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What Costs for Settlement ?

Besides tax costs, what other kinds of costs are involved in settling an estate? This fifth article in the series deals with these, how to anticipate them and also with the importance of financial liquidity of an estate.

by John F. Timmons and John C. O'Byrne

SOME OF THE costs of settling an estate can be anticipated and estimated fairly accurately. Others can be anticipated only in a general way. Yet, many of them must be *paid in cash* shortly after the death of the property owner. Expenses of the last illness, funeral and burial costs, outstanding debts and claims, taxes and the cost of administering the estate must be paid *before* any property transfer becomes fully effective.

Most people have some concern about these costs—particularly in minimizing them. But it's also important to *anticipate* and to *prepare for* costs that require cash settlement. Otherwise, it may not be possible to preserve and keep the real property of the estate intact if sufficient liquid assets aren't available during the estate settlement.

Once the value of the estate and the proposed distribution of it are known, the tax costs can be estimated or determined rather precisely. (See the previous article in this series, "What Taxes and How Much?" in the March issue or reprint FS-905.) The other costs can't be estimated so easily or accurately. The kinds of costs are fairly definite, but the

amounts of the costs vary considerably.

You may, however, be interested in the general cost picture we found in a study in one of the state's predominantly agricultural counties. As part of a study of property transfer methods and plans, we examined the past probate records in this county for persons who died from 1948 to 1954. We found, in other words, the costs actually involved in settling these estates. From this, we can indicate at least a relative picture of the estate settlement costs at that time.

Court Costs are fees paid to the Clerk of the District Court for services performed by that office. In many instances, an appraisal of property is necessary to establish its value for inheritance tax purposes. The appraisal fees are part of the court costs.

Conflicts among heirs over distribution of property, sale of property to pay debts, partition actions to divide property and similar proceedings all increase court costs. Costs vary from estate to estate, depending on the work and services necessary in the settlement.

In the records analyzed, court costs tended to increase with the size of the estate. But, even within classes of estates of similar size, the range in costs was considerable. For estates with a gross value of under \$40,000, for ex-

ample, the average court cost was \$63, but the range was from \$12 to \$163. For estates in the \$40,000-\$60,000 class, the average cost was \$94, and the range was from \$30 to \$216. In the \$60,000-\$80,000 class, the average was \$152; the range, \$43-\$174. For estates greater than \$80,000, the average was \$167; the range, \$25-\$292.

These figures illustrate the ranges of costs as we found them. The spread probably is greater and the average costs less than would be true at present; clerks' fees were increased in 1952, and the increase affected only a part of the estates for which records were analyzed.

Court costs usually are a very small part of the estate settlement costs. In this study, they averaged about 0.002 percent of the gross values of the estates.

Administrator, Executor Fees:

The person who serves as the administrator or executor of an estate is entitled to a fee for his services. But he may be a relative of the deceased or a beneficiary of the estate and waive his fee. (Also, since the fees are taxable income, it may be to his advantage to take the amount as part of the estate if he is the only beneficiary. Sometimes, if he's one of several beneficiaries, the personal representative may hesitate to take a fee in addition to his share because of possible ill

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feeling among other beneficiaries.) Whatever the reason, fees had been waived in about two-thirds of the estates for which we examined the probate records.

The fees of the administrator or executor are fixed by law and must be approved by the court. The law authorizes the court to approve a reasonable fee of not more than the following percentages of the gross value of the estate listed on the probate inventory for Iowa inheritance tax purposes: 6 percent on the first \$1,000, 4 percent on the next \$4,000 and 2 percent on all amounts over \$5,000. Sometimes there are unusual expenses or services—such as real estate and tax matters—that are considered beyond the scope of the regular compensation, and the court may allow additional compensation for these. On an estate of \$100,000, ordinary fees of the administrator or executor would be \$2,120.

Attorney Fees: The executor or administrator hires an attorney to handle the legal duties in administering an estate, and the attorney is paid from the funds of the estate. The attorney's fee follows the same statutory pattern as the fees of the executor or administrator.

Bond Costs: The administrator or executor must give a bond before undertaking his duties. This cost is paid from the estate. An executor may be freed by the will from giving bond, or, if individuals such as other heirs serve as surety on the bond, no cost need be incurred. Otherwise, the bond is secured by a professional guaranty or surety company for a fee. For the records we studied, bond costs were incurred in only 16 percent of the estates; costs ranged from \$8 to \$390.

The amount of the bond is set by the court. In one Iowa district, the bond is set at 1½ times the amount of the estate if with corporate surety or 2 times the amount if with an individual sure-

ty. Professional surety companies charge about \$4 for each \$1,000 up to \$100,000. The rate is less on additional amounts.

Medical, Burial Costs: Unpaid expenses of the last illness and burial expenses represent preferred obligations of the estate. These costs, of course, vary tremendously among different estates. Of the past probate records we studied, the average cost was \$1,150, and the range was from \$350 to \$3,000.

Other Costs: In the records of the estates studied, other direct costs of settlement were sometimes listed. Most of these represented costs of the sale of property and might very well be included under court costs. Abstract fees, revenue stamps, costs of a subsequent appraisal and general selling expenses are the normal additional costs.

All of these costs are directly related to the settlement of an estate and may, therefore, be properly regarded as the costs of transferring property at death. To include medical and burial expenses may seem a bit strained, but these are costs that arise only by reason of death and must be paid from the available property.

