

# **EXHIBIT D**

Analysis of Trustee commissions in periods before the present 1993 and 2001 amendments

**THE EVOLUTION OF TRUSTEES COMMISSIONS**

Statutory Commissions for Trustees of Intervivos and Testamentary Trusts in New York State since 1923 under Section 8005 of the Civil Practice Law and Rules and Sections 2308/9 and 2312 of the Surrogate's Court Procedure Act

**Category I**

Testamentary trusts under the wills of testators who died after August 31, 1956 and intervivos trusts created after that date, (SCPA 2309, 2312).

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
July 1, 1991 to date (Corporate Trustees)	Reasonable compensation (including 12.35 per \$1,000 on first \$400,000)	Unchanged.*
July 1, 1991 to date (individuals and corporations not electing reasonable compensation)	\$10.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 on next \$600,000 \$3.00 per \$1,000 on balance chargeable 2/3 to Principal, 1/3 to Income (effective 8/4/93)	Unchanged.
August 6, 1984 to July 1, 1991 (Corporate Trustees)	Reasonable compensation (including \$10.00 per \$100,000 on first \$400,000)	Unchanged.*
August 6, 1984 to July 1, 1991 (individuals)	\$8.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 on next \$600,000 \$3.00 per \$1,000 on balance	Unchanged.
June 8, 1976 to August 6, 1984	Annual commission based on market value of corpus on "rest date" computed at the following rates:  \$7.00 per \$1,000 on first \$300,000 \$3.75 per \$1,000 on next \$500,000 \$2.50 per \$1,000 on balance  chargeable 1/2 to Principal, 1/2 to Income	1% of all principal distributed
September 1, 1969 to June 7, 1976	\$5.00 per \$1,000 on first \$300,000 \$2.50 per \$1,000 on next \$500,000 \$2.00 per \$1,000 on balance  chargeable 1/2 to Principal, 1/2 to Income	1% of all principal distributed

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
August 31, 1956	\$5.00 per \$1,000 on first \$50,000	1% of all principal
to September 1, 1969	\$2.50 per \$1,000 on next \$450,000	distributed
	\$2.00 per \$1,000 on balance	
	chargeable 1/2 to Principal, 1/2 to Income	

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\* Paying out commission may be being phased out for Trustees accepting reasonable compensation.

## Category II

Testamentary trusts under the wills of testators who died on or before August 31, 1956 and intervivos trusts created on or before that date.

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
July 1, 1991 to date (Corporate Trustees)	Reasonable compensation (including \$12.35 per \$1,000 on first \$400,000)	Unchanged.
July 1, 1991 to date (individuals and corpo- rations not electing reasonable compensation)	\$10.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 next \$600,000 \$3.00 per \$1,000 on balance chargeable 2/3 to Principal, 1/3 to Income (effective 8/4/93)	Unchanged.
August 6, 1984 to July 1, 1991 (Corporate Trustees)	Reasonable compensation (including \$10.00 per \$100,000 on first \$400,000)	Unchanged.*
August 6, 1984 to July 1, 1991 (individuals)	\$8.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 on next \$600,000 \$3.00 per \$1,000 on balance	Unchanged.
June 5, 1978 to August 6, 1984	Annual commission based on market value of corpus on "rest date" com- puted at the following rates:  \$7.00 per \$1,000 on first \$300,000 \$3.75 per \$1,000 on next \$500,000 \$2.50 per \$1,000 balance  chargeable 1/2 to Principal, 1/2 to Income	3% on \$2,000** 1-1/2% on \$10,000 1-1/4% on balance  Commission for paying Principal:  1% of all principal distributed

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
* Payment commission may be being phased out for Trustees accepting reasonable compensation.		
** No receiving commissions on additions of property received, or on any increments in property realized, on or after June 5, 1978.		
September 1, 1969 to June 4, 1978	Annual Principal commission based on market value of corpus on "rest date" computed at the following rates:  \$1.75 per \$1,000 on first \$300,000 \$1.00 per \$1,000 on next \$700,000 \$.50 per \$1,000 on balance  chargeable 1/2 to Principal, 1/2 to Income  Annual commission based on Income collected:  6% on \$2,000 3% on \$10,000 2-1/2% on balance  chargeable to Income	6% on \$2,000 3% on \$10,000 2-1/2% on balance
July 1, 1956 to September 1, 1969	Annual Principal commission based on market value of corpus on "rest date" computed at the following rates:  \$1.75 per \$1,000 on first \$50,000 \$.75 per \$1,000 on next \$350,000 \$.50 per \$1,000 on balance  chargeable to Principal  Annual commission based on Income collected:  6% on \$2,000 3% on \$10,000 2-1/2% on balance  chargeable to Income	Commission for receiving Principal and paying Principal at 1/2 rates for each:  6% on \$2,000 3% on \$10,000 2-1/2% on balance

