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Estate Planning Fundamentals

Trusts, Wills, Probate & Incapacity — What Every California Family Should Know

Who I Am — and Why This Matters to Me

- Estate planning attorney and associate for Max Alavi, Attorney at Law, APC
- We build plans that work in two situations, not one: when you cannot manage your own affairs, and after you pass
- We work alongside financial advisors, CPAs, realtors and insurance professionals — because a plan only works if the assets and the documents agree

WHAT I WANT YOU TO LEAVE WITH

- A plan is more than a stack of documents
- Incapacity is a likely event
- How you hold title can override your plan
- Probate is avoidable — on purpose, not by luck

Gameplan for Today

1 Why Have a Plan?

The two events every plan must handle — and what happens if you do nothing.

2 Incapacity

The chapter most people skip. Conservatorship, and the documents that avoid it.

3 How You Hold Title

Joint tenancy, community property, CPWROS, tenants in common, beneficiary designations, trusts.

4 Probate

What it is, how long it takes, what it costs, and the 2026 California shortcuts.

5 Estate Planning Documents

Types of wills, what a will cannot do, and the core document set.

6 A Brief Word on Taxes

Step-up in basis, Proposition 19, and the estate & gift exemption.

A Necessary Word

- This presentation is general legal education, not legal advice for your situation.
- Attending this webinar does not create an attorney-client relationship.
- Everything discussed today is based on California law. Other states differ — sometimes dramatically.
- Tax figures and probate thresholds are current as of the date of this presentation and are adjusted periodically. Verify before you act.
- Please consult your own attorney, CPA, and financial advisor before making decisions about your estate.

Every family is different. The right answer for your neighbor may be the wrong answer for you.



1

Why Have an Estate Plan?

Two events. One plan. No do-overs.

An Estate Plan Answers Three Questions

1

WHO DECIDES FOR ME?

If I cannot make my own financial or medical decisions — today, temporarily, or permanently — who steps in, and with what authority?

2

WHO RECEIVES WHAT?

Which people or charities receive which assets, when they receive them, and with what protections attached.

3

WHO IS IN CHARGE?

Who carries it out, in what order of succession, and how much court supervision they will need to do it.

If you do not answer these questions in writing, the California Probate Code answers them for you — and a judge who never met you enforces the answer.

Every Plan Must Survive Two Events

Event one

Incapacity

- Stroke, dementia, a serious accident, or a long decline
- Can last months or decades
- Bills still arrive. Taxes are still due. Property still needs managing
- Without documents: a court-supervised conservatorship
- This is where financial elder abuse takes hold

Event two

Death

- Certain — the only question is when
- Assets must be retitled into the right hands
- Debts and final taxes must be settled
- Without planning: the probate court supervises all of it
- Public, slow, and priced by statute

Most people buy a plan for Event Two. Event One is the one that will most likely happen first.

If You Do Nothing, You Still Have a Plan

California picks your heirs

Intestate succession decides who inherits, in a fixed statutory order. Stepchildren, unmarried partners, close friends and charities receive nothing.

A judge picks your decision-makers

The court appoints an administrator for your estate and, if you are incapacitated, a conservator for you and your finances.

Everything becomes public record

Your assets, their values, your debts and your beneficiaries are filed with the court and searchable by anyone.

Your family pays for the privilege

Statutory attorney and executor fees, court costs, bond premiums, appraisal fees — all paid out of what you left behind.

Doing nothing is a decision. It is simply a decision made by default, and enforced by strangers.

Who Inherits Without a Plan in California

COMMUNITY PROPERTY

100% to the surviving spouse or registered domestic partner.

