

So What Does A Will Really Cost?

If you are like most people, you want to save money where you can. You may think that you can save money on your estate planning by only doing a simple will. But what does a Will *really* cost?

Call almost any lawyer, and ask the question: “What does it cost to get a Will?” The answers you get will vary, but for the most part, they will range somewhere between \$100 and \$500, depending on whether the plan is for a single person or a couple, and whether the plan includes a Financial Power of Attorney, a Power of Attorney for Health Care, and a Living Will.

The fee that you will be quoted only covers one phase of the estate plan process – the plan creation phase. It’s likely that in your conversations with the attorney, you won’t be given any information about the costs of remaining phases in the process – the maintenance phase and the administration phase. Without that information, you really won’t be able to make an informed decision about the cost of your Will plan.

In order to really understand the costs, you need to understand the three phases of the process. Of course, there is the plan creation phase, where you make your decisions about how your estate will be handled and sign the plan documents. The next phase is the maintenance phase, in which you keep your plan up to date, making changes as necessary for changes in the law, changes in your finances, and changes in your decisions regarding your beneficiaries. Finally, in the administration phase, your estate plan is carried out upon your death and your estate is settled.

In the answer to the question, “What does a Will cost?” the attorney generally isn’t addressing the costs of the maintenance and administration phases. Before you make your decision about the kind of estate plan you will have, you need to make sure that you ask about those costs as well.

To give you an idea about the total cost of a Will plan, let’s take a look at the costs of all three phases associated with the Will plan for a hypothetical couple.

Bill and Mary Sample have combined total assets of \$600,000, owned jointly with right of survivorship. They have their lawyer draw up “Simple Wills” for them, which state that upon the death of one spouse, all of the assets will be given to the survivor of them. At the death of the second spouse, the assets will be divided equally among their children. The cost of this estate plan, including the Powers of Attorney and Living Will: \$400.

Three years later, Bill dies. Mary receives all of the marital assets because they were owned joint with survivorship. No probate is required, and because of the unlimited marital deduction, no Ohio estate tax is due on Bill’s death. At this point, Mary owns all of the assets, still valued at \$600,000.

Richard M. Chamberlain, Attorney at Law

801 W. South Boundary, Suite D, Perrysburg, OH 43551

Phone ~ 419-872-7670 E-mail ~ richard@chamberlain-law.net Website ~ www.chamberlain-law.net

Two years later, Mary dies. Since Bill pre-deceased her, all of the assets will go to their two children equally. But in order to get the assets to the children, Mary's estate has to go through the probate process, and estate taxes will need to be paid before the final distributions are made.

The expense of taking an estate through probate will depend largely upon the size of the estate. Most counties in Ohio have a fee schedule that guides attorneys in charging fees. The fee schedule for Lucas County, for example, is as follows:

1 st 100,000 of probate assets	4.5%
Next \$300,000 of probate assets	3.5%
Balance of Probate assets	2.5%
Non-probate assets	1.5%

If Mary's estate goes through probate in Lucas County, the total attorney fee would be approximately \$20,000.

Cost of the Will plan so far? \$20,400.

What about the estate taxes to be paid on Mary's estate? Because Mary was the owner of the entire \$600,000 estate at the time of her estate, the Ohio estate tax that will be due on her estate will be approximately \$16,700.

Total cost of the Will plan? \$37,100.

So what's the alternative?

If Bill and Mary had set up revocable living trusts, and had included estate tax planning provisions in those trusts, the total costs would have been much different.

First, the initial cost to set up the trust plan is more than the Will plan. The fees that are charged for the design and drafting of the trust plan will vary, but for the sake of our analysis, let's assume that the fee is \$2,000. In addition, let's assume that Bill and Mary had their plan prepared by an attorney who has a formal funding and maintenance plan, so their initial cost for funding and first year maintenance will be \$350. Total cost to create and initially fund their trusts - \$2,350.

Because their attorney has a formal maintenance program, over the next 5 years, Bill and Mary will pay \$200 per year to regularly maintain their estate plan. Their attorney will meet with them annually to make sure that the plan is kept up to date for changes in family, finances, and law. They will make sure that the assets are properly funded, including new assets that have been acquired since the date of the previous update. They will receive ongoing education for themselves and their successors on how the trust plan works, how it is to be administered at disability or at death, and other topics of interest that will help Bill and Mary make good decisions for themselves and

Richard M. Chamberlain, Attorney at Law

801 W. South Boundary, Suite D, Perrysburg, OH 43551

Phone ~ 419-872-7670 E-mail ~ richard@chamberlain-law.net Website ~ www.chamberlain-law.net

their family. Total cost of the annual maintenance over 3 years for Bill and Mary - \$600.00.

When Bill passes away, Mary will administer his estate. His trust will control his assets, and because Bill and Mary did estate tax planning, the assets in Bill's trust (\$300,000) will be transferred to a Family Trust. Mary will serve as the Trustee of this Family Trust, and she will be the primary beneficiary as well. There will not be a federal or Ohio estate tax due on Bill's estate, since it is under the amount that is exempt from estate tax.

Because Bill and Mary had enrolled in the annual maintenance program offered by their attorney, the cost to administer Bill's estate is done much more efficiently. In our office, the cost to administer the estate of a trust client enrolled in our "Annual Maintenance" program is 1.0% of the assets in the decedent's gross estate. In Bill's case, the fee would be \$3,000 (1.0% of \$300,000).

Mary will continue to participate in the law firm's Annual Maintenance program. This is especially important so that the proper funding of Bill's Family Trust can be maintained, and so that Mary's trust plan can continued to be updated. The total cost of maintenance over these two years is \$400.

When Mary passes away two years later, her successor trustees will administer her estate. Because of the tax planning and administration that had been done in Bill's estate (Bill's assets were transferred to his Family Trust rather than directly to Mary), the value of Mary's gross estate is only \$300,000, instead of the full \$600,000. As a result, there is no federal or Ohio estate tax due on Mary's estate either, since it is also under the amount that is exempt from estate tax. Finally, the fee to administer Mary's estate would be the same 1.0% of the assets in her gross estate, which in Mary's case would also be \$3,000.

Compare the two plans. Which one actually costs more?

	Will Plan	Trust Plan
Initial Cost of Will/Trust	\$400	\$2,000
Funding and First Year's Maintenance	\$0	\$350
Annual Maintenance	\$0	\$1,000
Administration at Bill's death	\$0	\$3,000
Estate taxes at Bill's death	\$0	\$0
Administration at Mary's death	\$20,000	\$3,000
Estate taxes at Mary's death	\$16,700	\$0
TOTAL COST OF PLAN	\$37,100	\$9,350

Before you make a decision about the type of estate plan that is right for you, make sure you have all of the facts you need to make an informed decision.

Richard M. Chamberlain, Attorney at Law

801 W. South Boundary, Suite D, Perrysburg, OH 43551

Phone ~ 419-872-7670 E-mail ~ richard@chamberlain-law.net Website ~ www.chamberlain-law.net