



**NOTICE OF PROPOSAL TO AMEND
QUEEN'S BENCH ESTATE TARIFF RULE 745**

A committee composed of Canadian Bar Association members, Law Society of Saskatchewan representatives and a representative from the Saskatchewan Department of Justice are recommending changes to the Queen's Bench **Estate Tariff** in **Rule 745**.

The Court of Queen's Bench Rules Committee is presently considering the proposed revision.

Saskatchewan practitioners with any comments may make submissions to the Rules Committee by contacting the Registrar of the Court of Queen's Bench, Melanie Baldwin, at mbaldwin@sasklawcourts.ca on or before January 15, 2010.

The proposed revision is as follows:

Estate Tariff Rule 745

745(1) The lawyer retained by the personal representative is entitled to payment for the provision of core services to the personal representative or the estate as follows:

- (a) as a percentage as set out in Schedule I(C); or
- (b) a fee lower than that provided for in clause (a) as agreed to by the lawyer and the personal representative.

(2) For the purposes of sub rule (1), core services are defined to include:

- (a) receiving instructions from the personal representative;
- (b) reviewing Will or *The Intestate Succession Act* with personal representative;
- (c) providing a copy of the Will to each beneficiary;
- (d) obtaining details about the deceased and the deceased's property and debts;
- (e) attending to obtaining the grant from the court;
- (f) advertising for creditors;
- (g) transmitting of all estate assets to the personal representative and subsequent transfer to beneficiary;
- (h) dealing with Public Guardian and Trustee where required;
- (i) generally advising the personal representative about estate matters;
- (j) dealing with ordinary attendances and correspondence for the core services.

(3) The lawyer prior to being retained by the personal representative is required to advise in writing the personal representative of his or her method of fee billing for non-core services or other services to the personal representative or the estate, based on one or more of the following:

- (a) a percentage of the value of the estate;
- (b) at a specified hourly rate;
- (c) as a fixed fee; or
- (d) a combination of (a), (b) and (c).

(4) For the purposes of sub rule (3), non-core services or other services include but are not limited to the following:

- (a) estate administration:
 - (i) determining who will apply for a grant in intestate estates;
 - (ii) locating beneficiaries;
 - (iii) locating assets in an intestacy or testate situation;
 - (iv) obtaining bonding;

- (v) determining whether joint property is an estate asset;
- (vi) making court applications such as for substantial compliance, interpretation or contentious business;
- (vii) dealing with distribution issues re: personal belongings;
- (viii) paying bills and dealing with creditors;
- (ix) dealing with property in joint tenancy;
- (x) dealing with life insurance claims where the beneficiary is not the estate;
- (xi) dealing with pensions and investments where the beneficiary is not the estate;
- (xii) handling receipts and disbursements through trust account;
- (xiii) dealing with property management;
- (xiv) acting for the estate in the sale of property;
- (xv) gathering information and dealing with accountants re: terminal income tax returns, trust returns and GST;
- (xvi) attending to prepare or file tax returns;
- (xvii) obtaining tax clearance certificates;
- (xviii) corresponding with and attending on beneficiaries;
- (xix) preparing personal representative accounts for approval by the beneficiaries;
- (xx) preparing and obtaining beneficiaries' releases;
- (xxi) a combination of (i) to (xx).

b) passing of accounts:

- (i) preparing affidavit of personal representative;
- (ii) applying ex parte for Appointment and serving Appointment;
- (iii) appearing on appointment date to speak to application;
- (iv) attending before Examining Officer;
- (v) setting and serving Appointment date;
- (vi) appearing on appointment date to speak to matters in dispute and an order allowing and passing accounts;
- (vii) issuing and serving order.

(5) A personal representative when presented with the lawyer's account may proceed to have the account assessed pursuant to *The Legal Profession Act, 1990* and these rules.

TARIFF OF COSTS

SCHEDULE I

“C”

IN THE COURT OF QUEEN'S BENCH IN PROBATE AND ADMINISTRATION OF ESTATES MATTERS

1. For tariff of costs, the value of the estate shall be the total of all assets of the estate being administered. Property not handled by the personal representative, such as joint property, insurance, annuities and pensions not payable to the estate is not included but shall be charged for separately.
2. For all necessary core services rendered, a fee will be charged of \$1,500.00 plus 1% of the first \$500,000.00 or portion thereof, plus 3/4% on the next \$500,000.00 or a portion there of, plus 1/2 % on the remaining value.
3. For non-core or other services rendered for the estate and for the passing of accounts, additional fees as provided for in Rule 745.