Prob. Code § 6401(a)–(b)

SEPARATE PROPERTY — WHERE FAMILIES ARE SURPRISED

- Spouse + one child → spouse takes one-half
- Spouse + two or more children → spouse takes one-third
- No spouse → children, then parents, then siblings
- No relatives at all → the estate escheats to the State

WHO THE STATUTE LEAVES OUT ENTIRELY

- An unmarried partner of thirty years
- Stepchildren you raised but never legally adopted
- A caregiving niece, a best friend, a neighbor
- Your church, alma mater, or any charity
- A special-needs child who needs a protected share rather than an outright one
- A child you wanted to receive more — or less — than an equal share

Intestate succession is a formula. It does not know your family.

2

Incapacity

The chapter some plans skip — and most families need first.

Incapacity Is Not One Thing

Sudden

A stroke, a cardiac event, a serious car accident. Full capacity on Monday, none on Tuesday. Nobody had a conversation in advance.

Gradual

Dementia and Alzheimer's. Bills go unpaid. The same story is told three times. The family disagrees about whether anything is wrong.

Temporary

Surgery, a medically induced coma, a lengthy hospitalization, a mental health crisis. Capacity returns — but decisions could not wait.

Partial

Capacity is task-specific under California law. A person may be able to make a simple gift but not to sell a property or sign a loan.

The common thread: the moment you need these documents is the moment you can no longer sign them. Opens the door to litigation more often than not.

Without Documents: Conservatorship

WHAT THE FAMILY ACTUALLY GOES THROUGH

- Someone must petition the Superior Court and ask a judge for authority
- A capacity declaration from a physician is filed with the court
- A court investigator interviews your loved one and reports to the judge
- Notice goes to relatives — which is where family fights begin
- The proposed conservatee is entitled to counsel, often court-appointed
- A bond may be required before the conservator can touch a dollar
- Inventory, appraisal by a probate referee, then annual accountings — forever
- Major decisions, including selling the home, need court approval

TYPICAL COST TO ESTABLISH

\$8,000 – \$15,000+

Plus ongoing annual attorney, accounting and bond costs for the rest of the conservatee's life.

AND ALSO

- It is a public court file
- It takes weeks to months to obtain
- The judge, not you, names the conservator
- It can be contested by any relative

"I am his wife" and "I am her son" are not legal authority. A bank will ask for a court order or a signed document — nothing else.

The Documents That Keep You Out of Court

1

Durable Power of Attorney for Finances

Names an agent to handle banking, bills, real property, insurance and taxes if you cannot. "Durable" means it survives your incapacity — a non-durable power dies exactly when you need it.

2

Advance Health Care Directive

Names a health care agent and records your wishes regarding treatment, life support, pain management, organ donation and final arrangements.

3

HIPAA Authorization

Separately permits providers to release medical information to the people you name. Without it, an agent can be told nothing — even by the hospital that admitted you.

4

Successor Trustee Provisions

Inside a living trust: the successor trustee steps in to manage trust assets on your behalf, privately, without any court involvement at all.

5

Nomination of Conservator

A safety net. If a conservatorship ever becomes necessary anyway, the court knows in writing whom you would have chosen — and whom you would not.

These five documents are the difference between a phone call and a courthouse.

Why This Section Protects More Than Money

HOW THE DOOR OPENS

- Capacity declines quietly, and no one has authority to step in
- A new "helper" appears — a caregiver, a friend, a distant relative
- Accounts are retitled, a deed is signed, a beneficiary is changed
- An isolated person is told the rest of the family does not care
- By the time anyone notices, the money has moved and the paper looks valid
- Leads to financial elder abuse

HOW PLANNING CLOSES IT

- An agent is named in advance — while you clearly have capacity
- Successors are named, so no vacuum opens up later
- A funded trust means assets are already titled to a trustee, not loose
- Accountings and co-agent or oversight provisions create a paper trail
- Advisors and CPAs know who to call, and who is not authorized

The best protection against exploitation is a decision-maker chosen early, in writing, by you.



3

How You Hold Title

The most overlooked — and most consequential — decision in your plan.

Title Beats Your Trust. Every Time.

How an asset is titled determines where it goes — before your trust is ever read.

Passes by SURVIVORSHIP

Joint tenancy and community property with right of survivorship transfer automatically to the surviving owner at death. The trust is irrelevant.

