Fleury, Comery LLP
Barristers & Solicitors

ESTATE ACCOUNTING

One of the important duties of an Estate Trustee (formerly called an "executor and trustee") is to maintain proper accounts and to deliver, at the request of any involved person(s) an accounting for the estate. The purpose of this memorandum is to answer some common questions in that regard.

Duty to Account

By law, anyone having a recognized interest in an estate or trust can require a trustee to provide a satisfactory accounting for his or her administration. A beneficiary may be satisfied with an informal accounting and might then provide to the trustee a written Release confirming such satisfaction. Where you cannot obtain Releases from all beneficiaries, however, and if you wish to wrap up the estate or trust administration, it will be necessary to prepare a very formal set of financial statements referred to as accounts and have them reviewed by a court on a "passing of accounts".

What Should Be In The Accounts?

An accounting should contain detailed information regarding the following:

- assets and liabilities at the date of death;
- all money received;
- all money disbursed;
- any investments made and income from such;
- estate assets that have not been realized;
- compensation claimed by estate trustee, if any;
- any other pertinent information and documents supporting the above.

Formats of Accounts

There is a standard format for accounts to be passed before a court. Examples of such accounting may be obtained by an internet search for "estate accounting". On a passing of accounts for a court, the receipts and disbursements are divided into "capital" and "revenue". For informal accounts, you should be expected to at least maintain a record of all transactions for monies received and monies paid out, documents supporting such transactions, your proposal as to how the estate should be distributed, and your estimate of any "holdback" for contingencies and costs.

Trustee Compensation

An estate accounting may contain a claim for trustee compensation. On an estate of average complexity, a court will usually accept a claim of 2.5% on receipts and 2.5% on money paid out (informally, 5% of the estate). This standard rule of thumb is, however, subject to review and, especially, reduction when an estate is relatively simple. Further, the trustee cannot "pre-take" compensation unless the Will provides for that. He or she must wait for approval by the beneficiaries in a Release, or court approval.

Factors in Assessing Trustee Compensation

The following five factors are taken into consideration in assessing compensation: (1) size of the trust (2) care and responsibility involved (3) time spent (4) skill and ability shown, and (5) success or lack thereof from the administration.

Executor's Year

With the exception of specific easily delivered bequests, an executor usually is entitled to a year within which to realize the estate assets and propose the estate distribution. If an estate administration must necessarily continue longer, the trustee can claim a "management fee" of 2/5ths of one percent per year based on the amounts under management.

Can You Hire An Accountant?

There are a few accountants who are familiar with the format of estate accounting. Their fees will be deducted from any compensation which the estate trustee claims because it is an estate trustee duty to provide such an accounting. However, most lawyers (including Fleury, Comery LLP) can assist in preparing such an accounting for the majority estates. without accountant assistance.

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