PROTECTING WHAT YOU'VE BUILT:

A CALIFORNIA FAMILY'S GUIDE TO ESTATE PLANNING

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CONTENTS

CONTENTS

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CHAPTER 1

WHY ESTATE PLANNING LOOKS DIFFERENT ABOVE $2 MILLION

Most estate planning advice available today is written for the general public. It assumes a simple asset picture: a house, a bank account, maybe a retirement fund. It suggests a basic will is enough for most families and treats a trust as an upgrade rather than a necessity.

That advice does not apply to your situation, and treating it as though it does can cost your family significantly more than the cost of proper planning.

If your estate falls in the $2 million to $10 million range, you are likely managing a combination of real property, retirement accounts, investment holdings, and possibly a business or professional practice. You may own more than one property, including real estate outside California. Your family structure may include children from more than one marriage, a family member with special needs, or adult children at very different stages of financial maturity.

None of these circumstances are unusual. But together, they create a level of complexity that a simple will was never designed to address.

The Gap Between a Simple Will and a Plan Built for Complexity

A will alone accomplishes one primary task: it tells a probate court how you want your assets distributed after your death. It does not avoid probate. It does not protect your privacy, since probate filings become part of the public record. It does not address what happens if you become incapacitated before you die. And it does nothing to control how or when your beneficiaries receive their inheritance.

For a modest estate, these limitations may be tolerable. For an estate above $2 million, they are not. The probate process in California is calculated as a percentage of the gross value of the estate, not the net value after debts. On an estate of $5 million, statutory probate fees alone can reach well into six figures, paid to attorneys and executors regardless of how straightforward the estate turns out to be. That cost is avoidable, but only if the underlying planning is done correctly and in advance.

A properly designed estate plan for this level of complexity typically rests on a revocable living trust as its foundation, supported by a coordinated set of additional documents: a pour-over will, healthcare directives, powers of attorney, and clear instructions for how and when assets transfer to the next generation. Chapter 2 addresses why the trust, not the will, should be the centerpiece of your plan, and why the order in which these documents are created and funded matters more than most families realize.

California-Specific Pressures Your Plan Must Account For

California adds several layers of complexity that do not exist in most other states.

Community property. California is a community property state, and how you and your spouse hold title to your assets, individually, jointly, or as community property with right of survivorship, has direct consequences for tax treatment and control after death. A plan that does not account for this distinction can create unintended tax exposure or unintended control issues for a surviving spouse.

Proposition 19 reassessment triggers. Since Proposition 19 took effect, transferring real property to your children no longer automatically preserves the property's existing tax base unless the property becomes the child's primary residence and specific conditions are met. Families who inherited a rental property, vacation home, or investment property without planning around this rule have seen property tax bills increase substantially, sometimes by tens of thousands of dollars annually. This is one of the most significant and most frequently overlooked issues facing California families with real estate holdings above the modest range.

Probate cost as a percentage of estate value. As noted above, California's statutory probate fee schedule is tied to the gross value of the estate. This means that a family with significant real estate holdings, even if heavily mortgaged, can face probate costs calculated on the property's full value, not its equity. This detail alone makes proper trust funding essential for any California family in this bracket.

What Happens Without a Plan

Consider a hypothetical, but realistic, scenario. A married couple in their early fifties owns a primary residence in California worth $1.4 million, a rental property worth $700,000, retirement accounts totaling $1.8 million, and a minority interest in a family business valued at approximately $1 million. They have three children: two from the current marriage, one from a prior marriage. They have no trust, only a basic will drafted years earlier.

Upon the first spouse's death, the estate enters probate. The process takes twelve to eighteen months at minimum, during which the family's real estate and business interests are frozen pending court approval for any significant transaction. Probate fees, calculated on the gross estate value of over $4.9 million, consume a substantial portion of the estate's value. The surviving spouse has limited authority to act on jointly held or business assets during the proceedings. The distribution to the child from the prior marriage becomes a source of tension precisely because there was no trust language addressing how blended family interests would be balanced, an issue explored fully in Chapter 6.

None of this outcome was inevitable. It is the direct result of planning that did not match the actual complexity of the estate.

The Five Decisions Every Plan in This Bracket Must Make

Every comprehensive estate plan for a family in this range needs to resolve five core questions. This guide is organized around them.

1. Who will manage your assets if you cannot, and who will manage them for your beneficiaries after you are gone? This is the question of trustee selection and succession, addressed in Chapter 4.

2. How and when should your beneficiaries actually receive their inheritance? Outright distribution is not always the right answer, particularly for younger beneficiaries, beneficiaries with creditor exposure, or beneficiaries who need incentive-based structure. Chapter 5 addresses distribution design in detail.

3. How do you provide fairly for a current spouse and children from a prior relationship without creating conflict or unintentionally disinheriting someone? Chapter 6 is dedicated to this issue.

4. How do you provide for a family member with a disability without jeopardizing their eligibility for public benefits? Chapter 7 addresses special needs planning specifically.

5. Who has the legal authority to make healthcare and financial decisions on your behalf if you become incapacitated, and how is that authority structured so it functions when your family actually needs it? Chapters 8 and 9 cover healthcare directives and powers of attorney respectively.

Each of these decisions requires more judgment than a template can provide. They depend on your family's specific relationships, your specific assets, and your specific goals. The remainder of this guide walks through each decision in turn, with the level of detail your circumstances warrant.

