

Suggested Fee Guidelines for Lawyers and Personal Representatives

These guidelines are prepared for the guidance of lawyers, personal representatives, beneficiaries and heirs. They have no official sanction but are consistent with the charging principles set out in the Surrogate Court Rules. The parties are free to negotiate fees as they see fit.

Personal Representative's Fees

Principles:

The affected beneficiaries or heirs must approve of the fees and expenses for the personal representative's work, or the court must order them.

Fees should be within the suggested ranges according to the criteria set out in Schedule 1 of the Surrogate Rules.

The fees and expenses are subject to review by the court which has the discretion to increase or decrease fees or decrease expenses.

There are three categories of personal representatives' fees:

- Fees charged on the gross capital value of the estate;
- Fees charged on revenue received by the estate during administration;
- Care and management fees charged in trust estates.

All fees may be varied up or down by agreement among the affected beneficiaries or heirs, or by the court.

Capital

On the first \$250,000 of capital	3% - 5%
On the next \$250,000 of capital	2% - 4%
On the balance	0.5% - 3%

Revenue

On revenue receipts	4% - 6%
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Care and Management

On the first \$250,000 of capital	3/10 - 6/10 of 1%
On the next \$250,000 of capital	2/10 - 5/10 of 1%
On the balance	1/10 - 4/10 of 1%

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Lawyer's Fees

Lawyer's fees and disbursements are a matter of contract between the lawyer and the personal representatives. However, personal representatives may have them "taxed" and the beneficiaries of the estate may call the personal representative to account for the amount of legal fees and disbursements the representative has paid.

Legal fees consist of a two components:

The base fee component

- is constant regardless of the value of the estate;
- reflects the normal core services that are required to administer the estate

The Estate Value Fee Component

- is a further allowance based on a percentage of the gross value of the estate
- increases at a point where the size of the estate is likely to introduce more complexity in the administration;

When calculating the gross value of the estate the following property is not included:

- all property held in joint tenancy with the deceased;
- all property passing directly to a beneficiary outside the will;
- Canada Pension Plan payments to the spouse or child of the deceased;
- personal property outside Alberta if the deceased's usual residence was outside Alberta on the date of death;
- land outside of Alberta; and,
- all other property which does not pass through the hands of the personal representative.

Suggested Fee Guidelines

Core Legal Services:

<u>Gross Value of Estate</u>	<u>Base Fee</u>	<u>Estate Value Fee</u>
On estates with a gross value up to \$150,000.00	\$2,250.00	½ of 1%
On estates with a gross value up over \$150,000.00	\$2,250.00	1%

Non-Core Legal Services:

Some legal services are not included in these guidelines. These services are called non-core legal services. Such services include:

- transfers of real property into name of joint tenant;
- estate litigation.