

**MAXIMUM FEE GUIDELINES**  
**FOR**  
**SUPERVISED ESTATES**  
**LR29-PR00-711.60**  
**FORM PR00-7**

**PREAMBLE**

**Purpose of the Fee Schedule**

The Probate Committee of the Indiana Judicial Conference has prepared Guidelines for Estate Fees in an effort to achieve the following objectives:

1. Establish uniformity throughout the State in determining a fair and reasonable fee for supervised estates;
2. Provide a guideline to assist the court in determining fair and reasonable fees;
3. Furnish a guideline to attorneys so they can discuss fees that may be reasonably incurred with their clients at the onset of administration; and
4. Assist the legal profession to arrive at a fair and reasonable fee for estate work.

The schedule is NOT a minimum fee schedule, but a maximum fee schedule. Every attorney and personal representative has an obligation to request a fee which is fair and reasonable for the work performed, taking into account the provisions of the Rules of Professional Conduct applicable to attorneys admitted to practice law in the State of Indiana. However, any request for fees should not exceed the guidelines set out in the schedule. In an uncomplicated estate, fees should be less than the maximum fees listed in this schedule, and fees should always bear a reasonable relationship to the services rendered.

**PRINCIPLES APPLICABLE TO FEE DETERMINATIONS**

Although fee guidelines have been promulgated by the court for probate matters, it is important that your attention be directed to certain criteria as they pertain to these guidelines.

The existence of the guidelines does not assure that all fees allowed by the court will adhere to them. Other factors must be considered by the attorney and his, or her, client. The same factors will also be considered by the court in making its final determination.

The criteria to be considered includes the following:

A. The time and labor required, the novelty, complexity, or difficulty of the questions involved, the skill required to perform the services properly, and shall include a determination as to how much of the attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions;

B. The nature and extent of the responsibilities assumed by the attorney and the results obtained, and shall include the considerations of the identity of the personal representative and the character of the probate and non-probate transferred assets;

C. The sufficiency of assets properly available to pay for legal services, and shall consider whether the attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, both federal and state;

D. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's Rules of Procedure and the Rules of Professional Conduct applicable thereto.

In considering all of these factors, attorneys are urged to discuss their fee and that of the personal representative at the time they are retained in all probate matters.

**ATTORNEY FEES**

I. ADMINISTRATION:

Gross estate services are considered to normally include: Opening of the estate, qualifying the personal representative, preparing and filing the Inventory, paying claims, collecting assets, preparing and filing non-extraordinary petitions, preparing and filing the Inheritance Tax Schedule, obtaining the court order thereon and paying the taxes, preparing and filing the Final Report, obtaining order approving same, distributing assets, obtaining discharge of the personal representative, and preparing and serving all notices on interested parties and readily ascertainable creditors throughout the proceedings. This list shall not be considered to be exclusive.

A. Gross estate:

Up to \$100,000, not to exceed . . . . . 6%  
Next \$200,000, not to exceed . . . . . 4%  
Next \$700,000, not to exceed . . . . . 3%  
Over \$1,000,000, not to exceed . . . . . 1%

B. Miscellaneous - extraordinary services:

Sale of real estate . . . . . \$500.00

Federal Estate Tax Return:

Basic Fee . . . . . \$600.00

Assets exceeding those indicated in  
Inheritance Tax Schedule . . . . . 1%

Inheritance Tax Schedule

Cash, stock, bonds, other intangibles

- non-probate assets . . . . . 1%

Other assets - non-probate assets . . . . . 1.5%

Petition - ex parte . . . . . \$175.00

Other than as provided above . . . . . Court-approved  
hourly rate

(Attorney's expertise in probate matters will be considered by the court in determining the applicable hourly rate.)

II. MISCELLANEOUS:

Probate Will only . . . . . \$175.00

Small estate settlement procedure . . . . . \$300.00

Inheritance Tax Schedule (see above)

Federal Estate Tax Return (see above)

III. WRONGFUL DEATH ADMINISTRATION:

Fees not to exceed:

Settlement prior to filing . . . . . .25%

Settlement after filing and prior to trial . . . .33 1/3%

Trial . . . . . .40%

Appeal, or extra work . . . . . .50%

IV. GENERAL:

A. Extraordinary Fee Requests.

Fee petitions requesting extraordinary fees must set forth services rendered with specificity. Extraordinary services may include: Sale of personal property, sale of real property, partial distribution, will contest actions, contesting claims, adjusting tax matters, contested hearings, petitions for instructions, heirship determinations, generating additional income for the estate, etc. All such petitions will be set for hearing, with notice to all interested parties. If all interested parties sign a waiver and consent stating that they have been advised the additional fee request exceeds the court's guidelines and the services as detailed are extraordinary, the court may, in its discretion, determine if a hearing is required. An acceptable form of waiver is attached.

B. Filing of Fee Petition.

Before any fee is paid a petition for allowance of such fee shall be filed and determined by the court. A request for fees will be considered only under the following circumstances:

1. When the inheritance tax petition is ready to be filed; or
2. When a petition to find no tax due has been approved; or
3. When necessary for purposes of an estate fiduciary income tax deduction; or
4. Under extraordinary circumstances.

V. UNSUPERVISED ESTATES:

The court will not determine and allow fees in an unsupervised estate.

**PERSONAL REPRESENTATIVE FEES**

I. PROFESSIONAL:

Their applicable reasonable rate shall be reviewed in light of all prevailing circumstances.

II. NON-PROFESSIONAL:

An amount not in excess of one-half (1/2) of the attorney's fees.

III. ATTORNEY:

When the attorney also serves as the personal representative, an additional amount not in excess of one-third (1/3) of the attorney fee may be allowed, provided:

- A. Additional services have been performed which are normally done by the personal representative; and
- B. Assets of the estate warrant the allowance of additional fees.

**LIMITATION ON FEES**

In all instances, the combined total of the fees allowed to the personal representative and attorney for the administration of an estate shall not exceed ten percent (10%) of the decedent's gross estate.

**WAIVER AND CONSENT TO ALLOWANCE  
OF FEES IN EXCESS OF GUIDELINES**

When an attorney reasonably believes that extraordinary circumstances exist and request fees that exceed the guidelines, it is suggested that all affected parties either sign a waiver and consent, or the fees be determined only after notice to the affected parties and hearing on the petition. The waiver and consent should not be merely a pro forma waiver and consent, but should be in substantially the following form:

**IMPORTANT: PLEASE READ BEFORE SIGNING!**

**WAIVER AND CONSENT**

The undersigned, an interested party in the Estate of \_\_\_\_\_, understands that:

A. The maximum fee ordinarily allowed by the court for legal services in this estate would amount to \$ \_\_\_\_\_;

B. The attorney has requested fees in the amount of \$ \_\_\_\_\_, alleging that extraordinary and unusual services have been performed.

The undersigned, being fully advised, now consents to the allowance of the requested fee, waives any notice of hearing on the Petition and requests that the court allow fees in the amount of \$ \_\_\_\_\_.

Dated: \_\_\_\_\_  
Devisee/Heir \_\_\_\_\_