Passes by DESIGNATION

Retirement accounts, life insurance, annuities, and POD/TOD accounts pass to the named beneficiary. The trust is irrelevant.

Passes by TRUST

Assets titled in the name of your living trust pass under the trust's terms, privately, with no court. The will is irrelevant.

Passes by WILL — through PROBATE

Only what is left: assets in your sole name with no beneficiary and no survivorship feature. This is the pile that goes to court.

A will is the backstop, not the main event. Most people have it exactly backwards.

Six Ways to Hold Property

Joint Tenancy

Equal shares, right of survivorship.
"JTWROS" on the deed.

Tenants in Common

Separate, divisible shares. No survivorship.

Community Property

Married couples. Each spouse owns one-half.

Community Property with Right of Survivorship

Married couples. Community property plus automatic survivorship.

Beneficiary Designation / POD / TOD

Contractual transfer at death. Retirement, insurance, accounts.

Living Trust

Title held by the trustee, under written terms you set.

And the seventh: sole ownership in your own name, with no beneficiary and no trust. It is the default, it is the most common, and it is the one that sends the asset straight to probate court.

Joint Tenancy

ADVANTAGES

- Avoids probate on the first death — automatic transfer to the survivor
- Simple, familiar, and inexpensive to create
- Widely understood by banks and title companies
- Clear and immediate — a certified death certificate usually completes it

DRAWBACKS & RISKS

- Only the deceased owner's one-half receives a step-up in basis
- Adding a non-spouse to title is a completed gift, with gift-tax reporting
- Exposes the property to the other owner's creditors, lawsuits and divorce
- Any joint tenant can sever the joint tenancy without your consent
- Provides nothing for incapacity — a co-owner cannot sell alone
- Probate is not avoided, only postponed, until the survivor dies

Best suited for: Simple, short-term co-ownership between spouses where no trust exists yet.

Watch out for: Adding an adult child to a deed "to keep it simple." It is an expensive shortcut in estate planning.

Tenants in Common

ADVANTAGES

- Shares may be unequal — 60/40, 75/25, any split you choose
- Each owner decides who receives their share at death
- Each share may be sold, gifted or refinanced independently
- The default form of co-ownership between unmarried owners in California
- Each owner's interest can be held in that owner's own living trust

DRAWBACKS & RISKS

- No survivorship — each share passes through that owner's estate
- If the share is not in a trust, that share goes through probate
- Only the deceased owner's fractional share receives a step-up in basis
- Fractional interests are difficult to sell and often discounted
- Any co-owner may file a partition action and force a sale
- Co-owners can end up in business with someone else's heirs

Best suited for: Unmarried co-owners, business partners, and blended families where each side wants its share to go its own way.

Watch out for: Assuming it avoids probate. It does not. Pair each share with that owner's trust.

Community Property

ADVANTAGES

- Full double step-up in basis on the first spouse's death — both halves
- Each spouse may direct their one-half by will or trust
- Reflects California's default characterization of marital earnings
- Can be cleared for the survivor through a spousal property petition
- Protects each spouse's right to leave their half to their own children

DRAWBACKS & RISKS

- A spousal property petition is still a court filing, with delay and cost
- Available only to spouses and registered domestic partners
- Character can be muddled by commingling, refinances and separate funds
- Changing an asset's character requires a valid written transmutation

Best suited for: Married couples who want the full basis adjustment and each want control over their own half.

Watch out for: Assuming the deed wording settles everything. How the asset was acquired and paid for can control its character.

Community Property with Right of Survivorship

ADVANTAGES

- Full double step-up in basis — both halves adjust on the first death
- Automatic survivorship: no probate and no spousal petition on the first death
- Simple to establish on a deed for a married couple
- Combines the tax benefit of community property with the ease of joint tenancy

DRAWBACKS & RISKS

- A poor fit for second marriages and blended families
- Available only to spouses and registered domestic partners
- No incapacity protection at all
- The entire property goes through probate when the survivor dies

Best suited for: First-marriage couples whose plan is simply "everything to each other, then to our children."