In addition to these direct costs of estate settlement, there are also taxes and debts. Debts are those incurred during life which are paid from the estate as the successor to the decedent. These aren't properly included as direct costs of estate settlement since they must be paid whether a person lives or dies. Taxes also usually are considered as a separate cost.

Why Anticipate?

Estate settlement costs generally require payments in cash rather shortly after death. In addition, federal estate taxes are due within 15 months after death, and Iowa inheritance taxes are due within 18 months after death. Also, many of the debts of the de-

cedent will require a cash settlement.

Thus, it's important to estimate the probable liquidity—the availability of cash or readily convertible assets—of the estate. To estimate the probable need for liquidity, it's necessary to consider ordinary debts that may be due, prospective taxes and the kinds of direct estate settlement costs that we've listed in this article. The total of these offers a rough guide in forecasting the need for liquid assets.

The ordinary debts—loans, notes, bills, unpaid income taxes and the like—can be estimated with a good degree of accuracy for an individual family. Taxes also can be estimated with considerable accuracy (see previous article in this series). The direct estate settlement costs are more difficult to estimate because of difference among estates and because of the difficulties in foreseeing all of the factors that might affect these costs.

From our analysis of the probate records, we attempted to develop a formula that would have served for planning purposes to estimate the cash needs for the estates studied. We found that a reasonable estimate would have been about \$1,194 *plus* about \$4.46 for each \$100 of gross value of the estate. This formula is simply one that would have worked to estimate the costs in the actual cases studied. Don't regard it as a formula for estimating probable costs with precision. Remember also that tax costs aren't included in this formula. Tax costs vary considerably but can be estimated as indicated in the previous article in this series or reprint, FS-905.

With its limitations in mind, however, the formula might be useful for at least rough planning purposes. The resulting figure could be adjusted upward in case of expected complications or downward, say, if there's good reason to believe that the executor would waive his fee.

Why Important?

The importance of a liquid financial position for the estate and heirs at death of the owner was borne out by another part of the study in the same county. In addition to studying the probate records of 113 estate settlements, we interviewed 76 living land owners and examined their estates. We assumed that each land owner died on the day that he was interviewed.

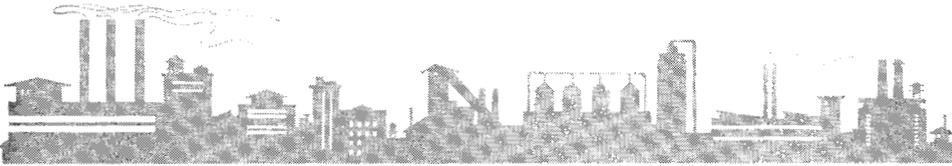
We found that 91 percent of the estates wouldn't have had sufficient liquid assets to pay estate settlement costs and taxes. If liquid assets held in joint tenancy

and life insurance payable to named beneficiaries were used to pay costs and taxes, half of the estates still wouldn't have had enough liquid funds. These assets, however, don't pass to the executor or administrator; they could have been used only if the surviving joint tenant or life insurance beneficiary made them available.

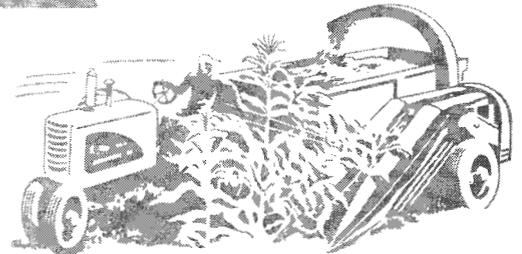
Whether these people would allow such funds to be used to pay estate expenses might depend on the extent of their interests as beneficiaries in the rest of the estate. A surviving joint tenant can be compelled to pay his inheritance tax on joint-tenancy prop-

erty, and the insurance beneficiary can be made to pay his share of the estate tax. Otherwise, they're not subject to compulsion except under very unusual circumstances.

In 12 percent of the situations analyzed, farm land would have had to be sold and converted into cash to pay costs and taxes. Remember, too, that debts have to be paid in addition to settlement costs and taxes. In the sample studied, about 40 percent of the cases had outstanding debts. Generally the failure of liquidity was complete in these cases. That is, the cases with insufficient liquidity to pay costs and taxes were also the ones with outstanding debts.



Output Management for Agriculture ?



Could agriculture learn to manage its output from some other industries? Some industries have experience in managing excess capacity. Agriculture might want to look at the alternative methods and their consequences.

by **Arnold Paulsen, Earl O. Heady and L. B. Fletcher**

THE CORE of the commercial farm problem is surplus capacity. Over the last 30 years generally, the productivity of our land and of the resources used with it has increased tremendously.

When we use agriculture's full productive capacity for the conventional mix of crops, we now either produce surplus crops which must be stored or we market so

much that farm prices and incomes are low. We've been doing both of these in recent years.

The same thing tends to happen in some other industries if they use their full productive capacity when demand is limited. But not all industries produce at maximum capacity. Some tend to fit their output to market conditions rather than to the capacity of their plants.

"Output Management"?

Our farm industry—now more than ever before—has a productive capacity greater than the

quantity demanded at satisfactory prices. The industry must either face the consequences of full-capacity production or face a problem of "output management" just as do some other industries with short- or long-run excess capacity. Total farm output generally has been expanding, and individual producers market this production regardless of the price-depressing effects.

In contrast, price has been more constant in many nonfarm industries. The firms sell what they can at the price established. Their prices have been relatively stable. The large variation has been in

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