



## **Estate Planning Documents and The Loving Letter**

May 2021

*"Don't let it end like this. Tell them I said something..."*

- Poncho Villa's last words

Periodically we like to reissue a newsletter that discusses an important and/or timeless topic. Estate planning is one of those topics that needs to be reiterated for the simple reason that we human beings tend to forget or (purposefully?) ignore to plan for the inevitable. Further, last month we discussed estate planning on Two Minute Tuesdays with Tim (on Facebook Live) and got a huge response – so, we wanted to use May's newsletter to remind everyone of some important estate planning documents you might need to create, update and/or review.

The legal documents we recommend at a minimum include a will and/or living trust, a durable general power of attorney ("POA"), a healthcare POA, and a living will. Your will, among other things, can dictate who gets what when you die; a living trust (which is frequently paired with a catch-all "pour over" will) can, in contrast, do the same thing as a will but also help avoid probate. A durable general POA is typically meant to empower another individual to make financial and other decisions for you if/when you are incapacitated. Similarly, a healthcare power of attorney empowers another person to make health care decisions when you are unable, whereas a living will usually indicates what type of life saving procedures should or should not be used.

Interestingly, in our experience the power of attorney can be one of the most important documents. You see, ironically enough things tend to be straight forward when you die; but if you are incapacitated and no one has authority to act on your behalf (because there's no power of attorney), things can get messy quick. If you have a living trust, then the assets owned by the trust can be controlled by the trustee as well as a successor trustee if the former is incapacitated (which is why it is important to make sure certain assets are retitled to the name of the trust). As a caveat, please remember that we are unable to offer legal or tax advice, and thus the suggestions above should be reviewed with your estate planning attorney. Further, although not legally binding, there are two documents which we believe may be just as important as the others, if not more so.

The first is a letter of instruction, which can serve multiple purposes. For instance, this letter can list assets and other important information for those who survive you. You would be surprised how many times we have visited with heirs, as well as surviving spouses, who have nothing more than a thin paper trail to find or guess where certain assets are located and/or what the deceased had meant to have happen. So, use this letter of instruction to list assets, liabilities, passwords, personal

and professional contact information, desired funeral arrangements, and any other information that can make the transition less disconcerting at a time when people are also trying to grieve.

Last, but not least, we suggest you write one or more loving letters - in our opinion, the most important document you can leave your loved ones. In short, a loving letter is where you put on paper your thoughts about the people who matter most to you.

The idea is to write a letter to each person that is dear to you - a spouse, son or daughter, or any family member or close friend - and tell them why you cherish them. Remind them of the times you had with them that were so important to you, and how they will never leave your heart after you have gone. Let them know what was special about them, and how much you cherished the time you had with them, or the memories you have of them or created with them. If you want to discuss specific instances that warmed your heart, then do so; if you want to discuss your love for them in generalities, then do so; but either way, just write the letter(s), and have them come from the heart.

The story that has always stayed with me is from a visit I had with some clients almost twenty years ago. At the time, we were reviewing their estate plan and the documents they had in place. During the visit I stressed the loving letter more than usual since I suspected they were estranged from their youngest son. Fortunately, I was able to convince them both of the importance of the loving letter, including one to their son who they were distanced from. Long story made short, the husband died of cancer about a year later. When I met with the family, I was struck by how distraught the estranged son seemed to be. When I asked if he was alright, he said something to effect that he was surprised and grateful that he received any money at all from his father. But then he pulled out the letter his father had written to him and started to cry when he said that that letter meant more to him than any amount of money.

So please make sure your estate planning documents are in order, and take time to write a letter of instruction as well as some loving letters. Because our time here on earth is too short, and you don't want to leave without having said something!

Last but not least, please take time to remember, as well as give thanks for, the people who have sacrificed their lives for this great country. Memorial Day is not just about having fun with family and friends, it's about honor and respect for those in uniform who made the ultimate sacrifice for our United States of America - we will always owe them a debt of gratitude!

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