

Assembly Bill No. 232

Passed the Assembly September 13, 2001

Chief Clerk of the Assembly

Passed the Senate September 10, 2001

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 1303, 10800, 10804, and 10810 of the Probate Code, relating to estates and trusts.

LEGISLATIVE COUNSEL'S DIGEST

AB 232, John Campbell. Administration of estates and trusts.

Existing law provides that the grant or refusal to grant certain orders regarding a decedent's estate is appealable, including orders adjudicating the merits of a claim regarding the transfer or conveyance of real property of a decedent.

This bill would make that provision applicable to any final order relating to the proration of estate taxes or generation-skipping transfer taxes, as specified. The bill would also revise that provision to make it inapplicable to the orders described above.

Existing law authorizes a personal representative of an estate, and the attorney for the personal representative of the estate, to be compensated for ordinary services based on the value of the estate accounted for by the personal representative at a rate of 4% on the first \$15,000, 3% on the next \$85,000, and 2% on the next \$900,000, and as further specified.

This bill would change those specific rates to 4% on the first \$100,000, 3% on the next \$100,000, and 2% on the next \$800,000.

Existing law also specifies that regardless of the provisions in a decedent's will, a personal representative who is an attorney may receive the personal representative's compensation but cannot receive compensation for services as the attorney for the personal representative unless the court approves the right to compensation.

This bill would instead provide that a personal representative who is an attorney shall be entitled to receive the personal representative's compensation, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1303 of the Probate Code is amended to read:

1303. With respect to a decedent's estate, the grant or refusal to grant the following orders is appealable:



(a) Granting or revoking letters to a personal representative, except letters of special administration or letters of special administration with general powers.

(b) Admitting a will to probate or revoking the probate of a will.

(c) Setting aside a small estate under Section 6609.

(d) Setting apart a probate homestead or property claimed to be exempt from enforcement of a money judgment.

(e) Granting, modifying, or terminating a family allowance.

(f) Determining heirship, succession, entitlement, or the persons to whom distribution should be made.

(g) Directing distribution of property.

(h) Determining that property passes to, or confirming that property belongs to, the surviving spouse under Section 13656.

(i) Authorizing a personal representative to invest or reinvest surplus money under Section 9732.

(j) Determining whether an action constitutes a contest under Chapter 2 (commencing with Section 21320) of Part 3 of Division 11.

(k) Determining the priority of debts under Chapter 3 (commencing with Section 11440) of Part 9 of Division 7.

(l) Any final order under Chapter 1 (commencing with Section 20100) or Chapter 2 (commencing with Section 20200) of Division 10.

SEC. 2. Section 10800 of the Probate Code is amended to read:

10800. (a) Subject to the provisions of this part, for ordinary services the personal representative shall receive compensation based on the value of the estate accounted for by the personal representative, as follows:

(1) Four percent on the first one hundred thousand dollars (\$100,000).

(2) Three percent on the next one hundred thousand dollars (\$100,000).

(3) Two percent on the next eight hundred thousand dollars (\$800,000).

(4) One percent on the next nine million dollars (\$9,000,000).

(5) One-half of one percent on the next fifteen million dollars (\$15,000,000).



(6) For all amounts above twenty-five million dollars (\$25,000,000), a reasonable amount to be determined by the court.

(b) For the purposes of this section, the value of the estate accounted for by the personal representative is the total amount of the appraisal value of property in the inventory, plus gains over the appraisal value on sales, plus receipts, less losses from the appraisal value on sales, without reference to encumbrances or other obligations on estate property.

SEC. 3. Section 10804 of the Probate Code is amended to read:

10804. Notwithstanding any provision in the decedent's will, a personal representative who is an attorney shall be entitled to receive the personal representative's compensation as provided in this part, but shall not receive compensation for services as the attorney for the personal representative unless the court specifically approves the right to the compensation in advance and finds that the arrangement is to the advantage, benefit, and best interests of the decedent's estate.

SEC. 4. Section 10810 of the Probate Code is amended to read:

10810. (a) Subject to the provisions of this part, for ordinary services the attorney for the personal representative shall receive compensation based on the value of the estate accounted for by the personal representative, as follows:

(1) Four percent on the first one hundred thousand dollars (\$100,000).

(2) Three percent on the next one hundred thousand dollars (\$100,000).

(3) Two percent on the next eight hundred thousand dollars (\$800,000).

(4) One percent on the next nine million dollars (\$9,000,000).

(5) One-half of 1 percent on the next fifteen million dollars (\$15,000,000).

(6) For all amounts above twenty-five million dollars (\$25,000,000), a reasonable amount to be determined by the court.

(b) For the purposes of this section, the value of the estate accounted for by the personal representative is the total amount of the appraisal of property in the inventory, plus gains over the appraisal value on sales, plus receipts, less losses from the



appraisal value on sales, without reference to encumbrances or other obligations on estate property.



Approved _____, 2001

Governor

