

# ***Top 5 Ways Long Term Care Insurance Can Benefit Your Estate***

## **Background:**

Estate planning's normal focus is on two main goals – **Wealth Preservation** and **Wealth Transfer**. Here's how long term insurance fits into a well crafted Estate plan and why it needs to be considered:

1. **Wealth Preservation** – long term care insurance enhances the Estate by substituting insurance dollars to pay for long term care rather than solely relying on using one's principal to pay for it. One of the most cherished axioms of financial planning is to "*never touch principal!*" Long term care insurance provides that back door protection. The two main ways long term care insurance helps preserve one's estate wealth are:
  1. It results in you paying the least for long term care not the most.
  2. It preserves tax attributes like the "step-up" in capital gain basis that otherwise would be lost if those assets had to be converted to cash to pay for your long term care, dollar for dollar, not to mention the extra taxes you would have to pay the IRS plus your state if you live in a state with income tax. Long term care insurance lets you pay your long term care bills for *pennies on the dollar!*
2. **Wealth Transfer** – Just like life insurance is purchased to provide liquidity on death and to pay the estate tax due within 9 months after the date of death, long term care insurance protects the estate's assets from being spent for long term care and protects the Estate so its assets can be transferred as planned. It accomplishes this in two main ways:
  1. It serves as a defensive measure to protect the estate's assets – "*never touch the principal!*"
  2. It provides *peace of mind* that plans, once made, don't have to be undone.

Hopefully, this process is conducted by the parties involved so that it results in an *orderly* winding up of one's affairs, but it is a long and winding road and some bumps should be expected along the way. The goal should be to anticipate those bumps and plan for them so the Estate plan can adapt and still be carried out without it having to be undone.

As an Estate planner that we work with pointed out, you have not finished your Estate Plan until you have the necessary long term care insurance policies in place. Why is that? It is because not planning for the risk of long term care is akin to leaving a huge booby trap in your Estate plan from which your Estate could lose hundreds of thousands of dollars and result in all of your best laid plans evaporating into thin air. It is happening every day all across America to people who were smart enough to plan for their death but neglected to plan for the slippery slope of needing long term care before their death.

Avoid this result for yourself and those around you by arming yourself with the following information about how powerful long term care insurance can be to help you protect your Estate from the very likely need to pay for your long term care. Remember, the risk is almost 50% that you will need long term care and the average need for care is about 3 years with about 15% needing 5 or more years. Matter of fact, consider the bigger picture, protect your family tree for generations to come from long term care with the power this insurance has to help you do that. Given its special tax advantages, it is incredible. Be sure to consult with your tax advisor before enacting any plans and to be sure the tax advantages are being applied correctly and in your best interest concerning your Estate goals.

Professional societies are finally getting the word out to their members, whether they are Estate Attorneys, Financial Advisors or CPAs to make sure they realize the gravity of the situation. Consider:

“The odds of needing long-term care are greater than 50% . . . Long-term care insurance is certainly one of today’s key products, and requires serious consideration by every member of the financial and estate planning team.”

Saks, Howard J. “Long-Term Care Insurance Policies Requires a Closer Look in 1999.” *Estate Planning*. March/April vol. 26, no.3.

“Because of the enormous cost of long-term care, many commentators consider this problem to be one of the greatest threats to the financial security of American seniors and to our nation . . . During the last decade, long-term care insurance has emerged as the preferred funding tool for persons that can afford current premiums and have assets to protect . . . Given the rate of policy improvements and changes to the law, an advisor well versed in the intricacies of long-term care planning and insurance is essential.”

Birnbaum, Bruce I. “The Value of Long-Term Care Insurance.” *The CPA Journal*. April 1999.

And now, ***The Top 5 Ways Long Term Care Insurance Can Benefit Your Estate:***

- 5. Pre Nuptial Agreements** – Many people are marrying or re-marrying later in life. While hearts may be joined, assets aren’t. These agreements are used to provide asset protection but there is a trap. Pre nuptial agreements **DO NOT** shield the healthy spouse’s assets from being used to pay for the long term care of the non healthy spouse once the non healthy spouse’s assets have been exhausted. Assuming that the healthy spouse is the one with the assets, you can readily see the problem.

The prenuptial agreement is a Trojan Horse when it comes to long term care. That can mean disaster for your Estate plan. The pre nuptial agreement has no defense for the open-ended risk that is long term care. By law, both spouses must be impoverished before Medicaid steps in and pays benefits. This means that the healthy spouse, the one with the assets, has to spend down their assets to \$80,000. So much, for a pre nuptial. Remember, the risk of needing long term can be 1 out 2 or *almost 50%*. That’s a coin toss with no ‘do-overs!’ Obviously, if a prenuptial agreement is part of the Estate plan, it goes hand-in-hand with long term care insurance to make sure the Estate’s principal is protected from paying for long term care.