Watch out for: Treating it as a complete plan. It solves the first death and the basis question — nothing else.

Beneficiary Designations, POD & TOD

ADVANTAGES

- Transfers immediately at death, outside of probate
- Free to establish and free to change
- Keeps that asset's disposition private
- Essential for retirement accounts, where trust ownership is not possible during life
- Works well for life insurance and simple, outright gifts

DRAWBACKS & RISKS

- Overrides your will and your trust — the form beats the plan
- Stale designations are extremely common after divorce or a death
- With no contingent named, the asset can be payable to the estate — and land in probate
- A minor beneficiary triggers a court-supervised guardianship of the estate
- An outright gift can disqualify a beneficiary from needs-based public benefits
- No control: the money is spent, sued, divorced or lost the moment it lands

Best suited for: Retirement accounts and life insurance, with a named contingent beneficiary and a plan for minors.

Watch out for: Every account with a beneficiary form should be reviewed every time your family changes.

Revocable Living Trust

ADVANTAGES

- Avoids probate on both the first and the second death
- Handles incapacity privately — the successor trustee simply steps in
- Stays out of the public record; no court file, no published inventory
- Controls timing and protections: ages, stages, special needs, spendthrift terms
- Handles real property in more than one state without ancillary probate
- Preserves the full basis adjustment for community property held in trust

DRAWBACKS & RISKS

- Requires funding — deeds recorded, accounts retitled, designations coordinated
- An unfunded trust is an expensive binder that accomplishes nothing
- No protection from your own creditors while you are alive and it is revocable
- No income tax savings during your lifetime — it uses your Social Security number
- Needs periodic review as assets, family and law change

Best suited for: Almost any family that owns real property, has minor children, or wants to avoid court on both events.

Watch out for: Funding. The most common defect I see is a well-drafted trust that never had the house deeded into it.

Title at a Glance

Form of Title	Avoids Probate (1st death)	Avoids Probate (2nd death)	Full Double Step-Up	Covers Incapacity
Sole Ownership	No	No	N/A	No
Joint Tenancy	Yes	No	No — half only	No
Tenants in Common	No	No	No — share only	No
Community Property	No — petition needed	No	Yes	No
CP with Right of Survivorship	Yes	No	Yes	No
Beneficiary / POD / TOD	Yes	Yes	N/A	No
Revocable Living Trust	Yes	Yes	Yes — for CP held in trust	Yes

Why This Is Not Academic: One Deed, Two Outcomes

A married couple bought their home in 1990 for \$150,000. It is worth \$1,200,000 when the first spouse passes away.

HELD IN JOINT TENANCY — HALF STEPS UP

New basis for the survivor: **\$675,000**

Taxable gain if sold at \$1.2M: **\$525,000**

Roughly \$130,000

estimated combined federal and California capital gains exposure

HELD AS COMMUNITY PROPERTY — BOTH HALVES STEP UP

New basis for the survivor: **\$1,200,000**

Taxable gain if sold at \$1.2M: **\$0**

\$0

estimated combined federal and California capital gains exposure

Same house. Same family. Same death. The difference is how the deed was written — and it can be corrected while both spouses are living.

Illustrative only. Actual results depend on tax brackets, holding period, available exclusions and the character of the property.

The Title Mistakes I See Most Often

Adding a child to the deed

Intended as a probate shortcut. Creates a taxable gift, forfeits half the step-up, and exposes the home to the child's creditors and divorce.

The trust was signed but never funded

The trust exists; the house is still in the couple's individual names. The plan does not apply to an asset the trust does not own.

A beneficiary form nobody updated

An ex-spouse, a predeceased sibling, or no contingent at all. The form controls — not the will, not the trust, not the intention.

Refinancing knocked the house out of the trust

Lenders often require the property in individual names. Nobody deeded it back. It only surfaces after a death. Not a general practice now, but for past refinanced homes, yes.

