

**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 of 10 hours for all service providers (lawyer, accountant, notary, investment broker) at an hourly rate not exceeding \$300, irrespective of the number of blind trusts required. In exceptional circumstances where more than 10 hours may be necessary for any or all service providers, prior approval is required from the Commissioner.

To terminate a trust: a maximum of 10 hours 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 more than 10 hours may be necessary for any or all service providers, prior approval is required from the Commissioner.

(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:

Costs are usually reimbursed based on the fair market value of each blind trust 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

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 are within the annual maximum rates set out above.

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 of 3 hours for fees invoiced by service providers (lawyer, accountant, notary), at an hourly rate not exceeding \$300, as well as normal disbursements are eligible.

- (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, including the number of hours charged and the hourly rate, if applicable;
- B) for administration costs of a blind trust, the market value of the assets in the trust at the end of each period claimed. A financial statement supporting the 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 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.