CHAPTER 2

THE CORE DOCUMENTS, AND WHY ORDER OF OPERATIONS MATTERS

Families frequently arrive at estate planning with a single question: "Do I need a will or a trust?" For an estate in the $2 million to $10 million range, this is the wrong question. The right question is how the will, the trust, and several supporting documents work together, and in what sequence they need to be created and executed for the plan to function as intended.

A plan built out of order, or missing a critical piece, can fail at the exact moment your family needs it most.

The Revocable Living Trust as the Foundation

For an estate of this size, the revocable living trust, not the will, should serve as the centerpiece of the plan. The trust is the document that actually holds title to your assets during your lifetime and directs how those assets are managed and distributed after your death.

A properly funded trust allows your estate to bypass probate entirely for any asset titled in the trust's name. This is not a minor convenience. As discussed in Chapter 1, California's probate process is slow, public, and calculated on the gross value of the estate. A funded trust avoids all three of these consequences. It also allows for continuity of management if you become incapacitated, since your successor trustee can step in immediately without court involvement, a subject addressed further in Chapter 4.

The trust is revocable during your lifetime, meaning you retain full control and can amend or dissolve it as circumstances change. It becomes irrevocable upon your death, at which point its terms, including the distribution provisions discussed in Chapter 5, govern how your estate is administered.

The Pour-Over Will

Even with a fully funded trust, you still need a will. This is called a pour-over will, and its function is narrower than most people expect. It does not distribute your assets directly. Instead, it names a guardian for any minor children and directs that any assets not already titled in the trust at your death be transferred, or "poured over," into the trust, where the trust's terms then control their distribution.

The pour-over will exists as a safety net. Assets acquired shortly before death, or overlooked during the funding process, still end up under the trust's control rather than passing according to California's intestate succession laws. It is not, however, a substitute for properly funding the trust in the first place. Any asset that passes through the pour-over will still must go through probate before it reaches the trust, which defeats much of the purpose of having a trust at all.

Certification of Trust

Financial institutions, title companies, and other third parties routinely ask to see a trust document before allowing a trustee to act. Providing the full trust, which may run 40 pages or more and contains private family and financial information, is neither necessary nor advisable in most cases.

A certification of trust is a shorter document that confirms the trust exists, identifies the trustee's authority, and provides only the information a third party actually needs, without disclosing the trust's dispositive provisions. Every comprehensive plan should include one, and it should be kept current as trustees change.

Why an Unfunded Trust Is the Most Common and Most Costly Mistake

A trust only controls the assets that are actually titled in its name. Signing a trust document is the first step, not the last. The second step, funding, is the one families most often skip, and it is the single most common reason a carefully drafted trust fails to avoid probate.

Funding means retitling real property, updating account registrations, and, where appropriate, changing beneficiary designations so that assets flow into or are owned by the trust. A trust that holds title to your home, your investment accounts, and your business interests functions exactly as intended. A trust that exists only as a signed document in a drawer, while your home, accounts, and business interests remain titled in your individual name, provides none of the protection you paid for.

This is not a one-time task completed at signing. Every time you acquire a new asset, whether a new property, a new account, or a new business interest, that asset needs to be evaluated and, in most cases, retitled into the trust. Chapter 3 walks through the funding process in detail, organized by asset type, including the specific considerations that apply to California real estate, business interests, and retirement accounts.

Reciprocal Versus Individual Trusts for Married Couples

Married couples in California generally choose between a single joint trust or two separate individual trusts. Each structure has implications for how community property and separate property are treated, how the trust responds to the death of the first spouse, and how much flexibility each spouse retains.

A joint trust is simpler to maintain and works well for couples with straightforward community property and aligned distribution goals. Individual trusts offer more precision, particularly for blended families or couples who hold significant separate property, since each spouse's trust can address their own children, their own separate assets, and their own distribution preferences independently. This distinction becomes especially important in the blended family context discussed in Chapter 6, where the interests of a current spouse and children from a prior marriage must be balanced carefully.

The right structure depends on your specific family composition and asset picture, and is a decision that should be made deliberately rather than defaulted into.

Order of Operations

The documents in this chapter are not independent of one another. They function as a sequence, and getting the order wrong undermines the plan even when every individual document is well drafted.

The trust should be drafted first, since its terms determine how the pour-over will and certification of trust are written. The pour-over will and certification of trust are executed alongside the trust, not as an afterthought. Funding begins immediately after execution and continues as an ongoing responsibility, not a single event. Healthcare directives and powers of attorney, covered in Chapters 8 and 9, are typically executed in the same signing session, since they address incapacity planning that works alongside, not in place of, the trust.

A plan assembled out of sequence, or left partially completed, creates gaps that surface only when the family is least equipped to address them: after a death, or during an incapacity. The chapters that follow walk through each remaining piece of the plan in the order it should actually be built.

CHAPTER 3

TITLING AND FUNDING YOUR ESTATE (WHERE MOST PLANS FAIL)

A trust is only as effective as its funding. This chapter walks through the funding process by asset type, with particular attention to the California-specific issues that most often trip up families in the $2 million to $10 million range.

Real Property: Primary Residence

Your primary residence should typically be transferred into your trust via a grant deed or trust transfer deed, recorded with the county recorder in the county where the property sits. This transfer does not trigger a reassessment of your property tax base, and it does not trigger the due-on-sale clause in most mortgages, since California law and federal law both provide specific exemptions for transfers into a revocable trust for estate planning purposes.

