
TRUST ADMINISTRATION FEES

Recent developments in the law pertaining to Trusts, particularly over the last decade, indicate that the administration and management of Trusts need to be carefully and professionally conducted. It is now more important than ever that at least one Independent Outsider Trustee be appointed in all Trusts in which the Trustees are also discretionary beneficiaries of the Trust, in particular.

There can be serious fiscal and other consequences if a Trust is found to be an “alter ego Trust”, which can happen where the planner does not relinquish ownership and sole control of any assets moved into or acquired by a Trust. The appointment of an Independent Outsider, or professional Trustee can go a long way to ensuring that this does not happen and that the Trustees exercise joint control and management of the assets in the Trust. Decisions, resolutions and actions of Trustees need to be jointly made and recorded, and hence it is most advisable to involve a professional Trustees in the management of Trust affairs.

The Fiduciary duty of a Trustee is to act in utmost good faith, and with care and diligence in all dealings with the Trust. A Trustee acquires considerable responsibility by accepting appointment as such, and, accordingly, professional Trustees charge fees for the holding such a responsible office. Set out below is a description of the basis on which we propose that fees be charged in the event of professional Trust administration services being rendered by us.

SERVICES: We categorise Trusts as follows:

- **ESTABLISHMENT/FORMATION FEE** - R3 500,00 plus VAT, plus R250,00 registration disbursement payable to the Department of Justice (Master’s Office). This applies only where a new Trust is to be formed, and will include taking instructions, drafting the Trust Deed and related documentation, completing the Trust Registration Document required by the Master’s Office, obtaining signatures to the documentation by the Settlor and the Trustees, all attendances at the Master’s Office when lodging and obtaining registration of the Trust, and any other miscellaneous attendances.
- **INCOME TAX REGISTRATION FEE** - as this involves Ant Jenkins physically attending SARS by appointment, it is necessary for us to levy a fee for this attendance, due the length of time involved, of R1 500 00 plus VAT.
- **LOW ACTIVITY or DORMANT TRUSTS**
After registration of the Trust, these types of Trust usually only require attendances relating to registration for Income Tax, the drafting of a simple Balance Sheet, completion and submission of Tax Returns annually, and some very basic administrative functions and attendances. There are usually no Trustees’ meetings held and no Resolutions expected to be drawn until such time as they become active Trusts.

Trust Administration fees for such Trusts consist of an Annual Trust File Management fee (currently R1 800 plus VAT), plus any additional attendance fees (if necessary) during each Financial Year, charged on a time and attendance basis for such attendances.

- **ACTIVE TRUSTS**
In these Trusts (and those in which Ant Jenkins holds office as the Independent Outsider/Professional Trustee), at least one Trustees’ meeting will need to be held per year. (Note: It is possible for meetings to be held by telephone conference call or Skype if convenient, rather than in person, but a physical presence Annual General Meeting of Trustees is preferable).

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FEES FOR ACTIVE TRUSTS:

1. **Annual Trustee's Remuneration** (a fee for accepting the responsibility and risk of holding office as a Trustee) is *sometimes* charged - which would be negotiated and agreed upon annually. This is usually based on a percentage of the Trust assets under management or income generated in the Trust annually.

2. **Trust Administration Fees**

The type of attendances that would fall under this category charged on a *time and attendance basis*, are the following, *inter alia*:

- Convening and attending Trustees meetings
- Compiling and distributing Minutes of meetings
- Perusal of and commentary on Annual Financial Statements and on investment documents
- Perusal and signature of documents such as suretyships, agreements and other legal documents
- Drafting of sundry Resolutions or agreements eg. Leases, Sale agreements and Loan Agreements
- Sundry emails and telephone calls made and received
- Ad hoc meetings
- Copies of documents made

3. **Annual Trust File Management Fee** (R1 800 plus VAT) which covers all general administration services relating to keeping the file and statutory documentation in good order.

Unlike with Executors' fees, there is no legislation regulating and setting Trustees' Remuneration, and we like to negotiate and agree our fees with our clients using the recommendations of the Standing Committee on Deceased Estates of the Law Society of South Africa, as a guideline for such negotiations, which are as follows:

- either:
 - A time and attendance billing method. (***This is the fee basis most often implemented.***)
- or
 - a percentage of the income earned by the Trust annually, plus VAT; or
 - A percentage of the value of the assets of the Trust annually, plus VAT;
 or a combination of the two

TERMINATION OR PART-TERMINATION FEE

This fee is based on a maximum of **1,5%** of the value of Capital Distributions made to beneficiaries of the Trust in effecting such termination or part termination, and covers all attendances relating to the termination of the Trust, the award and payment to beneficiaries of the capital or part of the capital assets of the Trust and all documentation and attendances relating thereto.

TIME-BASED RATES

Where possible, time-based services are delegated to staff members at a lower hourly charge-out rate than that of Ant Jenkins in an effort to curtail costs as far as possible for the benefit of our clients. The rates are as follows:

ANT JENKINS	R2 400.00
JUNIOR ATTORNEYS	R1 200.00
PARALEGALS	R1 000.00
CANDIDATE ATTORNEYS	R 350.00

VAT

VAT is payable on all fees

The firm is owned by Ant Jenkins, who was admitted as an Attorney in 1984 and as a Conveyancer in 1986. In certain instances, he will be prepared to take appointment as the professional Independent Outsider Trustee. Ant Jenkins specialises in the administration and formation of Trusts, Trust Planning and Trust law.

The firm undertakes to deliver an efficient, personal and cost-effective service in the planning and administration of Trusts, particularly in view of the fact that formal administration procedures now need to be conducted in accordance with developing legislation in this area of legal practice.