

(2) Unless the Court orders otherwise, notice of an application pursuant to this rule must be served on all persons served with the appointment.

Subdivision 3
Discharge Without Passing Accounts

Discharge without passing accounts

16-57(1) A personal representative desiring to be discharged without passing accounts may apply without notice on filing:

- (a) a release or a consent from each beneficiary; and
- (b) proof that all debts are paid.

(2) The remedy sought on an application pursuant to this rule may include the fixing of compensation to the personal representative, costs, cancellation of security or other business necessary to wind up the estate.

DIVISION 6
Fees and Costs

Fees and costs

16-58(1) In this Rule and in Schedule I “C” of the Tariff:

“**core services**” means:

- (a) receiving instructions from the personal representative;
- (b) reviewing a will or *The Intestate Succession Act, 1996* with the personal representative;
- (c) providing a copy of the will to each beneficiary;
- (d) obtaining details about the deceased and the deceased’s property and debts;
- (e) attending to obtaining the grant from the Court;
- (f) advertising for creditors;
- (g) transmitting all estate assets to the personal representative and subsequently transferring them to each beneficiary;
- (h) dealing with the Public Guardian and Trustee if required;
- (i) generally advising the personal representative about estate matters;

- (j) dealing with ordinary attendances and correspondence for the core services;
(« *services essentiels* »)

“**non-core services or other services**” includes but is not limited to the following:

- (a) with respect to estate administration, doing all or any of the following:
 - (i) determining who will apply for a grant in intestate estates;
 - (ii) locating beneficiaries;
 - (iii) locating assets in an intestacy or testate situation;
 - (iv) obtaining a bond for the purposes of Rule 16-31;
 - (v) determining whether joint property is an estate asset;
 - (vi) making court applications, including for matters such as substantial compliance, interpretation or contentious business;
 - (vii) dealing with distribution issues respecting personal belongings;
 - (viii) paying bills and dealing with creditors;
 - (ix) dealing with property in joint tenancy;
 - (x) dealing with life insurance claims where the beneficiary is not the estate;
 - (xi) dealing with pensions and investments where the beneficiary is not the estate;
 - (xii) handling receipts and disbursements through trust account;
 - (xiii) dealing with property management;
 - (xiv) acting for the estate in the sale of estate property;
 - (xv) gathering information and dealing with accounts respecting terminal income tax returns, trust returns and goods and services taxes;
 - (xvi) attending to preparation or filing of tax returns;
 - (xvii) obtaining tax clearance certificates;
 - (xviii) corresponding with and attending on beneficiaries;
 - (xix) preparing personal representative accounts for approval by the beneficiaries;

- (xx) preparing and obtaining beneficiaries' releases;
- (b) with respect to passing of accounts, doing all or any of the following:
 - (i) preparing an affidavit of the personal representative;
 - (ii) applying without notice for an appointment for examination of accounts and serving the appointment;
 - (iii) appearing on appointment date to speak to the application;
 - (iv) attending before the examining officer;
 - (v) setting and serving the appointment date;
 - (vi) appearing on the appointment date to speak to matters in dispute and to the order allowing and passing accounts;
 - (vii) issuing and serving the order allowing and passing accounts.
(« *services non essentiels ou autres services* »)
- (2) The lawyer retained by the personal representative is entitled to payment for providing core services to the personal representative or the estate as follows:
 - (a) as a percentage as set out in Schedule I "C" of the tariff; or
 - (b) any lesser fee than that provided for in clause (a) that is agreed to by the lawyer and the personal representative.
- (3) Before being retained by the personal representative, the lawyer shall advise the personal representative in writing of the lawyer's method of billing for non-core services or other services to the personal representative or the estate, based on one or more of the following:
 - (a) a percentage of the value of the estate;
 - (b) at a specified hourly rate;
 - (c) as a fixed fee;
 - (d) a combination of the methods set out in clauses (a), (b) and (c).
- (4) When presented with the lawyer's bill of fees and disbursements, a personal representative may proceed to have the account assessed pursuant to *The Legal Profession Act, 1990* and these rules.

SCHEDULE I

“C”

**IN THE COURT OF QUEEN'S BENCH
IN PROBATE AND ADMINISTRATION OF ESTATES MATTERS**

- 1.** For the purposes of this Schedule, the value of the estate is the total of all assets of the estate being administered. Property not handled by the personal representative, such as joint property, insurance, annuities and pensions not payable to the estate, is not included in the value of the estate and the lawyer shall charge separately for services respecting that property.
- 2.** For all necessary core services rendered, the fee allowed to the lawyer is:
 - (a) \$1,500 plus 1% of the first \$500,000 of the value of the estate;
 - (b) 3/4% on the next \$500,000 of the value of the estate; and
 - (c) 1/2% on the remaining value of the estate.
- 3.** For non-core services or other services rendered for the estate and for the passing of accounts, the additional fee allowed to the lawyer is the fee provided for in subrule 16-58(3).