Despite this, it is one of the most commonly missed steps. Families sign a trust, understand intellectually that funding is required, and simply never complete the deed transfer. The result is a home that passes through probate exactly as if no trust existed.

Vacation Property, Rental Property, and Out-of-State Real Estate

Additional properties require the same deed transfer process, but with added considerations. A vacation home or rental property held individually, rather than in the trust, forces your family into probate specifically for that asset, even if your primary residence is properly funded. Multiple unfunded properties can mean multiple, separate probate proceedings.

Out-of-state property carries its own complication: without a properly funded trust, that property may require an additional probate proceeding in the state where it sits, a process known as ancillary probate. This is layered on top of, not instead of, the California probate proceeding for the rest of the estate. For families with a cabin in Tahoe that crosses into Nevada, a property in Arizona, or any other out-of-state holding, this is a detail worth confirming directly with your attorney rather than assuming the trust automatically covers it.

Proposition 19 and the Parent-Child Transfer Exclusion

Proposition 19 significantly narrowed California's parent-child exclusion from property tax reassessment. Previously, a parent could transfer a primary residence and up to $1 million of other property to a child without triggering reassessment.

Under current law, the exclusion for a primary residence applies only if the child makes the property their own primary residence within one year of the transfer, and even then, a partial reassessment may apply if the property's value exceeds the prior assessed value by more than $1 million (adjusted periodically for inflation). Other real property, including rental and vacation properties, no longer qualifies for the parent-child exclusion at all.

For a family holding a rental property or vacation home intended to pass to children, this means the property tax basis will very likely reset to current market value upon transfer, regardless of whether the transfer happens through a trust, a will, or intestate succession.

This is not something estate planning documents alone can avoid. It is, however, something your plan should account for explicitly, so your children are not blindsided by a property tax bill that is dramatically higher than what you have been paying.

In some cases, restructuring how a property is held, or planning the timing and structure of a transfer, can mitigate this impact. This is a conversation worth having directly with your attorney given the complexity and the significant dollar amounts often involved.

Business Interests, Partnership Shares, and Professional Practices

Business interests require particular care. An interest in an LLC, corporation, or partnership is typically transferred into the trust via an assignment of interest, but this step must be checked against the entity's own governing documents. Operating agreements, partnership agreements, and buy-sell agreements often include their own transfer restrictions or triggering provisions, and a transfer into a trust that conflicts with those provisions can create disputes with co-owners or trigger unintended consequences under the agreement itself.

Professional practices, such as a law firm, medical practice, or similar licensed entity, may have additional restrictions given state licensing rules about who can hold an ownership interest. These require coordination between your estate planning attorney and any existing buy-sell or partnership agreement. Chapter 11 addresses business succession planning in more depth, including how to coordinate your trust with an existing buy-sell agreement.

Retirement Accounts

Retirement accounts, including 401(k)s, IRAs, and similar accounts, are **generally not retitled into the trust directly**. Doing so can trigger immediate income tax consequences and defeat the tax-deferred status of the account. Instead, these accounts are addressed through beneficiary designations.

Beneficiary designations pass outside of both the trust and probate entirely, which makes them easy to overlook, since they are not part of the trust document itself and are not something your attorney automatically updates when your trust is signed. A beneficiary designation that still names an ex-spouse, an outdated contingent beneficiary, or simply says "my estate" can override even a carefully drafted trust. For families in this bracket, retirement accounts are often a significant portion of overall net worth, which makes getting this detail right particularly consequential.

In some cases, naming the trust itself as beneficiary of a retirement account is appropriate, particularly where you want the trust's distribution provisions, discussed in Chapter 5, to control how a beneficiary receives retirement funds. This requires specific drafting to ensure the trust qualifies as a "see-through trust" for purposes of the required minimum distribution rules, and should not be done without your attorney's involvement.

Life Insurance

Like retirement accounts, life insurance passes according to its beneficiary designation, not according to your trust or will, unless you specifically direct otherwise. Life insurance can name the trust as beneficiary directly, which allows the proceeds to be distributed according to the same terms governing the rest of your estate, rather than as a lump sum paid directly to a named individual.

This is a particularly important consideration for blended families, discussed in Chapter 6, and for families with a special needs beneficiary, discussed in Chapter 7, since an outright life insurance payout to the wrong beneficiary can undermine planning done elsewhere in the estate.

Bank and Brokerage Accounts

Bank and brokerage accounts are typically retitled directly into the name of the trust, or held with a transfer-on-death or payable-on-death designation naming the trust. Retitling into the trust is generally the more reliable approach, since it ensures the successor trustee has immediate access and authority in the event of incapacity, not only after death.

A Funding Checklist, Organized by Asset Type

Given the number of moving pieces above, we recommend every family maintain a funding checklist and revisit it any time an asset is acquired, sold, or refinanced:

- **Primary residence:** deed recorded in trust name
- **Additional real property (in-state and out-of-state):** deed recorded in trust name for each property
- **Business and partnership interests:** assignment of interest completed, reviewed against governing agreements
- **Retirement accounts:** beneficiary designations reviewed and updated
- **Life insurance policies:** beneficiary designations reviewed and updated
- **Bank and brokerage accounts:** retitled into trust name or designated payable/transfer-on-death to the trust
- **Vehicles and other titled personal property:** retitled or addressed via a separate personal property assignment

An unfunded or partially funded trust is, in practical terms, indistinguishable from having no trust at all for the assets left outside of it. This checklist should be reviewed with your attorney at signing, and again at any of the trigger events discussed in Chapter 12.

