



Guideline on the Reimbursement of Costs Associated with Divestment of Assets and Withdrawal from Activities

Public office holders may be reimbursed for reasonable legal, accounting and administrative costs associated with creating, maintaining and terminating blind trusts, transferring, converting and selling assets, and withdrawing from activities, in order to meet their obligations under the [Conflict of Interest Act](#).

This guideline clearly lists the acceptable costs that may be reimbursed under the Act and establishes the process that public office holders must follow to request reimbursement. Please see the [backgrounder](#) on blind trusts for additional information.

1. Acceptable costs under the *Conflict of Interest Act*

The *Conflict of Interest Act* provides:

31. (1) The Commissioner may order that the following administrative costs incurred by a public office holder be reimbursed:

(a) in relation to a divestment of assets,

(i) reasonable legal, accounting, and transfer costs to establish and terminate a trust determined to be necessary by the Commissioner,

To establish a trust: a maximum total cost of \$3,000 for all service providers (trustee, lawyer, accountant, notary, investment broker), irrespective of the number of trusts required.

To terminate a trust: a maximum total cost of \$3,000 for all service providers (lawyer, accountant, notary, investment broker), irrespective of the number of trusts established.

(ii) annual, actual and reasonable costs to maintain and administer the trust, in accordance with rates set from time to time by the Commissioner,

Costs include administration fees invoiced by the trustee, as well as any other fees incurred to manage the trust, such as the preparation of tax returns or fees of a financial adviser or of an investment management firm, up to the annual rates below.

When establishing a trust, the public office holder is encouraged to select one of the following three methods for the invoicing of administrative costs by the trustee:

- Quarterly: 3/12 of annual administrative costs
- Semi-annually: 6/12 of annual administrative costs
- Annually: total annual administrative costs

The method selected will apply for the duration of the trust.

Costs are usually reimbursed based on the fair market value of each trust at the end of the period invoiced and up to the following annual maximum rates for each trust:

- Total fair market value of \$35,000 or less: \$500 annually
- Total fair market value of more than \$35,000:
 - 1.50% on first \$500,000
 - 1.25% on next \$500,000
 - 1.00% on next \$1,000,000
 - 0.75% on next \$1,000,000
 - 0.50% on next \$2,000,000
 - 0.25% on balance over \$5,000,000

Only the administration costs related directly to a trust deemed necessary by the Commissioner will be considered eligible for reimbursement.

When the public office holder establishes more than one trust, the trustee must provide invoices that clearly and distinctly show the administrative costs for each trust AND the fair market value of each trust at the end of the period covered by the invoice.

Subsection 31(1) of the Conflict of Interest Act states that the “Commissioner may order that the [...] administrative costs incurred by a public office holder be reimbursed.” It is therefore the responsibility of the public office holder to pay the invoice issued by the trustee.

When the administration costs invoiced by the trustee cover a period of less than 12 months, the reimbursement amount is pro-rated over the number of months covered by the invoice.

The administration costs for the month when the trust is established will be calculated from the date of establishment to the end of the month.

Where the administration fees invoiced by the trustee are based on an hourly rate, those fees will be ordered to be reimbursed, irrespective of the hourly rate, provided the total administration costs claimed do not exceed the total eligible amount that is calculated based on the rates provided above.

When a public office holder leaves office, administration costs will normally only be reimbursed for a minimal period following the date of termination of employment or the date when the Conflict of Interest and Ethics Commissioner notifies the public office holder that the trust may be dismantled, whichever date is last.

(iii) commissions for transferring, converting or selling assets where determined necessary by the Commissioner,

Normal commission fees incurred for divestment of controlled assets deemed necessary by the Commissioner are eligible for reimbursement.

(iv) costs of other financial, legal or accounting services required because of the complexity of the arrangements for the assets, and

Prior approval is required from the Commissioner.

(v) commissions for transferring, converting or selling assets if there are no provisions for a tax deduction under the Income Tax Act, and

Normal commission fees incurred for divestment of controlled assets deemed necessary by the Commissioner are eligible for reimbursement. These fees are usually incurred when assets are divested from within a registered retirement savings plan.

(b) in relation to a withdrawal from activities, the costs of removing a public office holder's name from federal or provincial registries of corporations.

A maximum total cost of \$900 for all service providers (lawyer, accountant, notary) is eligible for reimbursement.

31. (2) *The following administrative costs are not eligible to be reimbursed under subsection(1):*

- (a) charges for the day-to-day operations of a business or commercial entity;*
- (b) charges associated with winding down a business;*
- (c) costs for acquiring permitted assets using proceeds from the required sale of other assets; and*
- (d) any income tax adjustment that may result from the reimbursement of trust costs.*

2. Claims for Reimbursement and Process

- 2.1. The public office holder is personally responsible for paying the invoiced administrative costs directly to the trustee or other service providers.
- 2.2. The public office holder is responsible for requesting reimbursement. If the trustee chooses to send a copy of his or her invoices for the administrative costs incurred directly to the Office of the Conflict of Interest and Ethics Commissioner, the public office holder may simply send an email to the Office of the Conflict of Interest and Ethics Commissioner confirming the amount claimed AND the period covered by the invoice in question.
- 2.3. Invoices submitted to the Commissioner for an order for reimbursement of administrative costs must contain the following information:
 - (a) a detailed breakdown of the administrative costs invoiced for each trust, if applicable; and
 - (b) for administration costs of a trust as defined in subparagraph 31(1)(a)(ii) of the Act, the fair market value of the assets in the trust at the end of each period claimed. A financial statement supporting the fair market value should be provided with the request for reimbursement. When investments are in currency other than Canadian, the exchange rate at the end of the period claimed should also be provided.
- 2.4. The Commissioner will determine the amount eligible for reimbursement and issue an order for reimbursement to the Deputy Head or Chief Financial Officer of the public office holder's current organization or department. Such organization or department is therefore responsible for issuing the reimbursement. A copy of the order will be provided to the public office holder who may then communicate with the finance directorate of his or her organization or department to follow up and obtain reimbursement.

Ce document est également disponible en français.

<http://ciec-ccie.parl.gc.ca/>