

## What is Waiver of Administration? (RSA 553:32)

New Hampshire law allows some estates to waive estate administration. RSA 553:32 sets forth the circumstances that must exist for an estate to qualify for Waiver of Administration. The probate process is simpler when Waiver of Administration is used to settle an estate. This process, which can be used for either **intestate (without a will) or testate (with a will) estates**, requires minimal court supervision. An inventory of estate assets, a fiduciary bond and an accounting are not required under this form of administration.

### What are the qualifications for Waiver of Administration?

Pursuant to RSA 553:32, Waiver of Administration may be used when one of the following conditions is present (with or without a will):

- (1) Whenever a decedent dies and the surviving spouse is the sole beneficiary of the decedent's estate and is appointed to serve as administrator.
- (2) Whenever a decedent dies and, if there is no surviving spouse, an only child is named as the sole beneficiary of the decedent's estate and is appointed to serve as administrator.
- (3) Whenever a decedent dies and, if there is no surviving spouse or child, a parent is the sole beneficiary of the decedent's estate and is appointed to serve as administrator.
- (4) Whenever a decedent dies and, if there is no surviving spouse or child, the decedent's parents are the sole beneficiaries of the decedent's estate and both parents are appointed to serve as co-administrators.
- (5) Whenever a decedent dies and a trust created by the decedent is named as the sole beneficiary of the estate and the trustee is appointed to serve as administrator or any appropriate person is appointed to serve as administrator with the assent of the trustee.

### How is the Waiver of Administration case begun?

The person who qualifies for the Waiver of Administration would begin the estate case by filing a Petition for Estate Administration (**NHJB-2145-Pe**) and other required documents. On the petition is a question asking if the petitioner is seeking Waiver of Administration.

### Are there other general requirements to do a Waiver of Administration?

The Waiver of Full Administration Statement (**NHJB-2144-Pe**) must be filed no sooner than 6 months nor more than one year after the date of appointment of the administrator. There can be no outstanding debts, obligations, or unpaid or unresolved claims attributable to the deceased's estate at the time Statement is filed. The court may approve the Statement if all provisions of RSA 553:32 have been met. Upon the approval of the statement, the court will close the estate.

### In what other circumstances will the court consider granting a Waiver of Administration?

If a spouse or child qualifies to file for Waiver of Administration, but is under guardianship, the guardian may be appointed as the administrator of the estate. Also, if the executor or administrator is unable to complete the administration of the estate; the successor administrator may complete it using Waiver of Administration.

## **May someone file for full administration after Waiver of Administration has been granted?**

Yes. Any interested person has the right to petition the Circuit Court Probate Division for a full administration at any time from the original granting of a Waiver of Administration to when the estate is closed.

## **How does Waiver of Administration effect tax requirements?**

In those estates in which there is a federal estate tax liability, the federal estate tax return must have been filed and all taxes must have been paid before the administrator files the Waiver of Full Administration Statement (**NHJB-2144-Pe**). All applicable New Hampshire estate taxes must also have been paid prior to filing the Statement.