CHAPTER 4

CHOOSING A TRUSTEE AND BUILDING THE ORDER OF SUCCESSION

Of all the decisions involved in building an estate plan, selecting a trustee is often the one families spend the least time on, and the one with the most significant real-world consequences. The trustee is the person or institution responsible for managing your trust's assets, first if you become incapacitated, and later after your death, until final distribution to your beneficiaries is complete. This chapter addresses how to choose well, and how to build a succession order that holds up when your first choice cannot serve.

What a Trustee Actually Does

Many families think of the trustee role as an honor, a way of recognizing the eldest child or the most responsible sibling. In practice, it is a job, and often a demanding one.

A trustee is responsible for locating and taking control of trust assets, managing real estate, business interests, and investment accounts prudently, filing tax returns for the trust, keeping accurate records, communicating with beneficiaries, and ultimately distributing assets according to the terms you have set out, discussed in Chapter 5.

For an estate in the $2 million to $10 million range, this frequently involves real property in more than one location, a business or professional practice, and multiple beneficiaries with different needs and expectations. The administrative burden can extend over months or years, particularly where a trust includes staggered or lifetime distributions.

A trustee who is unprepared for this scope of responsibility, however well-intentioned, can create delays, mistakes, and family conflict. Choosing well means being honest about what the role actually requires, not simply who deserves the recognition.

Family Member Versus Professional or Corporate Trustee Versus Co-Trustees

There is no universally correct answer here. The right choice depends on your family's dynamics, the complexity of your assets, and the likelihood of conflict among beneficiaries.

A family member trustee offers familiarity with your wishes and your family, and typically costs less than a professional trustee, since family members often serve without a fee or for a modest one. The tradeoff is that the role can strain family relationships, particularly if the trustee is also a beneficiary and must make decisions that affect their own share alongside their siblings' shares. A family member may also lack the financial or administrative experience to manage complex assets, such as a business interest or a portfolio of real estate, without significant professional support.

A professional or corporate trustee, such as a trust company or bank trust department, brings administrative experience, continuity, and neutrality. This can be particularly valuable for higher-conflict families, blended families discussed in Chapter 6, or estates with a special needs beneficiary discussed in Chapter 7, where an impartial third party can reduce the risk of perceived favoritism. The tradeoff is cost, professional trustees typically charge an annual fee based on a percentage of assets under management, and a degree of impersonality that some families find uncomfortable.

Co-trustees, whether two family members, or a family member paired with a professional trustee, can combine local knowledge with administrative rigor. This structure works well when the co-trustees genuinely work well together. It works poorly, and can actively paralyze administration, when co-trustees disagree and the trust does not clearly specify how disputes between them are resolved. If you are considering co-trustees, your trust document should specify whether decisions require unanimous agreement or majority rule, and should include a mechanism for breaking a deadlock.

Building an Order of Succession That Survives Real Life

Naming a single trustee is not enough. Every trust should name a clear sequence of successor trustees, because the circumstances that require a successor to step in are rarely convenient.

A well-built order of succession accounts for more than just death. It should anticipate **incapacity**, where your named trustee is alive but no longer able to serve. It should anticipate **conflict of interest**, where a named trustee has a personal stake that compromises their ability to act impartially, for instance, a trustee who is also the primary beneficiary of a discretionary distribution. It should anticipate **relocation**, where a trustee who once lived nearby has since moved out of state, complicating administration of California real property. And it should anticipate a **straightforward decline**, since serving as trustee is a genuine responsibility, and a person you have named may simply not want the role when the time comes.

We generally recommend naming **at least three tiers of successor trustees**, not because you expect to need all three, but because naming only one or two backups leaves your plan without a clear path forward if circumstances compound, for example, if your first and second choices are unavailable at the same time due to their own age or health.

The order should be specific and unambiguous. "My children, in order of age" may seem clear at the time of drafting but can become a source of dispute later, particularly in blended families or where one child is clearly better suited to the role than another. Naming individuals directly, and explaining your reasoning to your family during your lifetime, tends to prevent far more conflict than a generic default rule.

Naming a Trust Protector

For more complex trusts, particularly those involving long-term or lifetime distributions discussed in Chapter 5, a special needs beneficiary discussed in Chapter 7, or blended family dynamics discussed in Chapter 6, you may want to name a trust protector. A **trust protector** is a separate role from the trustee, typically held by an attorney, an independent advisor, or a trusted family friend, with limited but important powers: the ability to remove and replace a trustee who is not performing well, the ability to modify certain administrative provisions to account for changes in law, such as future tax law changes, and, in some cases, the ability to resolve disputes between co-trustees or between a trustee and a beneficiary.

A trust protector is not appropriate for every plan, but for trusts intended to operate over many years, particularly those with discretionary or staggered distributions, this role provides a safeguard that pure trustee succession does not.

Common Mistakes

A handful of mistakes account for the majority of trustee-related problems we see in practice.

1. **Naming co-trustees who do not get along, or who have a history of conflict**, is one of the most common. The role requires cooperation, and a trust document cannot manufacture a working relationship that does not already exist.

