

74.1 Trustee's Compensation

(A) Except where the instrument creating the trust provides otherwise, or the Court orders otherwise, a testamentary trustee may charge annually for ordinary services performed in connection with the administration of each separate trust a fee calculated in accordance with the following provisions:

(1) Corporate Trustee

- (a) A corporate trustee may charge on the same basis as it charges for administering living trusts.
- (b) On each accounting where fees have been taken, a statement signed by the corporate trustee must be attached attesting that the trustee's compensation charged is equivalent to its charges for similar services for living trusts.
- (c) A copy of the corporate trustee's compensation schedule shall be furnished to the Court in January of each year. A copy of the corporate trustee's compensation schedule shall also be furnished to the Court within thirty (30) days of the effective date of any change therein.

(2) Individual Trustees

- (a) An individual trustee may charge on the same basis as is currently being charged by the corporate trustee with which the individual trustee maintains his fiduciary checking account (Depository Institution). In the event the Depository Institution is not licensed to provide fiduciary services in this county, the trustee may select the compensation schedule of a corporate trustee which is so licensed. Such election shall be furnished to the Court and may not be changed without the Court's approval.
- (b) On each accounting where fees have been taken, a statement signed by the individual trustee must be attached attesting that the trustee's compensation charged is equivalent to the charges for similar services which would have been imposed by such corporate trustee.

- (B) Trustee's compensation is to be charged one-half to income and one-half to principal in the case of testamentary trusts, unless the governing instrument provides otherwise.
- (C) The compensation of co-trustees in the aggregate shall not exceed the total compensation which would have been payable if only one had acted, unless either:
 - (1) The governing instrument under which the co-trustees are acting provides otherwise, or
 - (2) The interested parties have consented in writing to the amount or formula to be employed to calculate the co-trustee's compensation and such consent is filed with the Court or attached to the co-trustee's account, or
 - (3) The Court orders otherwise.

Co-trustees may agree upon a division of their compensation between themselves which shall be based upon the relative efforts, time expended, expertise, and value of services performed by each of them and may file such agreement with the Court. In the event of a disagreement concerning division of compensation between co-trustees, the Court will award such compensation to each as may be equitable based upon these factors.

- (A) The Court reserves the right to determine the reasonableness of a trustee's compensation. If by reason of the application of the corporate trustee's compensation schedule a disparity or injustice results, such disparity or injustice may be reviewed either on the Court's own motion or upon exceptions to the account.
- (B) Additional compensation for extraordinary services may be allowed upon application to the Court. The Court requires that such application be set for hearing and that notice thereof be given to interested parties in accordance with Civil Rule 73. Such notice shall contain a statement of the amount and formula for computation of any extraordinary compensation sought.