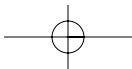
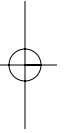
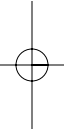
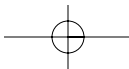
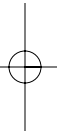
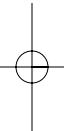
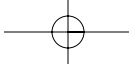


PART I

**The Seven Principles
of Values-Based
Estate Planning**







CHAPTER ONE

Eternal Planning: Why Clients Are Trapped

How long does it take to develop an effective estate plan? Although many possible answers come to mind, one stands out—a lifetime. Client procrastination, changing tax laws, and inertia all contribute to a process that has no apparent beginning or end.

1.1 BASIC ESTATE PLANNING STEPS

In its most basic form, estate planning consists of three steps:

1. Establishing objectives
2. Designing a plan to fulfill the objectives
3. Implementing the plan

In order for effective estate planning to occur, each level must be negotiated successfully in the proper order. Each step builds upon the last; the earlier steps create an essential foundation for those that follow. All three steps are highly interdependent.

Logic suggests that it makes no sense to design a plan before clear objectives are established. Likewise, it is not possible to implement a plan until the client has a plan to implement. Nevertheless, these seemingly senseless initiatives are attempted regularly. Plans are designed without clear objectives, and strategies are implemented before an overall plan is in place.

Technical as it may be, the plan design step actually creates a safety zone in which clients can hide. In this realm clients continually evaluate how various strategies may work, but they are not forced to consider why they work. They consider one strategy after another, but they are not

forced to make decisions. The plan design step fosters procrastination and results in what may be viewed as *eternal planning*.

1.2 WHY CLIENTS ARE TRAPPED IN ETERNAL PLANNING

Although every client has his or her distinct reasons for procrastination, a number of common factors may contribute to the client being trapped in eternal planning.

(a) Estate Planning: A Difficult Topic at Best

When it comes right down to it, most people are not excited about the entire subject of estate planning. It forces them to face difficult issues related to death and taxes, family dynamics, and financial situations. In fact, some people go so far as to define estate planning as *planning to die efficiently*—not a particularly appealing image.

In truth, estate planning is not a topic most clients enjoy. The issues they are forced to address create anxiety. As a result, they enter the process with significant reservation, commonly motivated by a major life change such as marriage, the birth of a child, the death of a parent, or a substantial change in financial status.

In the minds of many, death is a remote, future event, not something they want to confront proactively. Many prefer to ignore its eventual reality altogether. In practice, many clients are motivated to begin planning their estate only when their peers begin to die. Unfortunately, this generally means they have waited too long, missing numerous opportunities along the way.

Whatever the reasons, more inertia is associated with estate planning than with any other area of planning. Procrastination is not only a problem—it is the standard.

And the eternal planning process begins.

(b) Loss of Control and Lack of Understanding

It has been said that people prefer to deal with things they can understand or control, preferably both. In reality, few clients have a clear understanding of what estate planning involves. Even fewer feel as if they are in control of the process.

Rest assured that if clients do not understand it and cannot control it, they will try to avoid it. As a result, the primary goal of most people once they enter the estate planning process is to get out of it as soon as possible.

Some clients will attempt to maintain control over various aspects of the process. The greater the degree of control the client attempts to

maintain, the greater the potential for indecision. Ultimately, indecision evolves into paralysis, and the planning process stops short or slowly fizzles away.

There are three general areas over which clients often try to maintain control:

1. Their financial resources
2. The people and the process
3. The flexibility to make changes

(i) Loss of control over financial resources. One of the greatest fears clients face is losing control of their financial resources. Because estate planning often requires a shift in ownership of assets, clients are constantly aware of their diminished access to and control over financial resources. Even a simple transfer of ownership from one spouse to another suggests a shift in control within the family. The sense of loss of control over financial resources can be a major obstacle to the planning process.

(ii) Loss of control over people and process. Clients do not post their net worth statements on their front doors for the world to see. This is because financial affairs represent one of the most private aspects of their lives.

Unfortunately, effective estate planning requires clients to reveal many private elements of their financial lives to professional advisors and others. It also requires them to expose their values and beliefs regarding the accumulation, use, management, and distribution of financial resources. As clients divulge this information, they begin to feel an increased sense of losing control. As long as the client controls the information, the client is in control of the people and the process.

As clients release more and more information to advisors, a shift in power occurs. The advisors are in an increasingly powerful position to make specific recommendations and control the timing and movement of the process.

A similar shift in power occurs with children and other heirs. As clients release information, they expose themselves to second-guessing and their decisions to increased scrutiny.