New property bought after the trust was signed

The vacation home, the rental, the new bank account. Every new asset needs to be titled consistently with the plan.

Assuming the deed wording settles the character

How the property was acquired and paid for can control whether it is community or separate — regardless of what the deed says.

If you do one thing after this webinar: pull your deed and pull your beneficiary forms, and read them.

4

The Probate Process

Public, slow, and priced by statute.

What Probate Actually Is

Probate is the court-supervised process of proving a will or intestacy, identifying and valuing assets, paying creditors and taxes, and transferring what remains to the rightful heirs.

TIME

Commonly 9 to 18 months in California, and longer in busy counties or where a will is contested or real property must be sold.

COST

Statutory attorney and executor fees set by the Probate Code, plus filing fees, publication, probate referee appraisal fees and bond premiums.

PRIVACY

The petition, the inventory and appraisal, the list of beneficiaries and the final accounting are all public records anyone can request.

A will does not avoid probate. A will is the instruction manual the probate court follows.

The Probate Timeline

1

Petition filed

A petition for probate is filed in the county where the decedent lived. A hearing is set, often 6–10 weeks out.

2

Notice & publication

Notice is mailed to heirs and beneficiaries and published in a newspaper of general circulation.

3

Representative appointed

The court issues Letters. Bond may be required. The personal representative now has authority to act.

4

Inventory & appraisal

All assets are inventoried; a court-appointed probate referee appraises non-cash assets.

5

Creditor claim period

Creditors have four months from the issuance of Letters to file claims. This period cannot be shortened.

6

Debts, taxes, sales

Valid claims are paid. Final income tax returns are filed. Real property may need to be sold, sometimes with court confirmation.

7

Final accounting

A full accounting and petition for distribution is filed and set for hearing before the judge.

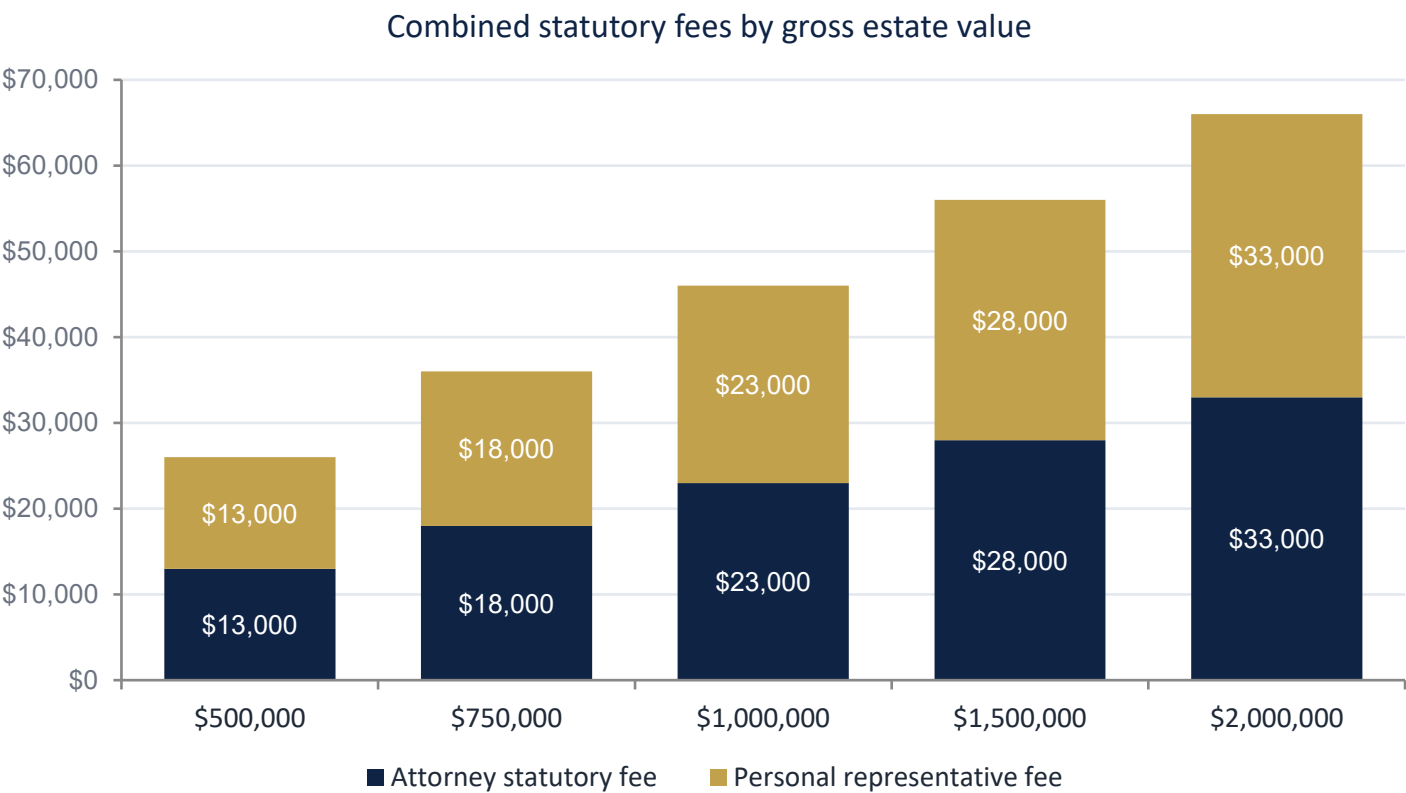
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Distribution & closing

