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Uncovering the Hidden Costs of Estate Planning

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From buying a car to airline tickets, hidden costs are unavoidable and seemingly involved in every aspect of our lives. Estate planning is no different. The true costs are typically hidden from the client and the benefits one might think you were getting can disappear. Lack of cost transparency is one of the reasons why estate planning can fail. When clients don't understand the estate planning process and associated costs — both for taking action and not taking action — one's legacy planning can be placed in jeopardy.

To appreciate the total impact of estate planning (and the potential consequences for not planning properly), you need to understand every aspect of the estate planning process — from plan creation to maintenance and administration. By weighing the costs and corresponding benefits of each step in the process, you can determine the real value of estate planning and which plan is right for them.

STEP 1: UPFRONT COSTS IN PLAN CREATION

The first cost to consider in the estate planning process is creating and documenting an estate plan. To begin, you will need to name the right people as the executors/personal representatives, trustees, powers of attorney and health care proxies, and outline your

beneficiaries and wishes. These choices need to be thought through and explained, including all the consequences, and then documented properly. This essential step is informative as to how wills and trusts work, and helps you to articulate your goals, so your estate planner can develop a strategy and plan that achieves your short- and long-term objectives.

Be aware, some law offices will charge a fee for an introductory meeting. In order to establish a client relationship and create attorney client privilege, a fee may be charged especially if the attorney is making a recommendation. However, most estate planners see this introductory meeting as a business development opportunity so there is no charge. Nowadays, we have an abundance of technology at our fingertips, so an introductory meeting can happen virtually by video or phone which can save everyone valuable time. The main goal of this first meeting is to determine if the estate planner is a good fit and brings the right skills and knowledge to the table to help you meet your life and legacy goals. During this meeting, you will also be able to decide if their rates are commensurate with the service and experience you are being promised.

Some estate planning offices will charge by the hour, while others will offer flat-rate pricing for their plans. With an hourly rate model, there is greater risk of uncertainty in knowing the actual plan cost until the work is complete and the attorney has submitted his/her billed hours. Hourly rates can tend to make clients either feel rushed to get the work done quickly to keep the bill low, or things will tend to drag out without resolution since the meter for the client is always running. Conversely, flat-rate pricing provides more transparent and predictable plan development costs, which some individuals may prefer. In either case, when considering which estate planner to hire, it is important to fully understand the billing model and all options available to you.

No matter what payment options are available, you should think of time as a currency, too. Your estate planner should take the time needed to educate you on the process. She or he should also take the time to gain an in-depth understanding of your needs and

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goals, and should be willing to dedicate his/her expertise to guide you every step of the way. This white-glove service is what sets many estate planners apart, and can be worth a few extra dollars. At the end of the initial meeting, you should feel confident in your advisor's abilities and comfortable with the level of service. You should also have a clear understanding of what plan development entails, the timeline, and what needs to be done.

Document creation is only the first cost involved in estate planning, and to understand the total investment, one must consider plan maintenance and plan administration.

STEP 2: ANNUAL COST OF PLAN MAINTENANCE

The second cost to consider is updating (or failing to update) an estate plan over time. All too often, people assume that once the initial estate plan is drafted, the entire process is complete. However, this is only the first step in a continuous process that will take place for the rest of your life. Estate plans are living, breathing documents that should be updated annually, at a minimum. Failure to make regular updates may mean that life changes or new assets are not reflected in the plan, which can impact the effectiveness of a plan (e.g., not allowing beneficiaries to access what they should be entitled to).

Since our lives are not static, estate plans need to reflect the inevitable changes of life (birth, marriage, divorce, and deaths in the family), assets (new accounts, new properties, etc.), and laws (tax law change, and statutory and case law changes, etc.). Whether it is a new child left out or an ex-spouse left in, plans need to be current to prevent complications. If not maintained, the goals of a plan will fall apart. Unfortunately, plan maintenance is often overlooked or neglected which can have dire and costly consequences, both monetarily and emotionally.

STEP 3: PLAN ADMINISTRATION, COSTS AFTER YOU ARE GONE

The third cost involves plan administration a cost that most people overlook since they will not be around to experience execution of their own plan. For the most part, this stage occurs when you are incapacitated or have passed on.

For example, when a person dies with a will, the executor/personal representative has no authority until a court reviews the will and issues a letter stating that the person named in the will is officially named the executor/personal representative. This involves filing a petition, giving notice and publication. In many states, the probate process can take months or even

years. In Massachusetts, for example, a typical probate cannot be closed until a full year has passed from the date of death. These are all costs that will have to be *paid* during the will's administration. The required probate process of dealing with financial institutions and courts can be time-consuming and expensive. During the pandemic, the court may even be closed, or slower than usual.

When creating your estate plan, it is critical to consider plan administration costs. Deceptively, a will is usually the least expensive option to create upfront. Attorney fees tend to be lower for will drafting, and most online programs offer low-cost will templates. Unfortunately, while you may save on upfront costs, you may pay dearly on the back-end. Once you factor in the cost of administration, (*typically done by the same firm that wrote the will*), a will-based plan is usually one of the most expensive planning tools that you can use since probate fees can be upwards of 10% or more of the entire estate, on top of all the other costs and stresses that are caused.

A revocable trust is the best value and least expensive option as far as total plan costs, if it is created, funded, and maintained with regular updates. Upon the death of the creator of a revocable trust, the trust outlines who the successor trustee will be after the trust creator dies. If a trust is properly funded, then the successor trustee has access to the accounts and can begin the process of making decisions and distributions. There typically is no probate process if you have a funded trust but, if not funded, the assets in the decedent's name will first have to pass through a costly probate process for the assets to end up in the trust.

The most common mistake involving revocable trusts is believing that by the act of creating one, you will avoid probate. Since the unfunded trust does not own the assets, those assets in the decedent's name will first have to pass through the probate process and at the end of probate, they will end up in the trust. The most important lesson is that if you create a revocable trust to reduce probate administration costs, you must fund the trust. If a revocable trust is created, funded, and maintained with regular updates, it is the least expensive option for most people as far as total costs of a plan.

However, if not funded, the entire plan will go to waste. The plan will go into costly probate, which comes with additional costs. The law firms managing the plans will need to get paid during this process, which is a huge cost that would have been totally avoidable if the correct incentives were focused on. An unfunded trust is one of the most common issues in the estate planning community and something that can be avoided if the time is dedicated to understanding the process during the planning phase.

As consumers, we may never be able to eradicate hidden costs in our daily lives, but with some strategic planning and expert maintenance, we can eliminate the unknowns involved in estate planning. When embarking on the estate planning path, it is important to ask the right questions of your estate planner to en-

sure you understand the step-by-step process and can evaluate the cost and benefits around the creation, maintenance, and administration of your estate plan. Taking these preventative measures will help ensure that your life and legacy goals are met and your loved ones are protected.