(iii) The flexibility to adapt and change. One of the most common fears expressed by clients has to do with losing the flexibility to adjust as changing circumstances dictate. Often they are very concerned with retaining sufficient control to change their plans well into the future.

And the eternal planning process continues.

(c) Planning Dilemmas

Advisors often speak with clients as if every decision were black and white—good plan, bad plan, right answer, wrong answer. In reality, the estate planning process is filled with inherent dilemmas that may require a choice between two desirable outcomes or objectives that are in direct opposition to one another.

(i) Dilemma: client versus heir. Many clients face a difficult choice between providing for their own needs and providing for the needs of their heirs. They want to ensure their own financial security and also provide a financial head start for heirs. However, they may have to recognize that providing such a head start could come at the expense of enjoying their desired lifestyle.

Thanks to medical innovations and wellness programs, more clients than ever face the possibility of outliving their financial resources. The sooner they begin transferring financial resources to heirs, the greater the likelihood this may occur. At the same time, if clients wait until death to transfer financial resources to heirs, they may wind up leaving a pile of money to “children” who are in their sixties and seventies.

(ii) Dilemma: children versus grandchildren. The natural expansion of the family presents numerous planning dilemmas. As children grow older and grandchildren enter the picture, a variety of conflicts arise. A client’s desire to provide a financial legacy for grandchildren may conflict with the client’s desire not to interfere in his or her children’s financial affairs.

(iii) Dilemma: financial security versus tax efficiency. Many clients are forced to realize an obvious conflict between tax-effective estate planning and maintaining financial security. Tax-effective strategies often require the irrevocable separation of clients from their money. As a result, some of the most powerful estate planning tools present clients with an annual dilemma. Consider the \$10,000 annual gift tax exclusion. Should clients make the gift and potentially save \$5,000 in estate and gift tax, or should they retain the resources to protect their future lifestyle?

(iv) Dilemma: heirs versus charity. Most clients see charitable giving as an alternative to inheritance. While they may want to contribute to their favorite charities, they cannot reconcile the perceived corresponding decrease in inheritance for heirs.

(v) Dilemma: client versus charity. Many clients prefer to make charitable contributions during their lifetime, when they can measure the impact of their generosity. At the same time, lifetime contributions require

clients to contemplate personal needs for financial security. They may want to make gifts today, but they also want to protect their lifestyle.

(vi) Dilemma: heir versus heir. More often than not, clients find themselves with children who have entirely different financial needs and circumstances from one another. This is one of the most common planning dilemmas. The client wants to treat heirs fairly, but that may not necessarily translate into equal distributions from the estate.

(vii) Dilemma: charity versus charity. At an increasing rate, charitable organizations compete for the same charitable dollars. As a result, client allegiances are frayed and torn as they attempt to choose among many charitable organizations about which they care.

(viii) Dilemma: spouse versus spouse. Perhaps the most common planning dilemmas result from differences of opinion between spouses. Opinions about whether to provide heirs with an equal or fair inheritance. Opinions about an appropriate role for philanthropy in the estate plan. Opinions about what is required to maintain a suitable lifestyle. Opinions about appropriate investment risk tolerance. These differences of opinion, however minor, tend to undermine planning before it begins.

These and other dilemmas create roadblocks to effective planning.

And the eternal planning process continues.

(d) Complexity

Estate planning is a highly technical process that involves tax codes, planning strategies, legal documents, and financial products. It has become an industry of specialists in generation skipping, business continuation, charitable planning, insurance planning, asset management, and more.

Some clients spend countless hours with advisors reviewing potential strategies and alternatives, attempting to become experts themselves so that they may rely on their own knowledge and instincts in making decisions. They believe that as soon as they fully understand every aspect of the situation, they will make the decision. Not surprisingly, that point of understanding rarely occurs. Likewise, the decision is not made.

Estate planning has become so complicated that the solution often seems worse than the problem. It should come as no surprise to advisors that many clients have trouble swallowing the medicine.

The truth is that the majority of clients never will understand the complex issues involved in estate planning, such as the inherent ever-changing tax laws, and the various planning strategies. Their lack of understanding will continue to create anxiety—*anxiety that leads to fear; fear that leads to indecision; indecision that leads to planning paralysis.*

And the eternal planning process continues.

(e) Too Much Jargon

Much like the medical profession, the estate planning industry has a tremendous compulsion to use jargon—names created by advisors for advisors but mistakenly used with clients every day. As a result, clients may feel as if they have entered a foreign country.

... so, the NIMCRUT is connected to the ILIT, and the ILIT is connected to the IDIT, and the IDIT is connected to the FB, and the ...