2. **Naming a trustee who is also a beneficiary with a competing interest** is another. This is particularly problematic where the trust gives the trustee discretion over distributions, since a trustee-beneficiary may face a genuine conflict between their duty to administer the trust impartially and their own financial interest in a distribution decision.
3. **Failing to name enough successor trustees** is a third. A plan that names only a spouse, with no further backups, leaves a significant gap if both spouses become unable to serve at the same time, which is not a remote possibility for couples of similar age.
4. **Naming a trustee without ever discussing the role with them** is a mistake that seems minor but causes real problems. A trustee who learns of the appointment only after your death, with no prior understanding of your wishes, your assets, or your reasoning, starts the role at a significant disadvantage. Where appropriate, we recommend having at least a general conversation with your named trustee, and your successors, before the need ever arises, a topic explored further in Chapter 13.

CHAPTER 5

DISTRIBUTION PROVISIONS - DESIGNING HOW AND WHEN HEIRS RECEIVE ASSETS

Once a trustee is in place, the next question is what that trustee is actually instructed to do. Distribution provisions are the terms of your trust that govern how, when, and under what conditions your beneficiaries receive assets. For families in this range, this is frequently the chapter where the most thought, and the most disagreement, is required, because it forces a direct conversation about how you actually want your wealth to affect your children's lives.

Outright Distribution Versus Staggered Distribution Versus Lifetime Trusts

There are three broad structures to choose from, and most comprehensive plans use some combination of the three across different beneficiaries or different assets.

Outright distribution transfers a beneficiary's full share to them directly, with no ongoing restrictions, typically at a single point after your death. This is the simplest structure administratively, since it ends the trust's obligations to that beneficiary once the distribution is complete. It also offers the least protection: once assets are distributed outright, they are immediately exposed to the beneficiary's creditors, a divorcing spouse, or their own financial judgment, and the trust has no further ability to guide or protect the funds.

Staggered distribution releases a beneficiary's share in portions over time, often tied to age, for example, one-third at 25, one-third at 30, and the remainder at 35. This structure provides a beneficiary time to mature financially before receiving full control, while still working toward the eventual outright distribution.

Lifetime trusts hold a beneficiary's share in trust for their entire life, with the trustee making distributions according to a standard you set, often for health, education, maintenance, and support, rather than transferring principal outright. This structure offers the strongest protection, both from creditors and from a beneficiary's own decision-making, and can continue to provide for a beneficiary's children after that beneficiary's death, but requires an ongoing trustee relationship indefinitely, with the administrative cost that implies.

Why "25, 30, 35" Isn't Right for Every Family

Age- and milestone-based staggering is common, and reasonable, but it is worth resisting the temptation to default to round numbers without considering your specific children.

Consider whether your beneficiaries differ meaningfully in financial maturity, career stability, or vulnerability to poor decision-making, and whether a single schedule applied to all of them actually serves each of them well.

Consider milestone-based triggers as an alternative or supplement to age, for instance, distributions tied to completing a degree, reaching a certain point in a career, or purchasing a first home, rather than a birthday alone.

And consider whether a later final distribution age, into the late thirties or forties rather than the mid-thirties, better reflects when you believe your specific children will be equipped to manage significant wealth outright.

There is no universally correct schedule. The right one reflects your actual assessment of your own children, which is a conversation worth having candidly with your attorney rather than defaulting to whatever schedule a template suggests.

Incentive and Protective Provisions

Beyond simple age-based schedules, many families choose to build specific incentive or protective language into their distribution terms.

Education provisions can direct the trustee to pay for tuition and related expenses directly, separate from and in addition to a beneficiary's regular distribution schedule, ensuring education is funded regardless of a beneficiary's age-based milestones.

First-home purchase provisions can authorize an early, targeted distribution to help a beneficiary purchase a primary residence, often structured as a loan from the trust or a matching provision rather than an outright gift.

Entrepreneurship provisions can give the trustee discretion to fund a beneficiary's business venture under specific conditions, which can be valuable but also requires care, since it places the trustee in the position of evaluating a business plan, a task not every trustee is equipped for.

These provisions work best when they reflect your actual values and your actual read on each beneficiary, rather than being included simply because they appear in other families' plans.

Spendthrift Protection and Creditor Protection

A spendthrift provision is standard in most well-drafted trusts and restricts a beneficiary's ability to transfer or pledge their trust interest before receiving it, and restricts most creditors' ability to reach trust assets before distribution. This protection is generally strongest for assets held in a lifetime trust or staggered structure, and is lost entirely once assets are distributed outright to a beneficiary.

For beneficiaries in professions with higher liability exposure, or beneficiaries going through or anticipating a divorce, extending the lifetime trust structure, or delaying outright distribution, provides meaningfully more protection than an early, unrestricted distribution would. This is worth discussing specifically for any beneficiary whose circumstances suggest elevated risk.

Equal Versus Equitable Distribution

One of the more difficult conversations in this chapter is the distinction between treating children equally and treating them equitably, and these are not always the same thing.

Equal distribution divides assets in identical shares regardless of each child's circumstances.

Equitable distribution accounts for differences, for instance, a child who received significant financial support during your lifetime for a home down payment or business investment, a child with a disability requiring the special needs planning discussed in Chapter 7, or a child in a blended family situation discussed in Chapter 6 where a different distribution reflects a specific promise made to a spouse or stepchild.