After the court approves, assets are distributed and the estate is closed — typically 9 to 18 months after death.

Nine to eighteen months is typical. Contested matters, missing heirs and real property sales extend it further.

What Probate Costs — Set by Statute



THE STATUTORY SCHEDULE

- 4% of the first \$100,000
- 3% of the next \$100,000
- 2% of the next \$800,000
- 1% of the next \$9,000,000
- Charged twice — attorney and representative

CALCULATED ON GROSS VALUE

Mortgages and liens are not deducted. A \$1,000,000 home with a \$700,000 loan is a \$1,000,000 estate for fee purposes.

Prob. Code §§ 10800, 10810. Extraordinary fees for litigation, property sales and tax work are awarded in addition, along with filing fees, publication, appraisal and bond costs.

California's Probate Shortcuts — and Their Limits

Small Estate Affidavit — Personal Property

Prob. Code § 13100. For qualifying personal property under the current statutory limit (\$239,700 for deaths on or after April 1, 2026; \$208,850 for deaths April 1, 2025 – March 31, 2026). Requires a 40-day wait. Cannot transfer real property.

Petition to Determine Succession to Real Property

Prob. Code § 13151, expanded by AB 2016. A streamlined court petition for a decedent's primary residence valued up to \$750,000. Still requires a filing, a probate referee appraisal and a hearing.

Affidavit re Real Property of Small Value

Prob. Code § 13200. For very low-value real property interests, recorded with the county. Most often used for vacant land and timeshare interests.

Spousal Property Petition

Prob. Code §§ 13500 et seq. Confirms property passing to a surviving spouse or registered domestic partner with no dollar ceiling — but it is still a court proceeding, with notice and a hearing.

These are safety nets for modest estates. In most of California, the family home by itself exceeds the \$750,000 ceiling — and then the entire estate is back in formal probate.



5

The Core Documents

What each piece does — and what it cannot do.

Types of Trusts Recognized in California

1

Revocable Living Trust

Signed by the trustor with a heightened requirement for capacity, is notarized. The standard, and the most defensible.

2

Special Needs Trust

Created for the benefit of a person on government benefits. Allows for a structured and supervised distribution.

