
LASUSA LAW OFFICES, PLC

BUSINESS LAW AND LITIGATION

415 N. LASALLE STREET, SUITE 301
CHICAGO, IL 60654
(312) 371-1200

4335 E. TIMBERWOOD DRIVE
TRAVERSE CITY, MI 49686
(231) 392-9616

EMAIL: INFO@LASUSALAW.COM
WEBSITE: WWW.LASUSALAW.COM

BASICS OF ESTATE PLANNING

Your estate planning is done in three stages. First, we will gather all pertinent information from you as to your wishes. Next we draft the necessary legal documents for your review and answering any of your questions, and making suggestions or changes. Then we arrange to have the documents signed by you. Here is some basic information regarding the nature of the essential estate planning documents, and a few issues for you to consider to get us started.

General Durable Powers of Attorney

These documents are extremely useful if you become incapacitated or if you are traveling during a period of time when you might need an agent to sign a legal document or handle your affairs while you are away. The arrangement may be thought of as an alternative to a conservatorship, and permits a person to handle financial affairs, tax returns, social security, and the like for the other. The form is designed to give the agent as much authority as possible and takes effect when signed. An alternate approach is to have the power come into effect only upon the disability of the person who signed the document; however, this form can create a controversy over "incapacity" and is not our recommended approach because it places a heavy burden on the agent to prove the disability.

Please let us know if you wish this document to be prepared for you, and if so, name an agent and an alternate. We will need the full names and addresses of these agents.

Power of Attorney for Health Care (also known as Designation of Patient Advocate or Advance Medical Directive)

These documents are prepared in the form required by law for medical durable powers of attorney. The Designation of Patient Advocate is a form of "advance medical directive". The purpose of this legal instrument is to empower another to make medical decisions for you if you are unable to do so for yourself. With this document, you are giving the broadest possible powers to your agent to give you relief from pain, to intervene with doctors, or to even terminate your life.

As with the Power of Attorney documents, please give careful consideration to who will be the patient advocate you wish to speak on your behalf if you are incapacitated, and an alternate as well. We will need their full names and addresses. The patient advocate must sign an Acceptance of this responsibility, which we will provide them.

Trusts

You may or may not ask us to set up a trust for you. However, we highly recommend establishing a trust in order to better protect your assets, avoid or minimize the probate process and estate taxation. Trusts can take on a variety of forms and have a variety of intended purposes. In general, a "trust" is a legal entity that is able to own property and other assets. Essentially, it is established by a legal agreement defining how your assets are going to be managed and distributed. Your property can legally be transferred into the trust and have the trust own it. Different trusts have different types of classifications in the law and for tax purposes. The trust document tells the trustee what to do with the property, and the trustee is bound by law to follow the exact instructions given by the trust.

Certain individuals have certain roles when it comes to forming and administering trusts. The “grantor” gives up property or “grants” property to another person, the “trustee”, who is “trusted” by the grantor. The trustee is trusted to take care of the property and use the property, not for himself, but for the “benefit” of a third person (the beneficiary). Often times, one person takes on more than one role in the trust (e.g. in a Revocable Living Trust, you may be the grantor, the co-trustee, and the beneficiary all at the same time).

A Revocable Living Trust (also known as a Family Trust or Living Trust) is used primarily to avoid probate, reduce estate taxes, preserve your privacy, and manage your financial affairs. A Revocable Living Trust is a trust established while you are living. It is revocable, so you are able to make changes whenever you want, as well as reclaim the property transferred into it. It describes how your property should be managed while you are alive, and how it should be distributed upon your death.

Normally, if a person without a trust dies, there will be a probate process to determine how to distribute all of the property held solely in the decedent's name. A Will can help the probate court to determine where the property should go, but it usually does not entirely avoid the probate process. Done correctly, a Revocable Living Trust can eliminate the probate process. This is because the owner of the property (the Trust) did not die; just the person in the role of the grantor and trustee (you). The new successor trustee can take over without the delay of the probate process.

Last Will and Testament

A will directs how you wish your property (“estate”) be distributed at your death. Your estate will be handled by the person you name as the personal representative in the will. The personal representative is responsible for the administration of your will and may be guided by the probate court. If you have minor children, you can name their guardian(s) in your will and whether you wish a trust to be set up at your death on their behalf. You can also express your wishes to be cremated or buried, and any other directives of that nature, such as a memorial service or other wishes.

Please give some thought to who you might name as the personal representative and an alternate, as well as how you would like your property to be distributed at your death. If you have children, kindly provide their names and ages. If there are other persons or charities you wish to make gifts to, provide us with their names and what your relationship to those individuals is (friend, brother, etc.) or in the case of the charity, its full legal name and address if you know it.

Thank you so very much for placing your trust in us to provide these important legal services to you and your loved ones.

Sincerely,

LASUSA LAW OFFICES, PLC

BUSINESS LAW AND LITIGATION

ATTORNEYS LICENSED IN ILLINOIS, MICHIGAN AND WISCONSIN