

## **BILL OF COSTS**

### **1. FORM**

**Documents to attach and number of copies:** the following documents must be filed at the Court, in 2 copies, 1 original and 1 copy:

- the bill of costs;
- the notice of presentation;
- the report of the service of the bill of costs; and
- the supporting documents for the amounts claimed (for example, the reports of service, the costs for transcription, the bills of the firm used for the preparation of the appeal factum or the book of authorities, the bills for transportation costs, etc.).

**Service:** The bill of costs, the notice of presentation and the supporting documents must be served on the party that is responsible for their payment, if an appearance was filed, with a notice of at least 5 days from the date on which it will be presented to the Clerk for taxation (art. 480 par.1 *Code of Civil Procedure (C.C.P.)*). In the event that there has not been an appearance filed, no service is required.

**Presentation:** In Montreal, bills of cost are presentable from Monday to Friday at 9 a.m. at the counter of the Office of the Court (RC-01). In Quebec City, bills of cost are also presentable from Monday to Friday at 9 a.m. at the counter of the Office of the Court (Room 4.27).

**Stamp:** The stamp required for the taxation of the bill of costs is currently \$50,25 for a legal person and \$34 for a physical person.

## **II. CONTENTS**

### **1. Costs**

Costs are comprised of judicial fees and judicial expenses. In accordance with article 125 of the "*Act respecting the Barreau du*

*Québec*" (R.S.Q. ch. B-1) one must be a lawyer in order to claim judicial costs. However, a party who represents himself or herself may claim judicial disbursements (see *Imprimerie des Éditions Vaudreuil Inc. v. Laplante*, J. E. 93-773 (C.S.)).

Costs are calculated according to tariffs that are in force (Art.480 par. 1 *C.C.P.*), as well as upon presentation of the supporting documents.

### **1.1 Judicial fees**

In **civil matters**, judicial fees are established in accordance with the amounts set out in the following tariffs:

- the "*Tariff of Judicial fee of advocates*" (chap. B-1, r.13); and
- the "*Regulation to ratify the Agreement between the Minister of Justice and the Barreau du Québec respecting the conditions of practice, the procedure for the settlement of disputes and the tariff of fees of advocates under the legal aid plan entered into on 4 April 2008*" (chap. A-14 r.1.4).

In **bankruptcy** matters, in the absence of an express indication contained in the judgment, the judicial fees will be taxed as between the parties (art. 197 "*The Bankruptcy and Insolvency Act*", R.S.C., 1985, ch. B-3). The amount of taxable judicial fees is set at the discretion of the taxation officer in according to what he or she thinks is just and reasonable (see *Roy (Syndic de)*, J.E. 2008-503 (C.A.), *Plachcinski (Syndic de)*, J.E. 2006-91 (C.A.), *Biron v. Caisse populaire Desjardins Buckingham*, [2003] R.J.Q. 1771 (C.A.)).

It is important to note that in penal and criminal matters the Clerk does not have the authority to tax a bill of costs: See *Maison joyeuse Inc. v. Fournier*, J.E. 95-1719 (S.C.) (confirmed by the Court of Appeal: *Maison joyeuse Inc. v. Fournier*, C.A., Montreal, N° 500-09-001362-953, March 14, 1997).

### **1.2 Judicial disbursements**

Judicial disbursements are taxed in favour of the party that is entitled thereto upon presentation of supporting documentation. Judicial disbursements include, among other things, the fees for service, room rental and the cost of long distance communications necessary for the holding of a videoconference, the costs of transcription or of the

translation of depositions in accordance with the tariff, the costs of copying the exhibits as well as those for the preparation and printing of the factums, schedules and books of authorities (see article 93 of the *Rules of the Court of Appeal of Quebec in Civil Matters*).

In **civil matters**, disbursements are generally calculated using the following tariffs, directives or rules:

- the "*Tariff of Court Costs in Civil Matters and Court Office Fees*" (c. T-16, r.11.3);
- the "*Décret concernant les allocations de frais de voyage des juges de la Cour du Québec*" (Decree concerning the allocation of travel expenses for judges of the Quebec Court) (c.T-16, r.1.1). To be more precise, for the use of one's own automobile for travel, article 5 (c) of the *Décret* refers to the tariff in force within the governmental administration: *Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents* (*Directive concerning reimbursable expenses for travel and other inherent expenses*) (C.T.202754), [www.tresor.gouv.qc.ca/fr/publications/secretariat/frais-deplacement.pdf](http://www.tresor.gouv.qc.ca/fr/publications/secretariat/frais-deplacement.pdf);
- the "*Tariff of fees for the recording and transcription of depositions of witnesses*" (c.S-33, r.3); and
- the "*Tariff of fees and transportation expenses of bailiffs*" (c.H-4.1, r. 1).

