

Probate Accounting and Paying CPA

Sezzers:

I'm curious what the standard practice is regarding probate accountings in relatively simple estates. Do you hire a CPA? Does the probate court typically allow that as an expense? I've always done my own on simple matters, hired when really complex and time-consuming, but I've got a simple one where the other side paid \$2,600 and that, frankly, seems more than a bit steep.

I do not enjoy preparing accountings. Not one bit. Either a CPA or a private probate paralegal prepares them. It also serves to reduce the legal fees. We gather date of death values, prepare the inventory, and then hand all over. I can tell a client 785 times to save all bank statements and bills paid and to make photocopies of checks before depositing, but that rarely happens. Come time to prepare the account, a year after qualifying, the client is unhappy to have to go back and recreate the required documentation that must be filed with the court. For us, the CPA or probate paralegal gets to have those conversations rather than my staff or me. Makes for better days.

Deborah Matthews, Virginia

Seems steep to me but it would depend on the size and complexity of the estate. Right now, I'm having an email discussion with my accountant about why an \$800 accounting fee is a stretch on an estate that only earned \$2,300 in interest in 2020. Last year the estate was worth north of \$600K so I wasn't worried about justifying the \$800. In fact, I'm awaiting Probate approval of a recent accounting with - so far - no complaints from the parties.

This year he's got to come in lower.

John Leonard, Connecticut

How different things are in different states. Here in Wisconsin, it is the attorney's job to prepare the accountings. First there is an inventory showing date of death values. And then an estate account showing all income and expenses through the completion

of the estate. Yes, accountings can be very difficult. Very important to stay on top of the estate representative to make sure all records are being kept. I don't think I know of anyone who firms out the accounting to a CPA. Some lawyers do use CPAs to prepare tax returns for the estate, but I do everything in the house

Jim Winiarski, Wisconsin

That is how I am used to it being here in California. I've only hired it out once and it was definitely justified. I do them myself as it appears everyone does.

I'm representing the beneficiary. We challenged the accounting attached to a petition for final distribution, won some issues, lost some issues, and there were supposed to be just the "normal" clean-up expenses. The executor wanted to reserve \$20k (\$5k for "normal" but there was a possible issue involving a car accident, so \$15k for that). The car accident resolved quickly (non-issue). In California, there might be a few, small expenses after distribution, but here there were significant expenses, the \$2,600 for the CPA being just one of them. From what I can see, counsel overpaid himself (it's not perfectly clear because the amounts are uneven and don't match the court order), the executor reimbursed herself (not part of the petition for final distribution), etc. etc. And then the executor moved to be discharged ex parte (without a hearing or notice) after I objected to the accounting. I figure there may be as much as \$12k not properly accounted for. Shoot, even the CPA's accounting had \$7k as cash on hand but the executor sent a check for \$1,500 and change. Go figure.

So yes, I want to be armed for bear and bring down a ton of bricks on this farce. And he had the audacity to say in court "Does Cook know these hearings cost money?" Well, here's to hoping it costs HIM money.

Bret Cook, California

I have yet to farm out an accounting, as well. I generally do them with records from the client (unless I have been appointed administrator), but some clients do preliminaries on their own and I review them.

We provide a preliminary inventory with the opening documents, then a baseline "accountable" inventory at 90 days, and annual accountings thereafter until the final.

Richard J. Rutledge, Jr., North Carolina

Probate has been a large part of my practice for over 40 years. About 20 years ago, after spending far too many hours trying to balance an estate and prepare a proper accounting, I decided to use Quicken. It took me a long time to set up a master portfolio which we continue to use to this very day.

I have yet to find anything Quicken cannot properly follow for accounting purposes. It's nice to support the accounting for the estate with all the transactions, reports, balance sheets etc. The only problem I ran into was that later versions of Quicken could not be modified to present the situation the way I wanted. Believe it or not, we continue to use Quicken1999 which meets all of our needs.

Jim Winiarski

In CA, preparing the accounting is part of the personal representative's duties and is considered part of what they get paid for when they receive the statutory fee. Of course, non-professional personal representatives have no idea how to prepare a fiduciary accounting so the only realistic options are the attorney does it or hire an outside vendor. Technically, if an outside vendor is used, the personal representative is supposed to pay for it out of their statutory fee but I have seen many cases where it is paid from give estate and listed on the accounting. I have done it myself multiple times but have never had a case where someone objected to it. I believe that an objection to it would have merit because, as noted, preparing the accounting technically falls under the responsibilities of the personal rep.

Lee Kaster, California

It is almost impossible for an accounting to be accepted and approved in the Los Angeles Superior Court the first time, which has rules making it almost impossible to prepare an acceptable accounting. Even CPAs cannot do it without experience with the local requirements.

Roger Rosen, California

Ok, I found authority. For California, the accounting is considered a part of the executor's duties and is ordinarily included in the statutory fee. *Estate of Billings* (1991) 228 Cal.App.3d 426, 430-444; Rutter, Probate, [1:37a].

Us silly attorneys are doing the client's work!! That doesn't preclude requesting extraordinary fees for cases where the accounting is complex, but the larger the fee, the less likely to be granted. And Rutter suggests a written agreement filed with the court whereby the executor coughs up part of the statutory fee for the attorney doing the accounting. I've never done that and probably never will. I just do the accounting. And why I always try to get accounting waivers unless there is a problem beneficiary.

Bret Cook

I'd like to clarify my response from yesterday. I farm out all tax filings to a CPA. As Administrator/Executor, or counsel to those folks, I do all financial reports required by the Probate Court. I keep records in Excel and plug in the data to fillable forms as required. If accurate records are kept the filings are pretty simple and I bill for those reports at my hourly rate. I also try to prevail upon my CPA to give me a defensible number for any work he does.

John Leonard

In California, paying a CPA for tax filings is normal and permitted.

BTW, if anyone has an Excel template they are willing to share (especially a California formatted one) I'd love to see it.

Bret Cook

In Wisconsin, personal representatives get a mandatory 2% of the estate for their services. Some of them get quite a windfall receiving 2% of the estate. Most of them don't have a clue about the accounting that goes into an estate. Try to explain to them that accurate accounting is important not only for the accountings filed with the court but also for general distribution to all interested parties and to support tax returns. The reality is the attorney really has to do most of the accounting. I sometimes get very jealous when I see personal representatives receiving 2% of the estate, which is

sometimes more than my fees. Under Wisconsin law, they can actually ask for more than 2% if they can justify with records.

Jim Winiarski