

## **MASTER'S MEMORANDA**

### ***Memorandum to Practitioners No 1/13 - Costs in winding up proceedings***

This memorandum is in substitution for Master's Memorandum No 2/93 and applies in respect of the taxation of costs in winding up proceedings filed from the date hereof.

Master's Memorandum No 2/93 established a simplified process in respect of the taxation of costs in proceedings for the winding up of a company where the Plaintiff elected to accept the composite fee prescribed from time to time in lieu of the taxation procedure set out in the Supreme Court Rules.

The composite fee was initially set at an amount which represented the then average amount allowed on a full taxation in such matters. The composite fee has been revised annually contemporaneously with the review of the unit rate for costs pursuant to the Supreme Court Rules. Currently the composite fee is \$3,023.00.

Additionally, where the court allowed or reserved the costs of an adjournment, Master's Memoranda No 2/93 provided that the composite fee bill could include an additional fee for each such adjournment. The fee was set at 10 units at the standard rate but that fee has never been revised. Henceforth the fee will be increased to 10 units at the current standard rate, namely \$250.00. In future the adjournment fee will be revised whenever the composite fee is revised.

Where the Plaintiff elects to accept the composite fee, a Summons for Taxation is not required. The Plaintiff is only required to file a bill in short form, in the form of the sample attached with such variations as are required.

The composite fee bill is to be endorsed with a notation that the Liquidator may, by notice in writing given to the Registrar or the Plaintiff, no later than 8 days after the service of the bill, object to the bill in that form. It must be served on the Liquidator no later than 10 days before it is filed. Service on the Liquidator may be effected by post addressed to the Liquidator's office and will be effective service if it is not returned as undelivered. Alternatively it may be served by electronic mail provided that a receipt acknowledgement is requested and received and provided further that the Taxing Master is satisfied as to the correct email address.

If the Liquidator files an objection to the composite fee bill at the Supreme Court then the Registrar will notify the Plaintiff's solicitor of the objection and no further action will then be taken in respect of the composite fee bill. Where the Liquidator gives notice to the Plaintiff's solicitor, then the composite fee bill procedure may not be utilised.

In either case, the Plaintiff will then be required to follow the usual procedure and produce the usual bill which will be dealt with in the usual way. In that

event, the Plaintiff may claim the costs of and incidental to the attempted composite fee taxation.

If the Liquidator notifies the Plaintiff that he/she does not object to the composite fee procedure then that fact shall be endorsed on the short form bill. Otherwise the fact that the Liquidator has not notified the Plaintiff of an objection to the composite fee bill is to be acknowledged in the composite fee bill.

If service on the Liquidator is effected in the manner provided for in this Memorandum, then it will not be necessary for proof of service to be filed provided the short form bill is endorsed to that effect in accordance with the attached sample.

It should be noted that the composite fee takes into account service of all documents by the solicitor's clerk so that a fee for service in the disbursements will not be allowed.

As soon as practicable upon the filing of a composite fee bill, accompanied by photocopies of supporting documents in respect of disbursements, if the procedure set out in this Memorandum has been complied with, the bill will be allowed without the need for anyone to attend on the taxation.

A form of order in triplicate (*see sample attached*) should accompany the bill. Subject to there being no objection received from the Liquidator, the order will be authenticated and sealed and, upon payment of the taxing fee, copies made available to the solicitor for service.

The usual taxing fee of 7.5% of the total of costs and disbursements allowed will apply to a composite fee bill.

Where a practitioner opts not to accept the composite fee, then the practitioner will then be required to follow the usual procedure and produce the usual bill which will be dealt with in the usual way.

13 March 2013

**IN THE SUPREME COURT  
OF THE NORTHERN TERRITORY  
OF AUSTRALIA  
AT DARWIN**

No      of 20  
(                      )

**BETWEEN:**

(*name*)

Plaintiff

**AND:**

(*name*)

Defendant

**IN THE MATTER OF** (*name of  
company*), In Liquidation

***BILL OF COSTS***

- |    |  |       |
|----|--|-------|
| 1. | Plaintiff's bill of costs on composite fee basis   | \$    |
| 2. | ( <i>where applicable</i> ) Costs on adjournment on ( <i>date</i> )<br>allowed ( <i>or reserved</i> ) by the Court on ( <i>date</i> )<br>( <i>allow 10 units at the current rate eg 10 x \$25.00</i> ) | \$    |
| 3. | Plus disbursements, per the attached copies of invoices:-  |       |
|    | a) Search fees:-   | \$    |
|    | b) Photocopying fees:-   | \$    |
|    | c) Filing fee:-  | \$    |
|    | d) Advertisement:-   | \$    |
|    | Total disbursements:   | \$    |
|    |  | <hr/> |
|    |  | \$    |
| 4. | Plus 7.5% taxing fee on total costs and disbursements  | \$    |
|    |  | <hr/> |
| 5. | Total costs  | \$    |
|    |  | <hr/> |

**TO:** (name of Liquidator)  
(address)

1. The Plaintiff in this proceeding has elected to accept the composite fee for costs of winding up the company.
2. **TAKE NOTICE** that 10 days after service on you of this bill, the plaintiff intends to file a copy of the bill at the Supreme Court for an order for costs as shown above.

You may, by notice in writing delivered either to the Registrar at the Supreme Court Registry or to the Plaintiff by post or delivered to the address specified below within 8 days of this service on you, object to the bill in this form. Thereafter the plaintiff will be required to file, and serve upon you, a Summons for Taxation and a full Bill of Costs in taxable form in as is otherwise required by the Supreme Court Rules. Additional costs will be incurred in that event which the Plaintiff will be entitled to claim those additional costs on taxation.

**TO: THE TAXING MASTER**

This bill of costs was served on the Liquidator on *(insert date)* in the manner permitted by Master's Memorandum 1/2013.

\*The Liquidator has notified me that he/she has no objection to taxation of the Plaintiff's costs by composite fee short form bill.

\*The Liquidator has not notified me that he/she objects to taxation of the Plaintiff's costs by composite fee short form bill.

\* *Delete whichever is not applicable*

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

.....  
(Signature of Plaintiff's solicitor)

Plaintiff's address for service:

**IN THE SUPREME COURT  
OF THE NORTHERN TERRITORY  
OF AUSTRALIA  
AT DARWIN**

No      of 20  
(                      )

**BETWEEN:**

*(name)*

Plaintiff

**AND:**

*(name)*

Defendant

**IN THE MATTER OF** *(name of company)*, In Liquidation

ORDER

TAXING MASTER:                      *(leave blank)*

DATE MADE:                              *(leave blank)*

ORIGINATING PROCESS:              Originating Process filed *(date)*

HOW OBTAINED:                      Taxation of costs pursuant to Master's Memorandum 1/2013

APPEARANCE:                              Nil

OTHER MATTERS:

THE COURT ORDERS THAT:

The Plaintiff's costs be allowed in the sum of \$                      *(total amount)* including a taxing fee of \$

DATE AUTHENTICATED:

REGISTRAR