

**GENERAL GUIDELINES FOR THE REIMBURSEMENT OF COSTS UNDER THE  
CONFLICT OF INTEREST ACT (the Act)**

**1. Acceptable costs under the Act**

The 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) at an hourly rate not exceeding \$300, irrespective of the number of blind trusts required. In exceptional circumstances where a total cost exceeding \$3,000 may be necessary for any or all service providers, prior approval is required from the Commissioner.

To terminate a trust: a maximum total cost of \$3,000 for all service providers (lawyer, accountant, notary, investment broker) at an hourly rate not exceeding \$300, irrespective of the number of blind trusts set up. In exceptional circumstances where a total cost exceeding \$3,000 may be necessary for any or all service providers, prior approval is required from the Commissioner.

Normally, the invoice from the trustee and other service providers must include a breakdown of the number of hours (dates and hours) invoiced and the hourly rate. Reimbursement is based on an hourly rate not exceeding \$300 and a maximum total cost not exceeding \$3,000. The trustee's disbursements, if any, should be included in the fees and will not be considered separately.

***(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 months)	3/12 of annual administrative costs
Semi-annually (6 months)	6/12 of annual administrative costs
Annually	12/12 of annual administrative costs

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

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

Up to and including \$35,000: \$500 annually  
Over \$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 Conflict of Interest and Ethics 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.

Sub-section 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.

It is important to note that the role of the Conflict of Interest and Ethics Commissioner is to order the reimbursement from the department or agency for which the public office holder works. This department or agency is therefore responsible for issuing the reimbursement.

While the trustee may send his or her invoices for the administrative costs directly to the Office of the Conflict of Interest and Ethics Commissioner, the public office holder is responsible for making a reimbursement request. 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.

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, these fees will be ordered to be reimbursed, irrespective of the hourly rate, provided the total administration costs claimed do not exceed the annual maximum entitlement.

After a reporting 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 Office of the Conflict of Interest and Ethics Commissioner notifies the reporting public office holder that the blind 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 by way of sale to a third party at arm's length are eligible.

***(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 by way of sale to a third party at arm's length are eligible. These fees are usually incurred when assets are sold 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 corporate registries of corporations.***

A maximum total cost of \$900 invoiced by service providers (lawyer, accountant, notary), at an hourly rate not exceeding \$300, is eligible.

Normally, the invoice from the service provider must include a breakdown of the number of hours (dates and hours) invoiced and the hourly rate. Reimbursement is based on an hourly rate not exceeding \$300 and a maximum total cost of \$900. Disbursements, if any, should be included in the fees and will not be considered separately.

***(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**

The reporting public office holder is personally responsible for paying the invoiced costs directly to the trustee.

Invoices submitted to the Commissioner for an order of reimbursement should contain the following information:

- A) a detailed breakdown of the charges levied/invoiced for each trust, if applicable, including the number of hours charged and the hourly rate, if applicable;
- B) for administration costs of a blind trust, 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 claim. When investments are in currency other than Canadian, the exchange rate at the end of the period claimed should also be provided.

The Commissioner will determine the amount eligible and will issue an order for reimbursement to the Deputy Head of the reporting public office holder's current organization or department. With respect to reporting public office holders who are ministerial advisers or ministerial staff, the order will be issued to the Deputy Head of the responsible Minister's department. A copy of the order will be given to the reporting public office holder who may then communicate with the finance directorate of his or her organization or department to follow up and obtain reimbursement.