

**FEES:** Probate Court. Fees of probate judge up to the filing of inventory.

December 17, 1937

Mr. Grover R. Kirchner,  
Judge of the Probate Court  
Clark County,  
Kahoka, Missouri.



Dear Sir:

This office acknowledges receipt of yours of December 9 requesting an official opinion as to what fees probate judge is allowed to charge in cases of administration prior to the filing of the inventory in estates. The request is as follows:

"Would you be kind enough to send me the actual costs of Administration without Will in Filing application Bond Oath, and Letters of Administration including two sureties on Bond and the cost and allowance of recording same and if any fees are allowed for copies of same and what the Court is allowed for attaching Seal to Letters of Administration including all costs including vacation order up to issuing Inventory. Is there any blanks issued that conform with Statutes of 1929 by any printing Co. and are there any additional fees allowed by Statutes besides Section 11782 as by first paragraph."

All of the fees which the probate judges are permitted to charge in the administration of estates are set out in Section 11782 Revised Statutes of Missouri 1929. That part of said section which applies to fees earned by the probate judge prior to the filing of the inventory in the estate are as follows:

"For granting letters of administration or testamentary, recording the same, appointing witnesses, administering oaths, and everything relating thereto..... \$1.00

For taking and filing bond of executor,

administrator, guardian or curator, and recording such bonds.....	.75
For an order of publication.....	.40
For copy of every such order....	.35
For every order relating to administrators, executors or guardians, not herein otherwise provided for.....	.15
For copying any order, or record or paper, not herein provided for, for every hundred words and figures.....	.10
For every certificate and seal.....	.50
For issuing every subpoena.....	.25
For administering every oath....	.05
For commission to take deposition.....	.50
For an execution or other writ not hereinbefore provided for.....	1.00
For filing every paper not herein specified.....	.05
For hearing and determining every cause submitted to him for trial.....	.50

As to the right of the officer to charge fees for any service for which a fee is not provided by the statute, I find the rule stated in case of State ex rel v. Brown, 146 Mo. 401, 406, in which the court stated:

"It is well settled that no officer is entitled to fees of any kind unless provided for by statutes and being solely of statutory rights statutes allowing the same must be strictly construed."

Applying this rule, the probate judge must go to Section 11782, Revised Statutes of Missouri, for his authority to charge for any service he performs in connection with the administration of an estate.

As stated in Kelly's Probate Guide, Fifth Edition, Sec. 108:

"The provisions of this statute (Sec. 11782, R.S. Mo., 1929) are very indefinite and elastic in character."

For these reasons this office is unable to render an official opinion on this probate fee question which is not general in its nature, but the writer will attempt to render an opinion which will cover the questions and fees which generally come up in the administration of an estate up to the filing of the inventory.

The first step in the administration of an estate is the application for letters of administration as provided by the provisions of Section 8, R.S. Mo., 1929. The fees which are chargeable in connection with this application vary, depending upon the circumstances. If there should be a contest as to who shall administer, or if those who are entitled to administer, fail to make application, then the Court on motion of any person interested, may issue citation to any such person to appear and qualify and if they fail to do so within a specified time, the Court or clerk in vacation may grant letters to some person that the court deems most suitable.

For all papers filed in connection with such hearings the court may charge a fee of five cents each; for recording such application, if it is recorded a charge of ten cents per hundred words and figures may be charged; for each oath administered at such hearing the court may charge a fee of five cents; for attaching the certificate and seal of the probate court that any paper in connection with the application has been recorded, a fee of fifty cents is allowed, and for every order the court may make pertaining to the application, a fee of fifteen cents.

The Probate Judge, by said section 11782, R.S. Mo., 1929, is permitted to charge a fee of one dollar for granting letters of administration or testamentary, recording same, appointing witnesses, administering oaths, and everything relating thereto.

The writer notes from your letter that you ask whether or not the court is allowed a fee for attaching the seal to letters of administration. It is the opinion of this department that by the provisions of the above clause, the legislature intended that this fee of one dollar is to include every charge the probate judge is authorized to make for his services which are performed by virtue of Sections 1, 2, and 3 of the Revised Statutes of Missouri, 1929, which pertain to the granting of letters, recording

same, appointing witnesses, administering oaths and everything relating thereto, which includes the charge the court makes for attaching the seal of the court to the letters of administration.

For taking and signing of the bond of the administrator, and recording it, the fee of seventy-five cents is allowed. It is the opinion of this department that this fee includes any charge made for administering oaths, for any examination that may be made in connection with the taking and approving of the bond; including the certificate and seal of the court that such bond has been filed and recorded.

If the probate judge issues a subpoena for witnesses in any hearing pertaining to the administration, it is the opinion of this department that he is entitled to charge a fee of twenty-five cents.

For certified copies of the letters of administration, a charge at the rate of ten cents per hundred words and figures and fifty cents for the certificate and seal may be made by the Court.

Section 15, Revised Statutes of Missouri, 1929, provides that the administrator, after his appointment and qualifying, shall make affidavit that he will make a perfect inventory of the estate and fully administer the same, pay the debts as far as the assets will permit, and furnish the court with the names and addresses of the widow and heirs of the deceased. The Court may charge a fee of five cents for filing this affidavit and for administering any oath in connection therewith he may charge a fee of five cents, and if the affidavit is recorded he may charge the fee of ten cents per hundred words and figures and fifty cents for the certificate and seal of the recording of such affidavit.

Section 75, R. S. Mo. 1929, provides that after letters of administration have been granted, the administrator shall sign and swear to a notice which is termed 'notice of letters', and a copy of this notice of letters must be published.

It is the opinion of this department for the services performed in connection with this duty, the probate judge is permitted to charge as follows:

Order of publication.....	40¢
Copy of such order.....	35¢
Certificate and seal to same.....	50¢

Administering one oath.....05¢

Section 61 Revised Statutes of Missouri 1929 provides that at the time of the appointment of the administrator the court shall appoint three disinterested witnesses to aid the administrator in the appraisal. It is the opinion of this department that the charge for this service is included in the allowance of one dollar for granting letters, etc. It is also the opinion of this department that the legislature intended that the vacation order made by the probate clerk in granting letters of administration should be included in the fee of one dollar for granting letters, etc.

The writer would suggest that you write to some record printing company to ascertain whether the blanks you inquire about in your letter are printed.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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J.E.TAYLOR  
(Acting)Attorney General

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