

RULE 192. COMMISSIONS AND FEES

(a) Commissions of personal representatives, and fees of the attorneys who represent them, shall be allowed in a reasonable amount.

(b) In determining what constitutes reasonable commissions and fees, consideration may be given to the time spent, the risk and responsibility involved, the novelty and difficulty of the questions presented, the skill and experience of the personal representative and the attorney, any provisions of the will regarding compensation, comparable rates for similar services in the locality, the character and value of the estate assets, the character and value of assets which are not part of the probate estate but which must be valued and reported on any federal, state, local, or foreign death tax return, the time constraints imposed upon the personal representatives and the attorney, the loss of other business necessitated by acceptance of the administration, and the benefits obtained for the estate by the administration. Commissions and fees shall not be considered unreasonable merely because they are based exclusively on hourly rates, exclusively on the value of the probate estate, or exclusively on the value of the assets includible in the estate for the purpose of any tax.

(c) If a trust permits or requires personal representative commissions or attorney's fees to be paid from the trust, such commissions and fees may be paid from the trust in accordance with the provisions of this rule.

(d) Subject to the provisions of the following sentence, commissions of personal representatives and attorneys fees shall be presumed reasonable unless a beneficiary files an exception to the account of the personal representative pursuant to 12 Del. C. §2302(d) alleging that the commissions or fees are unreasonable. The Court shall have the power in all cases to reduce the amount of commissions or fees, even if no exception is filed pursuant to paragraph (e) hereof, if the amount of commissions or fees is determined to be unreasonably high by the Court for cause appearing sufficient to it.

(e) The notice in writing of the filing of the account required to be mailed by the Register of Wills pursuant to 12 Del. C. §2302(b) shall include the following statement:

"Personal representatives of estates and attorneys who represent them are entitled to reasonable commissions and fees. In determining what constitutes reasonable commissions and fees, consideration may be given to the time spent, the risk and responsibility involved, the novelty and difficulty of the questions presented, the skill and experience of the personal representative and the attorney, any provisions of the will regarding compensation, comparable rates for similar services in the locality, the character and value of the estate assets, the character and value of assets which are not part of the probate estate but which must be valued and reported on any federal, state, local, or foreign death tax return, the time constraints imposed upon the personal representative and the attorney, the loss of other business necessitated by acceptance of the administration, and the benefits obtained for the estate by the administration. Commissions and fees shall not be considered unreasonable merely because they are based exclusively on hourly rates, exclusively on the value of the probate estate, or exclusively on the value of the assets includible in the estate for the purpose of any tax.

Unless you file an exception to the account alleging that the commissions of the personal representative(s) or the fees of the attorney(s) for the personal representative(s) as set forth in the account are unreasonable, you shall be deemed to consider such commissions and fees reasonable."

(f) This rule will apply to the administration of estates of decedents dying on or after its effective date: September 1, 1996.