

Probate Fees Tax Panel Discussion



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Probate Court Jurisdiction

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- Children's Matters
- Conservatorships
- Guardianships of Adults with Intellectual Disability
- Mental Health Commitments
- Decedents' Estates and Trusts

Organizational Structure

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- State Court
- 54 Districts
 - Court consolidation in 2011 closed 63 courts
- One elected judge per district
- Housed in municipal facilities

Financial Structure

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- Probate Court Administration Fund
 - All system finances administered through the fund
 - State Treasurer has custody and invests funds
 - Automatic annual sweep to general fund
- Probate Court system budget
 - Approved by Chief Court Administrator
 - Separate from Judicial Branch finances
 - Administered by PCA
 - Current year: \$42.8 million

Probate Fees

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- **Filing Fees**
 - \$150 since 1998
 - \$225 effective January 1, 2016
- **Accounting Fees**
 - Revised effective January 1, 2016
 - ✦ 0.05% of greater of assets or income, multiplied by number of years in accounting period
 - ✦ Minimum fee: \$50
 - ✦ Maximum fee: \$500 per year

Decedents' Estate Fees

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<i>Value of Estate</i>	<i>Probate Fee</i>
\$0 to \$500	\$25
\$501 to \$1,000	\$50
\$1,000 to \$10,000	\$50, plus .01 of all in excess of \$1,000
\$10,000 to \$500,000	\$150, plus .0035 of all in excess of \$10,000
\$500,000 to \$2 million	\$1,865, plus .0025 of all in excess of \$500,000
\$2 million and over	\$5,615, plus .005 of all in excess of \$2,000,000

Effective for decedents dying on or after January 1, 2015

Probate Fee Revenue

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Projected Additional Revenue from Fee Changes

<u>Category of Fees</u>	<u>FY 16</u>	<u>FY 17</u>
Decedents' Estates	\$11,000,000	\$11,000,000
Filing	\$425,000	\$850,000
Filing Accounting	\$220,000	\$440,000

Probate Fee Revenue

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Projected Revenue by Category

<u>Category of Fees</u>	<u>FY 16 Projected Revenue</u>	<u>Percentage of Total</u>
Decedents' Estates	\$37,922,500	88.6%
Filing	\$2,062,500	4.8%
Accounting	\$2,660,000	6.2%
Miscellaneous	\$160,000	0.4%

Chart 1

Comparison of Probate Fees on Decedents' Estates

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<u>State</u>	<u>Fee Type</u>	<u>Includes Non-Probate Assets?</u>	<u>Cap on Fees?</u>	<u>Top Marginal Rate</u>
Connecticut	Percentage fees	Yes	No	0.5% of amount over \$2 million
Arizona	Flat fees	N/A	N/A	N/A
California	Flat fees	N/A	N/A	N/A
Florida	Flat fees	N/A	N/A	N/A
Georgia	Flat fees	N/A	N/A	N/A
Maine	Tiered fees	No	No	0.04% of amount over \$2.5 million
Massachusetts	Flat fee + Tiered fees	No	Yes	N/A
Nevada	Flat fees + Tiered fees	No	Yes	N/A
New Hampshire	Tiered fees	No	Yes	N/A
New Jersey	Flat fees	N/A	No	N/A
New York	Tiered fees	No	Yes	N/A
North Carolina	Flat fees + Percentage fees	Yes	Yes	N/A
Pennsylvania	Flat fees + Tiered fees	No	No	0.015% of amount over \$400,000
Rhode Island	Percentage fees	No	Yes	N/A
South Carolina	Percentage fees	No	No	0.025% of amount over \$600,000
Texas	Flat fees	N/A	N/A	N/A
Vermont	Flat fees + Tiered fees	No	Yes	N/A

Chart 2

Cost Recovery in Court Systems

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<u>Court System</u>	<u>Court Fee Revenue</u>	<u>Court Expenditures</u>	<u>Percentage Recovered</u>
CT Judicial Branch	\$54,011,781	\$547,046,370	10%
NY Judicial Branch	\$407,000,000	\$1,820,000,000	22%
MA Judicial Branch	\$110,966,421	\$822,981,815	13%
FL Judicial Branch	\$914,643,781	\$443,416,191	N/A
Charleston County, SC Probate Court	\$1,266,075	\$2,421,037	52%
Cobb County, GA Probate Court	\$1,151,000	\$1,510,597	76%
Providence, RI Probate Court	\$157,783	\$443,974	36%

Issues to Consider

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- Relationship between the fee and the service
- Inconsistencies with the estate tax
- Enforcement problems
- Best practices in other states
- Effect on migration
- Volatility of revenue stream

Policy Options to Consider

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- Status quo
- Restore the cap on fees
- Overhaul fee structure
- Require that all estate tax returns be filed with DRS