



My Estate *Includes* Probate Fees

By: Joe the Investor

When dealing with estates, there are 2 main types of taxes/fees that come up. These are the income taxes and probate fees. These are not the same thing, but the two taxes arrive at the same time – upon someone's death. *This article does not deal with the income tax part of the estate – this should be considered before making any decisions on probate since income taxes and probate are related.* What are probate fees? These are fees that are charged by the government to read your will and ensure that the instructions in the will are carried out. The court that reads your will is supposed to be there to ensure that assets get transferred between people fairly. The fees charged for the letters probate depend on the value of the assets that are in the will. If something is not in the will, it would not be included in the probate fee. In spite of the title of this article, your estate does not have to include probate fees, but in most cases, there would be a probate charge unless the estate is very small or all of the assets are distributed outside of the will.

This last statement brings about some tax planning questions: How would something not be included in the will? To distribute an asset outside of the will means giving someone access to your bank accounts by making them joint, have joint ownership of a house or property, designating someone as a beneficiary for a registered account or insurance policy, transferring assets to a corporation or giving money to a charity on death through life insurance or giving someone a gift. Beware that each of these strategies may have drawbacks depending on your situation, so professional advice should be sought before making decisions about who should receive your assets. The whole purpose of a will is to make sure that estates are handled fairly because there have been many disputes and hardship in the past when dealing with estates due to issues of trust, theft or communication issues.

The value of the estate at the time of death is very important to make sure that the probate fee calculation is correct. This means the records of someone's assets should be up to date and readily available for the executor/executrix to access. The executor/executrix is the person appointed by the person who died (the deceased) to ensure that the will's instructions are carried out and the assets are distributed to the intended parties.

Note that probate fees are also called Estate Administration Taxes or EAT. Probate fees depend on provincial jurisdiction, so the will would be read in on Ontario court or other provincial court if needed. If these are assets situated in different provinces, the rules of each province should be consulted when determining the probate fees.

How much are these probate fees?

It depends on the value of the estate on the day of death. The numbers given below are for an estate based in Ontario. If the day of death is before January 1, 2020, an estate worth \$1,000 or less will have no probate fees. An estate worth more than this would be calculated as follows:

If a Certificate of Appointment of Estate Trustee is applied for before January 1, 2020, the tax rates are:

- \$5 for each \$1,000, or part thereof, of the first \$50,000 of the value of the estate, and
- \$15 for each \$1,000, or part thereof, of the value of the estate exceeding \$50,000.

Note: There is no estate administration tax payable if the value of the estate is \$1,000 or less.

After January 1, 2020, an estate valued at \$50,000 or less would have no probate fees.

If a Certificate of Appointment of Estate Trustee is applied for on or after January 1, 2020:

- There is no estate administration tax payable if the value of the estate is \$50,000 or less. However, exempt estates must continue to file an Estate Information Return within the prescribed time.
- For estates valued over \$50,000, the estate administration tax will be calculated as \$15 for every \$1,000 (or part thereof) of the value of the estate over \$50,000.

<https://www.fin.gov.on.ca/en/tax/eat/>

<https://ontario-probate.ca/probate-basics/probate-fees-taxes/>