Families often default to equal distribution because it feels fair and avoids the appearance of favoritism. This is a reasonable default, but it is worth making the choice deliberately rather than by default, and worth documenting your reasoning if you do choose an unequal distribution, since an unexplained departure from equal treatment is one of the more common sources of post-death family conflict and, in some cases, litigation.

Specific Bequests Versus Residuary Distribution

Your trust should distinguish clearly between **specific bequests**, particular items or amounts left to particular people or organizations, and the **residuary estate**, everything remaining after specific bequests, debts, and expenses are accounted for.

This distinction matters more than it may initially appear. A poorly drafted specific bequest, for example, one referencing a bank account that no longer exists by the time of your death, or a piece of property you have since sold, can create ambiguity about whether the intended beneficiary receives anything at all, or whether the bequest simply fails. Similarly, failing to clearly name a residuary beneficiary, or a chain of contingent residuary beneficiaries, risks a partial intestacy, where a portion of your estate passes according to California's default succession laws rather than your actual wishes.

This is a technical drafting issue, but its consequences are significant, and it is precisely the kind of detail that separates a plan that works as intended from one that creates confusion at the exact moment your family needs clarity most.

CHAPTER 6

PLANNING FOR BLENDED FAMILIES

Blended families now represent a substantial share of the families we work with, and they present a planning challenge that a standard estate plan, built around a single marriage and shared biological children, simply does not anticipate. This chapter addresses the specific tension that defines blended family planning: providing appropriately for a current spouse while ensuring children from a prior relationship are not unintentionally disinherited.

The Core Tension

In a first marriage with shared children, the default assumption, assets pass to the surviving spouse, who then leaves the remainder to the children, generally works well, because the surviving spouse's children and the deceased spouse's children are the same people.

In a blended family, this assumption breaks down. If a father leaves his entire estate outright to his second wife, with the expectation that she will eventually provide for his children from his first marriage, he has no actual legal guarantee that this will happen. His surviving spouse is free to leave her estate, including what she inherited from him, however she chooses, including entirely to her own children or a subsequent spouse.

This is not a hypothetical risk. It is one of the most common sources of estate litigation among blended families, and it is entirely avoidable with the right planning structure.

QTIP Trusts, Marital Trusts, and Bypass Planning

A Qualified Terminable Interest Property trust, commonly called a QTIP trust, is one of the primary tools for resolving this tension. A QTIP trust allows you to provide income and, if you choose, principal access to your surviving spouse for the remainder of their life, while guaranteeing that whatever remains in the trust upon your spouse's death passes to the beneficiaries you named, typically your children from a prior marriage, rather than to whomever your surviving spouse chooses.

This structure allows you to genuinely provide for your spouse's financial security without relying on their discretion or goodwill to eventually benefit your children. It also allows you to specify precisely what your spouse is entitled to during their lifetime, whether all income the trust generates, a right to remain in the family residence, or discretionary principal for health and support needs, while keeping the ultimate disposition of the principal under your control rather than theirs.

A marital trust functions similarly and is sometimes used in combination with a QTIP structure, particularly where estate tax planning, discussed in Chapter 10, is also a consideration. Bypass, or credit shelter, planning can be layered in as well, allowing a portion of the estate to pass in a way that uses both spouses' available tax exemptions efficiently. The right combination of these structures depends on the specific family and asset picture, and is a conversation to have directly with your attorney rather than something to select from a menu.

Separate Property Versus Community Property in Second Marriages

Second marriages frequently involve a mix of separate property, assets owned before the marriage or received individually by gift or inheritance during the marriage, and community property, assets acquired during the marriage through either spouse's efforts. This distinction carries real weight in blended family planning, since separate property generally remains under the individual control of the spouse who owns it, while community property is subject to different rules regarding each spouse's interest.

Couples entering a second marriage with significant assets from a first marriage or a prior career often benefit from a written agreement, whether a prenuptial agreement entered before marriage or a postnuptial agreement entered after, that clarifies which assets are separate property and confirms both spouses' understanding of how those assets will be treated in the estate plan.
This is not a substitute for the trust itself, but it provides clarity and reduces the likelihood of a dispute over characterization later, particularly where a spouse's separate property has appreciated significantly or been commingled with community funds over the course of a long marriage.

Naming Guardians and Trustees When Interests Diverge

Blended families also require particular care in selecting a trustee, a topic addressed generally in Chapter 4. Where a surviving spouse and children from a prior marriage have genuinely different, sometimes competing, interests, naming the surviving spouse as sole trustee over a trust that ultimately benefits the children from a prior marriage can create an inherent conflict of interest, since the spouse may be incentivized to interpret discretionary provisions in their own favor.

For this reason, many blended family plans benefit from naming a neutral professional trustee, or a co-trustee structure that pairs the surviving spouse with an independent trustee or one of the decedent's own children, specifically to administer the QTIP or marital trust share. This reduces the risk that the surviving spouse's management of the trust becomes a source of resentment or dispute among the decedent's children.

Guardian designations for minor children present a similar issue where stepparent and biological-parent relationships diverge. If you have minor children from a prior relationship who are not also the children of your current spouse, naming your current spouse as guardian may not reflect either your wishes or the practical reality of the children's relationships with their other biological parent. This decision warrants direct, specific conversation with your attorney rather than a default assumption that your current spouse is automatically the appropriate choice.