- 4. Transfer Estate Value out of “C” Corporations Tax Free** – Tax laws provide that long term care insurance premiums paid by a “C” or regular corporation, are 100% deductible by the corporation as health insurance and not income to the employee, their spouse or tax dependents even if the employee is an owner. Individual policies vs. Group policies offer more latitude in designing plans, funding options, etc. to benefit different classes of employees not to mention provide you with significantly better benefits for basically the same or less premium! Amazing but true.

Also, there are no limitations on the tax deductibility of using accelerated payment methods such as Single Pay, 5 or 10 Year Pay or Pay to Age 65 options. There are no recapture provisions in case you don’t use the insurance or shut down the business and continue the insurance on a personal basis. Additionally, with individual coverage, there are no portability restrictions or other limiting taxability issues even though the policy is in the individual insured’s name or that the corporation paid for it.

Tax legislation is significantly on track to expand the tax deductibility, which today applies to “C” corporations, so that it equally applies to “S” corporations, partnerships, limited liability companies (LLCs) and sole-proprietorships. This is similar to the parity process that has been achieved over the years with the tax treatment for retirement plans and is about to be completed with health insurance in 2003.

3. **Using the Annual \$10,000 Gifting Exclusion and *Beyond!*** – A standard part of most Estate plans is to take advantage of the ability to make tax free gifts up to \$10,000 per year per donee. It's a great way to transfer significant value from an Estate tax free. It does have some practical limitations such as when there is not much time to do it and there is a whole lot of money to move. But that is a good problem!

One great exception to the annual \$10,000 limitation exists whereby one can transfer amounts greater than \$10,000 for *medical* reasons. This allows you to pay for long term insurance for *anyone* if it is paid directly to the insurance company. Combine this with using an accelerated pay option or a single premium immediate annuity to pay for it and it allows you to move a lot of money out of the Estate very quickly. The benefit for you is that it also creates a safe haven for your Estate plan in that when your beneficiaries ultimately receive the money you did not have to spend on your long term care, they already have their insurance in place so, they won't have to spend your Estate on their long term care either. That is a very powerful way to protect your family tree from long term care by locking up your principal for generations to come. Consider the possibilities of that. This is a powerful planning tool!

2. **Preserve the “Step-Up” Basis for Capital Gains at Death** – This is huge. One of the biggest reasons to hang on to appreciated assets until you die vs. selling them while alive is that you avoid paying the income tax on the unrealized capital gains. At death, the value of those assets is electively “stepped-up” to their fair market value at the date of death or 6 months after the date of death, thus avoiding the income tax. Of course, at that point, they are in your estate and subject to Estate taxes. You can't win them all!

However, you have saved an enormous amount of income tax, which could be 20% or more depending on what state you live in. Even more important is the dollar amount of the savings, especially if you held the assets for a long time.

Long term care insurance preserves your assets from being sold to pay for long term care. This protects you from cashing them out now and paying capital gains or other income taxes not to mention transaction costs. To the extent you accomplish this, it results in a permanent tax savings as that is money that will never need to be paid for taxes. In the world of Estate planning, managing and preserving the “Step-Up” is a big big thing. It is a permanent tax deferral. Long term care insurance is a vital part of that planning process.

1. **Peace of Mind** – Anyone who has completed their Estate plan, knows that it takes a lot of smart thoughts from a cadre of advisors along with their input to craft the well coordinated plan to accomplish their goals. Obviously, doing less may result in many unintended results and unwanted consequences. Perhaps most important of all, imagine going to all the trouble to put together a team of advisors, work to seek out the best advice from Estate Planners, Financial Advisors, CPAs, Life Insurance Agents and not consult with a Long Term Care Insurance Specialist! Vital to protecting your principal from the open-ended high-probability risk of long term care, is to carefully consider what role long term care insurance should play in your Estate plan to preserve your principal and protect your family tree. You may not think of yourself as wealthy but if you are planning your Estate to minimize paying Estate taxes, the government thinks you are wealthy, so you might as well too! Remember, wealthy people do not take risks when they can use other people's money instead. Wealthy people do not self-insure. Since the need for long term care could happen anytime, consider talking with a Long Term Care Specialist today, *before you activate your Estate!*