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Cost of Probate: Sacramento and Surrounding Counties

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With home prices settling down a bit, now is a good time to reevaluate your estate planning. Perhaps that sounds a bit strange to you, but consider the changes you have experienced since you last thought about what's going to happen after your death. Maybe you have obtained a divorce, been remarried, or had a child. Perhaps you have moved to a new house, sold off some stocks, taken a new job, or started your own business. Whatever has changed in your life, you should examine your estate plan to ensure that you are controlling what happens to your property after death and that the state won't make those decisions for you.

To help you understand more about probate procedures and costs, we have prepared this short pamphlet. This document can aid your cost estimate for the probate of your will and the distribution of your estate. Perhaps you will decide that your current estate plan is adequate; perhaps you will find that your estate plan doesn't produce the results you desire. In either case, this pamphlet will allow you to make an informed decision.

Example of Total Minimum Cost of Probate: Assuming real property value of \$400k and personal property (furniture, cars, computers, jewelry, etc.) value of \$100k, and no will, trust, durable power of attorney, or advance healthcare directive.

\$485 filing fee for estate
+ \$500 property appraisal fee
+ \$13,000 Personal Representative Fees

+ \$13,000 Fees for Attorney of Personal Representative = **\$26,985**

Note: This figure does not include funeral expenses, other court fees, and expenses for the upkeep of real property. Furthermore, if there are children involved, the court may assess additional fees to appoint a guardian for the children.

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Base Cost for Filing First Papers for Estate (Cal.

Gov't Code §§ 70650(a)(1)-(9))

| | |
|---|-------------|
| Estate/Trust under \$250,000 | Add \$320 |
| Estate/Trust worth \$250,000 to \$499,999 | Add \$385 |
| Estate/Trust worth \$500,000 to \$749,999 | Add \$485 |
| Estate/Trust worth \$750,000 to \$999,999 | Add \$635 |
| Estate/Trust worth \$1,000,000 to \$1,499,999 | Add \$1,135 |
| Estate/Trust worth \$1,500,000 to \$1,999,999 | Add \$2,135 |
| Estate/Trust worth \$2,000,000 to \$2,499,999 | Add \$2,635 |
| Estate/Trust worth \$2,500,000 to \$3,499,999 | Add \$3,635 |
| Estate/Trust worth \$3,500,000 and over | Add \$3,635 |
| | plus 0.2% |
| | of |
| | estate's |
| | value over |
| | \$3.5M |

Small Estate

Affidavit procedure for real property of small value (\$20k or less) under CAL. PROB. CODE § 13201 (6 month waiting period) \$20

Other Fees for Real Property

| | |
|-----------------------|----------|
| Mortgage Payments | Variable |
| Property Taxes | Variable |
| Homeowner's Insurance | Variable |

Other Fees in General

The personal representative may have to post a bond before taking up his/her duties. CAL. PROB. CODE §§ 8480-8488. A testator may waive the bond requirement using a will.

Appraisal of Property

The probate referee (named by state controller) ordinarily charges 1/10 of 1% (i.e., 0.1%) of the appraised value in each case. CAL. PROB. CODE § 8961. Appraiser determines fair market value (FMV) and looks at mortgages and other debts in reaching conclusion. The probate referee will receive at least \$75, regardless of the value of the estate. CAL. PROB. CODE § 8963(a).

Personal Representative Fees (CAL. PROB. CODE §§ 10800-10805)

| Value of Estate | Personal Rep. Fees |
|-----------------|--|
| \$100,000 | \$4000 |
| \$200,000 | \$7000 (\$4k + \$3k) |
| \$300,000 | \$9000 (\$4k + \$3k + \$2k) |
| \$400,000 | \$11,000 (\$4k + \$3k + \$4k) |
| \$500,000 | \$13,000 (\$4k + \$3k + \$6k) |
| \$600,000 | \$15,000 (\$4k + \$3k + \$8k) |
| \$700,000 | \$17,000 (\$4k + \$3k + \$10k) |
| \$800,000 | \$19,000 (\$4k + \$3k + \$12k) |
| \$900,000 | \$21,000 (\$4k + \$3k + \$14k) |
| \$1,000,000 | \$23,000 (\$4k + \$3k + \$16k) |
| \$2,000,000 | \$33,000 (\$4k + \$3k + \$16k + \$10k) |
| \$3,000,000 | \$43,000 (\$4k + \$3k + \$16k + \$20k) |
| \$4,000,000 | \$53,000 (\$4k + \$3k + \$16k + \$30k) |
| \$5,000,000 | \$63,000 (\$4k + \$3k + \$16k + \$40k) |
| \$6,000,000 | \$73,000 (\$4k + \$3k + \$16k + \$50k) |
| \$7,000,000 | \$83,000 (\$4k + \$3k + \$16k + \$60k) |
| \$8,000,000 | \$93,000 (\$4k + \$3k + \$16k) |

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| | |
|--------------|--|
| | + \$70k) |
| \$9,000,000 | \$103,000 (\$4k + \$3k + \$16k + \$80k) |
| \$10,000,000 | \$108,000 (\$4k + \$3k + \$16k + \$80k + \$5k) |
| \$25,000,000 | Determined by court |

Statutory Formula (CAL. PROB. CODE § 10800):

4 % of the first \$100,000 of the estate,
then 3% of the next \$100,000,
then 2% of the next \$800,000,
1% of the next \$9,000,000, and
1/2% of the next \$15,000,000.

For estates larger than \$25,000,000, the court will determine the fee.

Value of Estate: For the purposes of this section, the value of the estate accounted for by the personal representative is the total amount of the appraisal value of property in the inventory, plus gains over the appraisal value on sales, plus receipts, less losses from the appraisal value on sales, without reference to encumbrances or other obligations on estate property.
CAL. PROB. CODE § 10800(b).

***Ways to Save Money**

A will can set different compensation for both the personal representative and the attorney for the personal representative. CAL. PROB. CODE § 10802 (personal representative); CAL. PROB. CODE § 10812(a) (attorney for personal representative). However, both the personal representative and the attorney can petition the court to be "relieved of" the payment stated in the will, instead giving both persons the right to the statutory compensation scheme. CAL. PROB. CODE § 10802(b) (petition by personal representative); CAL. PROB. CODE § 10812(b) (petition by attorney for personal representative). Also, the personal representative can negotiate a lower fee with the attorney.

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|--------------|--|
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| \$4,000,000 | \$53,000 (\$4k + \$3k + \$16k + \$30k) |
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| \$6,000,000 | \$73,000 (\$4k + \$3k + \$16k + \$50k) |
| \$7,000,000 | \$83,000 (\$4k + \$3k + \$16k + \$60k) |
| \$8,000,000 | \$93,000 (\$4k + \$3k + \$16k + \$70k) |
| \$9,000,000 | \$103,000 (\$4k + \$3k + \$16k + \$80k) |
| \$10,000,000 | \$108,000 (\$4k + \$3k + \$16k + \$80k + \$5k) |
| \$25,000,000 | Determined by court |

Statutory Formula (CAL. PROB. CODE § 10810):

4 % of the first \$100,000 of the estate,
then 3% of the next \$100,000,
then 2% of the next \$800,000,
1% of the next \$9,000,000, and
1/2% of the next \$15,000,000.

For estates larger than \$25,000,000, the court will determine the fee.

Value of Estate (CAL. PROB. CODE § 10810(b)): For the purposes of this section, the value of the estate accounted for by the personal representative is the total amount of the appraisal value of property in the inventory, plus gains over the appraisal value on sales, plus receipts, less losses from the appraisal value on sales, without reference to encumbrances or other obligations on estate property.

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