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## Taking Financial Steps for Terminally Ill

### YOUR MONEY MATTERS

By EARL C. GOTTSCHALK JR.

Staff Reporter of THE WALL STREET JOURNAL

When someone in the family gets a terminal illness, bringing up financial and legal matters may seem crass and uncaring.

But the right moves in the weeks, days or even hours before death can make life easier for the survivors, reduce taxes and also relieve some worries of the sick person.

**"If the terminally ill person were not so sick, you can rest assured that he or she would want family members to focus on these issues,"** says Stanford T. Young, vice president of P.R. Taylor Inc., a Palo Alto, Calif., investment banking and financial planning firm.

Although it's obviously better to plan in advance, even last-minute estate planning strategies can save thousands of dollars in taxes. Thanks to sophisticated legal documents already on computers, it's possible with a family's cooperation to produce complicated trusts and other documents within 48 hours, says Charles S. Grobe, a Los Angeles estate planning attorney.

Estate tax costs "are so substantial—almost confiscatory — that you have to act," says Benjamin T. White, partner in Atlanta law firm Alston & Bird. For example, after a \$600,000 exemption, a child or other heir of the second parent to die must pay federal estate tax that begins at 37% and rises rapidly to 55%.

Besides reducing estate and income taxes, pre-death planning techniques can produce other benefits. They make it easier to administer the estate if death is preceded by a period of incapacitation. They allow people to spell out in advance their wishes about being kept alive with artificial life-support systems. And, to a

### A Checklist to Aid the Dying

Some steps estate-planning specialists suggest to ensure that a dying person's wishes are carried out, to reduce taxes and to make life easier for survivors.

✓ Get a durable power of attorney.	Appoints person to handle financial affairs when you are unable.
✓ Sign a living will or durable power of attorney for health care.	Makes clear your wishes about your medical care.
✓ Update or make a will.	Stipulates to whom you want to leave your assets.
✓ Consider setting up a living trust.	Avoids probate and allows trustee to manage assets if you become incompetent.
✓ Make gifts up to \$10,000 to children, other heirs.	Saves estate taxes.
✓ If you need cash, sell "loser" stocks or high-basis stocks.	Low-basis stocks will get stepped-up basis for heirs.

limited extent, it's also possible to use some strategies to increase the size of the estate.

Many attorneys and financial planners say getting the sick person to sign a durable power of attorney is a first step. This is a legal document that allows a family member or friend to take care of financial affairs for the sick person. It allows someone else to sign tax returns and insurance policies and even make gifts with certain restrictions. The durable power of attorney avoids a court-ordered conservatorship if the ill person is unable to handle his or her own affairs, says Mr. Grobe.

Another important move is to sign a "living will" or health-care power of attorney, which stipulates in advance whether or not the sick person wants to be kept alive artificially if they lose consciousness and aren't expected to recover. This is a rapidly changing area and state rules vary, so a local attorney should be contacted to draft this document. Martin

Shenkman, an New York tax attorney and author of "The Estate Planning Guide," says that in New Jersey, for example, only one witness is needed for the document to become valid; other states require two witnesses.

Make sure the terminally ill person has a will stipulating how his or her assets should be distributed, and get it updated if necessary. Revising is especially important if the will hasn't been changed since Sept. 13, 1981, the date an important federal estate-law change took effect. Charles K. Plotnick and Stephan R. Leimberg point out in their book, "How to Settle An Estate," that if the will hasn't been changed since that date, it may not qualify for the unlimited federal estate-tax deduction for a surviving spouse. Check with legal counsel and review all wills and trusts signed before that date, they advise.

Family members also need to check ownership of assets and the beneficiary

designations of insurance policies, profit-sharing and 401(k) savings plans to see that they meet the ill person's wishes, says Mr. Young.

Many estate planners also favor setting up a revocable living trust if there's time to transfer ownership of the assets to the trust. Stewart Kessler, partner in New York accounting firm Goldstein, Golub & Kessler, says that although these trusts have been overpromoted, they can eliminate some of the cost, delay and lack of privacy in the probate court.

It usually takes at least a month to transfer real estate, bank accounts and stocks into a living trust, Mr. Grobe says. Assets transferred into the trust aren't subject to probate, but assets not transferred into the trust by the time of the person's death are subject to probate court.

It's also time for a terminal patient who has a sizable estate to consider making gifts of as much as \$10,000 to each child, grandchild or friend. Gifts of as much as \$10,000 to each person are exempt from federal gift taxes. These gifts would cost the person more to give after death because they could be subject to estate taxes.

A Chicago widow diagnosed with cancer a year ago wrote out 13 \$10,000 checks to all her grandchildren prior to going into surgery. She came through, and while they had a right to the money, the grandchildren didn't cash the checks. She did the same thing recently prior to passing away. This time the children cashed the checks. Michael E. Leonetti, a Buffalo Grove, Ill., financial planner, figures the woman saved her heirs \$40,000 in estate taxes by making the gifts while she was still alive.

If the terminal patient needs to raise cash by selling stocks, financial planners say it's important for income tax savings to sell stocks with small gains or losses instead of stocks which have a huge gain. The reason: after the patient dies, the cost for income-tax purposes of the stocks will

be "stepped up" to the stock's current price; that higher price will be used as the basis for figuring the capital gain or loss when heirs sell the stock.

The lessons learned from providing financial planning for terminally ill persons have implications for people who aren't sick, says Jonathan D. Pond, a Watertown, Mass., financial planner and author of the book, "1001 Ways to Cut Your Expenses."

"The U.S. Congress has been threatening over the past few years to curtail many of the estate-tax saving benefits to people with large estates," he says. "Someday they'll make good on this threat."

The moral: "Don't waste time."