

§708. Compensation of trustee

1. Reasonable. If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances. A percentage fee is allowable under this section only if the fee is reasonable. Among the factors a court may consider as guides in determining the reasonableness of fees under this section are the following:

- A. The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the service properly; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- B. The likelihood, if apparent to the trustee, that the acceptance of the particular employment will preclude the person employed from other employment; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- C. The fee customarily charged in the locality for similar services; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- D. The amounts involved and the results obtained; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- E. The time limitations imposed by the trustee or by the circumstances; and [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- F. The experience, reputation and ability of the person performing the services. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

The order of the factors in this subsection does not imply their relative importance.
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

2. Terms of trust. If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if:

- A. The duties of the trustees are substantially different from those contemplated when the trust was created; or [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- B. The compensation specified by the terms of the trust would be unreasonably low or high. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

3. Review; refunds if excessive. On petition of a qualified beneficiary, after notice to all qualified beneficiaries, the court may review the reasonableness of the compensation determined by the trustee for the trustee's services. A trustee who has received excessive compensation from a trust may be ordered to make appropriate refunds.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

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