Having the Conversation Before It Becomes a Surprise

The single most effective step a blended family can take, beyond the legal structures above, is communicating the plan, or at least its general framework, to the adult children and spouse involved, before it becomes a surprise delivered after your death.

This does not require disclosing exact dollar figures or every provision of the trust. It does mean giving your spouse and your children a **general understanding of how you have structured things and why**, so that a QTIP trust, a specific bequest, or an unequal distribution does not read as a slight discovered for the first time during trust administration. **Families who have this conversation, even in general terms, consistently experience less conflict and litigation than families who leave the entire structure to be discovered after the fact.**

A framework that works well for many families: address the "why" before the "what." Explaining that you want your spouse to be financially secure for life, and that you also want to ensure your children ultimately receive what you've built for them, is a conversation most spouses and most adult children can understand and accept, even if the specific mechanics remain private. Chapter 13 addresses this kind of family communication in more depth, including how to prepare a successor trustee for the administrative responsibilities discussed in Chapter 4.

CHAPTER 7

SPECIAL NEEDS PLANNING

For families with a child, sibling, or other loved one with a disability, estate planning carries a stake that goes beyond the concerns addressed elsewhere in this guide. Done well, it preserves both an inheritance and a lifetime of public benefits. Done poorly, even with the best of intentions, it can eliminate benefits your family member depends on, sometimes immediately and sometimes permanently.

Why an Inheritance Can Unintentionally Disqualify a Loved One from Benefits

Many public benefits programs that individuals with disabilities rely on, most significantly Supplemental Security Income and Medi-Cal, are means-tested. Eligibility depends on the recipient having limited countable assets and limited income. As of this writing (in 2026), SSI eligibility generally requires countable assets below $2,000 for an individual.

An outright inheritance, even a modest one, well below the thresholds discussed for the rest of this guide, can push a beneficiary's countable assets over this limit and result in suspension or termination of both SSI and Medi-Cal eligibility. This is true regardless of your intent. A parent who leaves an equal, outright share to a child with a disability, out of a genuine desire for fairness among siblings, can unintentionally cause that child to lose the very benefits, including health coverage and in-home care support, that make daily life possible.

This is the central problem special needs planning exists to solve: how to provide for a loved one's quality of life without disqualifying them from the benefits that already support it.

Third-Party Special Needs Trusts

A third-party special needs trust is funded with assets belonging to someone other than the beneficiary, typically a parent or grandparent, as part of their estate plan. Because the assets never belonged to the beneficiary directly, they are not counted toward the beneficiary's eligibility limits, provided the trust is properly drafted and administered.

This trust can pay for a wide range of expenses that supplement, rather than duplicate, what public benefits already cover: therapies not covered by Medi-Cal, specialized equipment, travel, recreation, education, and quality-of-life expenses that would otherwise be entirely out of reach. It generally cannot pay for certain categories of support, food and shelter in particular, without affecting SSI payments, which is why coordination with a knowledgeable trustee, discussed below, matters so much in practice.

A third-party special needs trust can be built directly into your revocable living trust, as a sub-trust that receives the beneficiary's share rather than distributing it to them outright, discussed further in Chapter 5's distribution framework. This is often the most efficient structure for families integrating special needs planning into a broader estate plan rather than creating an entirely separate document.

First-Party (Self-Settled) Special Needs Trusts

A first-party special needs trust is funded with assets that belong to the beneficiary themselves, most commonly the proceeds of a personal injury settlement or an inheritance received directly and outright before proper planning was in place.

Because the assets originated with the beneficiary, this type of trust is subject to a significant additional requirement: upon the beneficiary's death, California and the federal government are entitled to reimbursement from the trust for Medi-Cal benefits paid during the beneficiary's lifetime, a provision known as the Medi-Cal payback requirement.

This distinction matters directly for your planning. A well-structured third-party trust, established through your estate plan before your death, avoids the payback requirement entirely, preserving more of the trust's value for your family member's benefit rather than for reimbursement to the state. This is one of the strongest reasons to address special needs planning proactively within your own estate plan, rather than leaving your family to establish a first-party trust reactively after you are gone.

Coordinating with a Letter of Intent

A special needs trust addresses the legal and financial structure, but it does not, on its own, communicate the day-to-day knowledge a future caregiver or trustee will need. A letter of intent is an informal but detailed document, not legally binding, that captures your family member's routines, preferences, medical history, current care providers, social relationships, and the kind of guidance only a parent or primary caregiver would know to write down.

This document is invaluable to whoever steps into a caregiving or trustee role after you are no longer able to provide this guidance yourself, and should be updated periodically as circumstances change, alongside the broader plan review discussed in Chapter 12.

Choosing a Trustee for a Special Needs Trust

The trustee selection considerations discussed generally in Chapter 4 apply here, but with additional weight. A special needs trustee must understand, or be willing to learn with professional guidance, the specific rules governing permissible distributions, since an improper distribution, for instance, paying a beneficiary's rent directly, can reduce or eliminate SSI payments even when the trustee's intent was entirely appropriate.

Given this complexity, many families choose a professional trustee, or a co-trustee structure pairing a family member who understands the beneficiary's personal needs with a professional trustee experienced in special needs trust administration. This combination allows for both personal familiarity and the technical compliance the role demands. Where a sole family member serves as trustee, that person should have direct access to a special needs planning attorney or professional fiduciary for ongoing guidance, rather than administering the trust in isolation.