3

Irrevocable Trust

Multiple variations, including Charitable Remainder Trusts, Grantor Retained Annuity Trusts, Life Insurance Trusts. Generally, set in stone upon completion with terms only changeable under certain conditions. Provide tax benefits and shelter assets from creditors. Complex and expensive.

What a Revocable Trust Can and Cannot Do

WHAT A TRUST DOES WELL

- Avoids probate – primary purpose.
- Names the trustees you want to serve
- Directs who receives your assets
- Plans for incapacity
- It stays private

WHAT A TRUST CANNOT DO

- It does not create asset protection
- It only avoids probate for assets titled in the trust
- It does not control joint tenancy, CPWROS or beneficiary-designated assets
- It does not hold retirement assets or insurance

A trust works with a pour-over will. It is the manual for incapacity and after death.

Types of Wills Recognized in California

1

Attested (Formal) Will

Prob. Code § 6110. Signed by the testator and witnessed by two people present at the same time who understand the document is a will. The standard, and the most defensible.

2

Holographic Will

Prob. Code § 6111. The material provisions and the signature are in the testator's own handwriting. No witnesses required — and no guidance either. Valid, and heavily litigated.

3

California Statutory Will

Prob. Code § 6240. A fill-in-the-blank form printed in the statute. Free and valid, but it cannot create trusts for minors, address blended families or handle anything unusual.

4

Pour-Over Will

The companion to a living trust. It "pours" into the trust anything that was never retitled — a safety net, not a substitute for funding. Assets caught by it still pass through probate.

California does not recognize: oral ("nuncupative") wills, video wills, or a will conditioned on witnesses who were not present together. An unsigned draft, however clear the intent, is not a will.

What a Will Can and Cannot Do

WHAT A WILL DOES WELL

- Names guardians for minor children — the one thing only a will can do
- Names the executor you want to serve
- Directs who receives your probate assets
- Can create a testamentary trust for minors or a beneficiary who needs protection
- Can waive the bond requirement and request independent administration

WHAT A WILL CANNOT DO

- It does not avoid probate — it directs probate
- It does nothing at all during your lifetime, including for incapacity
- It does not control joint tenancy, CPWROS or beneficiary-designated assets
- It does not stay private — it becomes a public court record
- It does not keep your affairs out of court in a second state where you own property

A will is not the opposite of a trust. It is the instruction sheet for whatever the trust and the title did not already handle.

The Core Document Set

Revocable Living Trust

The centerpiece: holds title, names successor trustees, and sets the terms, timing and protections for beneficiaries.

Pour-Over Will

Catches anything never retitled and names guardians for minor children.

Durable Power of Attorney

Financial authority during incapacity, without a conservatorship.

Advance Health Care Directive

Names your health care agent and records your treatment wishes.

HIPAA Authorization

Permits providers to release medical information to the people you name.

Certification of Trust

A short summary a bank can rely on — so you never hand over the full trust.

Assignment of Personal Property

Moves untitled personal property into the trust.

Deeds & Funding Documents

Recorded deeds and retitled accounts. The step that makes the plan real.

The documents are the easy part. Coordinating them with how every asset is titled is the work.

Funding: Where Good Plans Fail

1

Real property

A deed transferring each parcel into the trust, recorded with the county. Including the rental, the raw land and the out-of-state cabin.

2

Bank and brokerage accounts

Retitled into the name of the trustee, or coordinated by beneficiary designation where that is the better fit.

3

Business interests

LLC membership interests and closely held shares assigned to the trust, subject to the operating agreement and any buy-sell terms.

4

Retirement accounts — the exception

Do not retitle an IRA or 401(k) into a revocable trust during life. Coordinate the primary and contingent beneficiary designations instead.

5

Life insurance and annuities

Review every beneficiary form, including contingents, and align them with the plan rather than with the file from 1998.

An unfunded trust is an expensive binder. The plan applies only to what the trust actually owns.



6

A Brief Word on Taxes

Three numbers worth knowing — and one trap.

The Estate & Gift Tax Exemption

\$15M

Per person (2026)

Combined federal estate and lifetime gift tax exemption.

