

Alberta Surrogate Rules Part 2
Lawyers' Compensation

1. A lawyer may charge fees for the following categories of legal services in the administration of estates:
 - (a) core legal services;
 - (b) non-core legal services.
2. A lawyer may charge fees for legal services that involve carrying out personal representatives' duties.
3. (a) The lawyer and the personal representatives must agree to the categories of service that the lawyer will perform and to an arrangement or amount for each category of fees, disbursements, and other charges.
 - (b) The fees agreed to must cover, up to the time of distribution of the estate,
 - (i) all the core legal services or non-core legal services,
 - (ii) any personal representatives' duties required to be performed by the lawyer, and
 - (iii) any other services required to be performed by the lawyer.
4. When a lawyer is also appointed as the personal representative under a grant, the lawyer may charge additional fees for any core and non-core legal services performed by the lawyer as a lawyer.
5. The following factors are relevant when determining the fees charged by or allowed to a lawyer:
 - (a) the complexity of the work involved and whether any difficult or novel questions were raised;
 - (b) the amount of skill, labour, responsibility and specialized knowledge required;
 - (c) the lawyer's experience in estate administration;
 - (d) the number and importance of documents prepared or perused;
 - (e) whether the lawyer performed services away from the lawyer's usual place of business or in unusual circumstances;
 - (f) the value of the estate;
 - (g) the amount of work performed in connection with jointly held or designated assets;
 - (h) the results obtained;
 - (i) the time expended;
 - (j) whether or not the lawyer and the personal representative concluded an agreement and whether the agreement is reasonable in all the circumstances.
6. Reasonable costs incurred by a lawyer as disbursements and other charges in performing services in any category are allowed in addition to any fees charged.
7. (a) A lawyer must present a written statement of fees, disbursements and other charges to the personal representative, showing the details of the services performed, together with a copy of this Part.
 - (a) If the personal representative is required to give the beneficiaries of an estate an accounting in which legal fees are shown, the personal representative must give them a copy of this Part.
8. (a) The lawyer of the personal representative may have the lawyer's account reviewed by the taxing officer under rules 627 to 658 of the *Alberta Rules of Court* (Alta. Reg. 390/68).
 - (b) The taxing officer of the court may review fees, disbursements and other charges and may increase or decrease any of them.

TABLE 1
Core Legal Services

1. Receiving instructions from the personal representatives.
2. Giving the personal representatives information and advice on all matters in connection with the administration of the estate, including the following:
 - (a) the basis for the lawyer's fees for the different categories of legal services;
 - (b) the basis for the personal representatives' compensation and preparation of the proposed compensation schedule;
 - (c) providing a copy of this Schedule to the personal representatives.
3. Reviewing the will or the provisions of the *Intestate Succession Act* with the personal representative.
4. Receiving information from personal representatives about the following:
 - (a) the deceased;
 - (b) the beneficiaries;
 - (c) the estate property;
 - (d) the deceased's debts;
 - (e) minors.
5. Obtaining details of all the property and debts of the deceased for the purposes of an application to the court, including the following:
 - (a) the full nature and value of the property of the deceased as at the date of death including the value of all land and buildings and a summary of outstanding mortgages, leases and any other encumbrances;
 - (b) any pensions, annuities, death benefits and any other benefits;
 - (c) any debts owed by the deceased as at the date of death;
 - (d) preparing all required documents for grant applications;
 - (e) preparing notices to all beneficiaries;
 - (f) arranging for surviving spouse to receive notices under the *Dependents Relief Act* and *Matrimonial Property Act*, if necessary;
 - (g) arranging for dependants to receive notices under the Family Relief Act, if necessary;
 - (h) attending on signing of application for grant, filing with the court, payment of fees and dealing with the clerk;
 - (i) advising the Public Trustee, if necessary;
 - (j) receiving the grant.
6. Preparing documents to advertise for claimants, arranging for advertising and obtaining affidavit of publication.
7. Preparing declarations of transmission and powers of attorney for stocks and bonds transferable under the Alberta grant.
8. Preparing transmission and transfer documents for land transferable under the Alberta grant.
9. Preparing all other documents required to transmit and transfer property transferable under the Alberta grant.
10. Advising the personal representatives on any trusts required by the will.
11. Advising the personal representatives to prepare and file tax returns.
12. Confirming receipt of clearance certificate from Revenue Canada.

13. Submitting personal representatives' financial statements for approval to the beneficiaries on an informal basis.
14. Preparing releases and obtaining and filing them with the court if so instructed by the personal representatives.
15. Generally advising the personal representatives on all matters referred to in this Table.

TABLE 2
Non-Core Legal Services

1. Acting as conveyancing lawyer on any sale of land.
2. Acting as lawyer on the sale of other property or businesses.
3. Preparing personal representatives' financial statements for submission to residuary beneficiaries.
4. Preparing all documents and acting for the personal representatives in any court proceedings involving the estate, including but not limited to the following:
 - (a) formal proof of a will;
 - (b) formal passing of accounts;
 - (c) all other contentious matters.
5. Negotiating with any taxing authorities in Alberta or elsewhere with respect to the assessment and payment of any taxes or duties levied against the deceased, the estate or the beneficiaries and preparing all documents in connection with the negotiations.
6. Arranging to obtain a resealed or ancillary grant in another jurisdiction.
7. Preparing all documents and obtaining a resealed or ancillary grant in Alberta.
8. Preparing all documents and obtaining a grant of double probate.
9. Preparing all documents and obtaining a grant of trusteeship of minors' estates.
10. Dealing with any claims by claimants.
11. Setting up any trusts required by the will and arranging for the reimbursement of the trustees for services rendered to the trusts.
12. Identifying property not forming part of the estate but passing by survivorship or passing directly to a named beneficiary outside the will, including
 - (a) preparing documentation to transfer land and other property held in joint tenancy to the surviving tenants;
 - (b) preparing document to pass property to designated beneficiaries outside the will.
13. Arranging for any other legal services not included in Table 1.
14. Generally advising the personal representative on all matters referred to in this Table.