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
April 1, 1948 to July 1, 1956	Annual Principal commission computed to last "rest date" prior to 4/1/48, from 9/1/43 1/2 of 110% of Income commission taken during this period.  Annual Principal commission based on market value of corpus on "rest date" computed at the following rates:  \$1.00 per \$1,000 on first \$50,000 \$.45 per \$1,000 on next \$350,000 \$.30 per \$1,000 on balance  chargeable to Principal  Annual commission based on Income collected:  6% on \$2,000 3% on \$10,000 2% on balance  chargeable to Income	Commission for receiving Principal and paying at 1/2 rates for each:  6% on \$2,000 3% on \$10,000 2% on balance
September 1, 1943 to April 1, 1948	Annual Principal commission computed at 110% on Income commission taken during this period.  chargeable to Principal  Annual commission based on Income collected:  6% on \$2,000 3% on \$10,000 2% on balance  chargeable to Income	Commissions for receiving and paying Principal:  There were no receiving and paying commissions as such except on final accounts where the Annual Principal commissions were applied against a minimum commission allowable, computed on Principal distributed at the following rates:  5% on \$2,000 2-1/2% on \$20,000 2% on balance  The value of real and personal property is subject to this commission. If distribution is made for a period less than 5 years after qualification of trustee, the minimum Principal commission payable is at 1/2 of such rates.

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
September 1, 1923 to September 1, 1943	Annual commission based on Income collected:  5% on \$2,000 2-1/2% on \$20,000 1-1/2% on \$28,000 2% on balance  chargeable to Income	Commission for receiving Principal and paying Principal at 1/2 rates for each:  5% on \$2,000 2-1/2% on \$20,000 1-1/2% on \$28,000 1% on balance
Prior to September 1, 1923	Annual commission based on Income received and paid out:  5% on \$1,000 2-1/2% on \$10,000 1% on balance	Commission for receiving Principal and paying Principal at 1/2 rates for each:  5% on \$1,000 2-1/2% on \$10,000 1% on balance

**Note:** Since September 1, 1943, commissions and effective dates for testamentary and intervivos trusts have been identical; prior to that date they differed only as to effective dates, namely, the periods September 1, 1923 to September 1, 1943 and Prior to September 1, 1923 (immediately above) relate to testamentary trusts; for intervivos trusts the periods are, respectively, September 1, 1926 to September 1, 1943 and Prior to September 1, 1926.

Multiple Limitations

Applies to the period prior to June 8, 1976 for Category I Trusts and period prior to June 5, 1978 for Category II Trusts:

For Trusts under \$100,000, only one full commission is computed and shared by all Trustees.

For Trusts over \$100,000, each Trustee up to the number of 3 gets a full commission. Where there are more than 3 Trustees, they share 3 full commissions.

Applies to Category I Trusts from June 8, 1976 to July 1, 1991 and to Category II Trusts from June 5, 1978 to July 1, 1991

For Trusts under \$100,000, only one full commission is computed and shared by all Trustees.

For Trusts of \$100,000 to \$200,000, each Trustee up to the number of 2 gets a full commission. Where there are more than 2 Trustees, they share 2 full commissions.

For Trusts of \$200,000 or more, each Trustee up to the number of 3 gets a full commission. Where there are more than 3 Trustees, they share 3 full commissions.

Applies to Category I Trusts and Category II Trusts from July 1, 1991 to date.

For Trusts under \$100,000, only one full commission is computed and shared by all Trustees.

For Trusts of \$100,000 to \$400,000, each Trustee up to the number of 2 gets a full commission. Where there are more than 2 Trustees they share 2 full commissions.

For Trusts of \$400,000:

*Created before September 1, 1993: each Trustee up to the number of 3 gets a full commission. Where there are more than 3 Trustees, they share 3 full commissions.*

*Wills of persons dying, and intervivos trusts created, after August 31, 1993: "if there are more than two ... trustees, no more than two commissions shall be allowed unless the decedent has specifically provided otherwise ..., [to be] apportioned among the fiduciaries according to the services rendered by them respectively unless they shall have agreed in writing among themselves to a different apportionment which, however, shall not provide for more than one full commission for any one of them."* SCPA

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