Since *Procureur général du Canada c. Imperial Tobacco Canada Ltd et al.*, 2009 QCCA 1103 (C.A.), QST and GST are included in a bill of costs.

Finally, as mentioned above, the Clerk does not have the authority to tax a bill of costs in **criminal and penal matters**: see *Maison joyeuse Inc. v. Fournier*, J.E. 95-1719 (S.C.) (confirmed by the Court of Appeal: *Maison joyeuse Inc. v. Fournier*, C.A., Montreal, n° 500-09-001362-953, March 14, 1997).

### III. HELPFUL INFORMATION CONCERNING CERTAIN JUDICIAL DISBURSEMENTS

#### 1. Costs for the preparation of the appeal factum

If the factum or the document that takes its place is prepared by a specialized firm, upon production of a detailed bill, the majority of the preparation fees will generally be taxable, including, since the decision of the Court of Appeal in the matter of *Québec (Sous-Ministre du Revenu) v. Pétroles Irving Inc.*, J.E. 2002-887 (C.A.), the fees for delivery and production. If the fees for the service of the factum appear on the invoice of the firm that prepared it, they will not be taxed until the filing of the report of service of the bailiff.

If the factum or the document taking its place is prepared in-house the sum allocated is 27 cents per page multiplied by the number of copies reproduced (Directive of the Chief Justice of Quebec, J.J. Michel Robert, dated September 17, 2002: [www.tribunaux.qc.ca/c-appel/English/billofcosts/Taxation/taxation.html](http://www.tribunaux.qc.ca/c-appel/English/billofcosts/Taxation/taxation.html)). This amount includes binding, cover pages etc.

In as far as the fees for service of the factum is concerned, it must be served in 2 copies and the sum of \$16 (2 copies x \$8) will be allocated thereto, notwithstanding the number of volumes. It should be noted that the amounts appearing in the report of service representing extrajudicial expenses cannot be reimbursed.

## **2. Fees for the preparation of the book of authorities**

If the preparation has been confided to a specialized firm, upon production of a detailed bill, the majority of the preparation fees will generally be taxable.

If the book of authorities has been prepared in-house the sum allocated is 25 cents per page multiplied by the number of copies reproduced. This amount includes binding, cover pages etc.

As for the fees for service of the book of authorities, only 1 copy of which should be served, the sum of \$8 will be allocated thereto, notwithstanding the number of volumes. It should be noted that the amounts appearing in the report of service and representing extrajudicial expenses cannot be reimbursed.

## **3. Transcription fees**

In so far as transcription fees are concerned it is important to specify the number of pages transcribed and to set out how many pages have

been dedicated to the depositions of ordinary witnesses, of expert witnesses and to the pleadings. The amounts that may be claimed for the transcription of stenographic notes are set out in the "*Tariff of fees for the recording and transcription of depositions of witnesses*" (chap. S-33, r.3). The following table is a resume of articles 4 and 6 of such tariff:

<b>Transcription fees</b>		
	<b>Ordinary Witness</b>	<b>Expert Witness</b>
When the stenographer takes down the evidence.	\$2.90 per page	\$3.50 per page
When the stenographer takes down the evidence and transcription is required within 5 working days	\$4.35 per page	\$5.25 per page
When the stenographer takes down the evidence and transcription is required from day to day	\$5.80 per page	\$7.00 per page
When the evidence has been taken down by means of equipment provided by the Ministry of Justice	\$3.70 per page	\$3.70 per page
When the evidence has been taken down by means of equipment provided by the Ministry of Justice and transcription is required within 5 working days.	\$5.55 per page	\$5.55 per page
When the evidence has been taken down by means of equipment provided by the Ministry of Justice and transcription is made from day to day.	\$7.40 per page	\$7.40 per page

N.B.: in all cases, the stenographer is entitled to a minimal fee of \$17.00.

#### **IV. CONTESTATION**

It is possible for a party to contest the amounts claimed in a bill of costs. The contestation may be made in writing or orally. If it is presented orally, you should advise the other party and the Clerk of the Court in charge of hearing contestations. On the other hand, if you opt for a written contestation and if a delay is required to present your reasons for contestation, please communicate with the Clerk before the date of presentation of the bill of costs in order to agree upon a delay. An equivalent delay will be accorded to the other party to produce a reply, if applicable.

In Montreal, please contact Mtre Bertrand Gervais, Deputy Clerk at the Quebec Court of Appeal at the following telephone number: 514 393-2022 extension 51242.

In Quebec City, please contact Mtre Claire Roberge, Deputy Clerk at the Quebec Court of Appeal at the following telephone number: 418 649-3401 extension 42296.

## **V. REVISION**

The taxation effected by the Clerk may be revised by a judge of the Court of Appeal (art. 480 par. 2 *C.C.P.*). This request must be made by motion within 30 days following the date of taxation.