees: (603) 715-3290. E-mail [Reducedfee@nhbar.org](mailto:Reducedfee@nhbar.org) for more information, or visit our web site at [www.nhbar.org](http://www.nhbar.org), under the "Need a Lawyer?" heading.

## **ON THE WEB**

### **Federal Tax Forms:**

<http://www.irs.gov/formspubs/index.html>

### **Other States' Tax Forms:**

<http://www.taxadmin.org/fta/link/forms.html>

### **Department of Revenue Administration:**

[www.revenue.nh.gov/forms/Legacy\\_Succession.htm](http://www.revenue.nh.gov/forms/Legacy_Succession.htm)

### **Probate Court Information:**

<http://www.courts.state.nh.us/probate>

### **Web address for Probate Court information:**

<http://www.courts.state.nh.us/probate>