The client may never understand what all these acronyms and fancy names mean. Some advisors don't understand what they mean.

When it comes to their health, patients often take their medicine just because the doctor told them to take it. In the worst-case scenario, they may get a second opinion. Ultimately, most people act on the advice of the health care professional. After all, it may be a life or death matter.

Even though estate planning also is a matter that deals with life and death, clients routinely ignore the advice they receive from their advisors. Some seek a second opinion, or a third or even a fourth. Why? Often it is the result of ineffective communication. The client simply cannot decipher the code.

And the eternal planning process continues.

(f) Separation from Resources

As was stated earlier, and will be repeated often in this book, tax-effective wealth transfer planning strategies frequently require one very important thing—the irrevocable separation of clients from their money, as soon as possible, forever.

This poses a problem for many as it conflicts with a basic human instinct, that of self-preservation. Most clients lack confidence with regard to what is required to maintain their financial independence for life. Their default answer is that they need all of what they have. Since they cannot define how much they will need, rest assured, they will need it all. Any course that potentially reduces their financial independence is avoided.

Estate planning constantly reminds clients of the necessity to part with their financial resources. Each time they are faced with the possible diminishment of their financial independence, anxiety is created. This anxiety leads to indecision, which derails the planning process.

And the eternal planning process continues.

(g) Emotional Barriers

Many advisors believe their clients are not charitably inclined. This belief arises from years of experience in which clients summarily dismiss chari-

table giving as a component of their estate plan with no apparent explanation. In most of these cases, the advisor asks the client something like this:

“Tell me, Scott, would you like to benefit any charities through your estate plan?” A typical reply might be, “Well, I’m really more concerned right now with making sure that my wife and I are financially secure and that we can provide a suitable inheritance for our children.”

Based on the client’s less-than-enthusiastic response to a general question, advisors typically assume the client has no charitable intent. As a result, charitable giving is taken off the list of potential planning issues.

The problem with this approach is that it assumes the client has already developed philanthropic awareness. It assumes the client has been able to overcome his or her natural emotional barriers to charitable giving—beliefs, for instance, that gifts are in opposition to other planning objectives, that philanthropy is only for the wealthy, or that charity is a subsidized form of government bureaucracy.

Even the most sophisticated clients often misunderstand the role that charitable giving can play in the estate planning process. As a result, charitable planning strategies such as charitable remainder trusts all too often are quickly dismissed by the client and advisor with no real examination.

And the eternal planning process continues.

(h) Advisor Bias

Every advisor has experienced the dreaded second opinion. Clients seek second opinions for several reasons: Either they lack confidence in the advisor’s ability or they fear professional bias or they are simply confused.

As Stephen Covey put it, “People see the world not as it is, but as they are.” Consider the wide range of professionals represented in the estate planning field:

- Insurance agents
- Investment brokers
- Estate planning attorneys
- Tax accountants
- Nonprofit planned giving officers
- Trust officers
- Family business consultants

What if a client poses a single problem to these seven professionals? Chances are, the client will get seven solutions: one from an insurance

perspective, one from an investment perspective, one from a legal perspective, one from an accounting perspective, one from a fund-raiser's perspective, one from a trust officer's perspective, and one from the family office consultant's perspective. This should come as no surprise. Each advisor has been trained to use the tools of his or her profession to resolve client problems. Insurance agents typically are not trained in the intricacies of law, and lawyers typically are not trained to analyze and sell life insurance. Each advisor has his or her unique bias.

Clients are right to be concerned about the motivation behind each recommendation. Is the recommended strategy good for the client, good for the advisor, or both? Is the suggested solution merely a trick to sell a product? Is the charity just looking for a gift? Does the plan really need to be this complicated?

Clients seek second opinions in an effort to eliminate advisor bias. Unfortunately, they often fail to realize that every additional advisor they approach has his or her own biases. As a result, the quickest way to eliminate bias is to do nothing.

When confronted with advisor bias, more often than not the result is no result. Advisor bias leads to indecision, and indecision leads to planning paralysis.

And the eternal planning process continues.

(i) Ending the Game

As strange as it may seem, for some clients the prospect of completing their estate plan is a reason to fan the coals of the eternal planning process. They are afraid of reaching the end. They believe that once the plan is complete, death is inevitable. As a result, they undermine the process and avoid decisions. They will even change advisors just to repeat the process all over again. Some people may believe subconsciously that the eternal planning process will result in eternal life. In reality, it results in an incomplete plan with a devastating impact on financial resources and surviving family members.

And the eternal planning process continues.