\$30M

Per married couple

With portability — which requires a timely filed Form 706.

\$19,000

Annual gift exclusion

Per recipient, per year. \$38,000 for a married couple splitting gifts.

- California imposes no state estate tax and no inheritance tax — but other states do, at far lower thresholds.
- Portability is not automatic. The surviving spouse must file a federal estate tax return on the first death to preserve the unused exemption.
- These figures are adjusted annually and have been changed by Congress repeatedly.

For most families the estate tax is not the issue. Capital gains and property tax are.

Step-Up in Basis — The Benefit Worth Protecting

What basis is

Generally what you paid for an asset, adjusted for improvements and depreciation. Gain is the sale price minus basis.

What happens at death

The asset's basis resets to its fair market value on the date of death. The appreciation during the owner's lifetime escapes capital gains tax entirely.

Why community property matters

When a spouse dies, community property receives a new basis on both halves. Joint tenancy adjusts only the deceased spouse's half.

Why lifetime gifting can backfire

A recipient of a lifetime gift takes your original basis. Inheriting the same asset instead would have reset it to market value.

What does not step up

Retirement accounts, annuities and other income in respect of a decedent. Those come to beneficiaries as taxable income.

The planning point

Highly appreciated assets are usually better inherited than gifted. Run the numbers before transferring anything during life.

This is the tax benefit most often destroyed by well-meaning do-it-yourself transfers.

Proposition 19 — California's Property Tax Trap

BEFORE FEBRUARY 16, 2021

- A primary residence of any value passed to children with no reassessment
- Plus up to \$1,000,000 of assessed value in other property — rentals, land, commercial
- No requirement that the child live in the home

TODAY, UNDER PROPOSITION 19

- Only the parent's primary residence may qualify
- The child must make it their own principal residence within one year and claim the exemption
- The exclusion is capped at the factored base year value plus \$1,000,000, adjusted for inflation

WHAT THIS MEANS IN PRACTICE

- Rental properties, vacation homes and commercial property inherited by children are reassessed at full market value
- A family home the children intend to rent out or sell is reassessed
- The property tax bill can multiply several times over, in the year the family can least absorb it
- Putting property in a trust does not avoid reassessment

ALSO UNDER PROP 19

Homeowners who are 55 or older, severely disabled, or victims of a wildfire or natural disaster may transfer their base year value to a replacement home anywhere in California, up to three times.

When to Review Your Plan

A marriage, a divorce, or a death in the family

Beneficiary forms, agents, trustees and guardians all need to be revisited.

A birth, an adoption, or a child reaching adulthood

Guardian nominations, ages of distribution and successor choices change.

Buying, selling or refinancing real property

Refinances routinely knock a home out of the trust. New property is rarely titled correctly on its own.

A meaningful change in assets

A business sale, an inheritance, a liquidity event or a new retirement account.

A move into or out of California

Community property characterization and state death taxes differ sharply across state lines.

A change in the law

Proposition 19 and the federal exemption have both moved in recent years. Plans written before them may assume rules that no longer exist.

A good rule of thumb: review every three to five years, and after any major life event.

Five Things to Take With You

1

Plan for incapacity first

It is the more likely event, it lasts longer, and it is where families are hurt financially. Documents signed today prevent a conservatorship tomorrow.

2

How you hold title governs the outcome

Survivorship and beneficiary designations transfer your assets before your will is ever read. Check your deeds and your forms.

3

Probate is avoidable — deliberately

It takes nine to eighteen months, it is public, and the fees are set by statute on the gross value. Avoiding it is a design choice made in advance.

4

A signed plan is not a finished plan

Funding is the step that makes it real. Deeds recorded, accounts retitled, beneficiary forms aligned.

5

Coordinate your professionals

Your attorney, CPA and financial advisor should be describing the same plan. When they do not, that gap is where the losses happen.

Questions

Please use the Q&A box — I will take as many as we have time for.

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