ABLE Accounts

An **ABLE account** is a tax-advantaged savings account available to individuals who developed a qualifying disability before age 26, allowing the account holder to save and invest up to the annual contribution limit without affecting SSI or Medi-Cal eligibility, up to a total account balance cap that is periodically adjusted.

An ABLE account is not a substitute for a special needs trust; its contribution limits are far too low to hold a meaningful inheritance. But it works well alongside one, particularly for smaller, more frequent expenses the beneficiary wants direct control over, without needing to request each distribution through a trustee.

Coordinating both tools, an ABLE account for accessible day-to-day funds and a special needs trust for the larger share of the inheritance, gives many families the right balance of independence and long-term protection.

Integrating Special Needs Planning Without Creating Conflict Among Other Beneficiaries

Special needs planning does not happen in isolation from the rest of your estate plan. As discussed in Chapter 5, families must decide whether to divide their estate equally among all children, with the special needs beneficiary's share directed into a special needs trust, or to allocate a larger or smaller share specifically calibrated to that beneficiary's anticipated lifetime needs and existing benefit support.

Both approaches can be appropriate, but the reasoning behind whichever approach you choose is worth documenting and, where appropriate, discussing with your other children in the manner addressed in Chapter 13. A sibling who does not understand why a special needs trust holds a different share, or operates under different terms, than their own inheritance can experience this as unfairness rather than as the careful protective planning it actually represents. A brief, honest explanation, during your lifetime, prevents far more conflict than silence does.

CHAPTER 8

HEALTHCARE DIRECTIVES AND DECISION-MAKING AUTHORITY

An estate plan is often thought of as a document that takes effect after death. For most families, however, the more immediate risk is incapacity: a period, sometimes brief, sometimes extended, where you are alive but unable to make or communicate your own healthcare decisions. This chapter addresses the document that governs that period, and the decisions embedded within it that families frequently underestimate.

What an Advance Health Care Directive Actually Authorizes

An **Advance Health Care Directive** is the California statutory document that accomplishes two distinct functions, and it is worth understanding both, since many people assume the document does more, or less, than it actually does.

First, **it appoints a healthcare agent**, sometimes called a healthcare proxy or agent for healthcare decisions, who is legally authorized to make medical decisions on your behalf if you are unable to make them yourself. This authority is broad by default, covering decisions about treatment, surgery, medication, and end-of-life care, unless you specifically limit it.

Second, **it allows you to record your own healthcare wishes directly**, including instructions about life-sustaining treatment, pain management preferences, and organ donation, which serve as guidance for your agent even though the agent retains decision-making authority for circumstances the document does not specifically address.

A common misconception is that the directive itself makes all the decisions, as though it were a detailed script your family and physicians simply follow. In practice, medical situations are rarely as clean as a document can anticipate in advance, and the healthcare agent's judgment, informed by whatever instructions you have provided, is what actually governs. This makes the choice of agent, discussed below, at least as important as the specific instructions you include.

Choosing a Healthcare Agent

The default assumption in many families is that a spouse, or the eldest child, is the natural choice for healthcare agent. This is often correct, but it should be a deliberate decision rather than an assumption, for several reasons.

A spouse may be experiencing significant emotional distress at the same time a healthcare decision needs to be made, which can affect their ability to act with the clarity a difficult decision requires. An eldest child may not, in fact, be the family member best equipped to handle confrontation with medical staff, to process complex medical information, or to make a difficult decision under pressure without deferring unhelpfully to other family members' opinions.

The right healthcare agent is someone who can remain calm under significant stress, who is willing to advocate assertively with medical providers when necessary, and who is prepared to honor your wishes even if those wishes differ from what they personally would choose, or from what other family members are urging. This is not necessarily the person you are emotionally closest to. **We encourage clients to think through this distinction specifically, rather than defaulting to the most obvious family relationship.**

As with trustee selection in Chapter 4, you should name successor healthcare agents as well, in case your first choice is unavailable or unable to serve when the need arises.

HIPAA Authorizations

An Advance Health Care Directive grants your agent authority to make decisions, but it does not automatically guarantee that every hospital or provider will readily share your medical records and information with anyone other than your named agent, particularly in the period before your agent's authority is formally activated.

A separate HIPAA authorization, naming specific individuals permitted to receive your medical information, closes this gap. This is particularly useful where you want more than one family member, for instance, your healthcare agent and one or two adult children, to be able to receive updates and speak with your medical team directly, even though only your named agent holds actual decision-making authority.

Without this authorization in place, family members can find themselves unable to get even basic information from a hospital during an already stressful situation.

End-of-Life Instructions: How Specific to Get

One of the more difficult drafting decisions in this chapter is how much detail to include about your end-of-life wishes. Vague language, a general statement that you do not want "heroic measures," for example, can leave your agent and your family genuinely uncertain about what you would have wanted in a specific, real situation, which is precisely when family disagreement is most likely to surface.

More specific instructions, addressing your preferences around artificial nutrition and hydration, mechanical ventilation, resuscitation, and the circumstances under which you would or would not want life-sustaining treatment continued, give your agent considerably more to work with.

This does not mean anticipating every possible medical scenario, which is not realistic, but it does mean moving beyond generic language toward instructions that reflect how you actually think about quality of life and the circumstances under which you would want treatment continued or withdrawn.

Families who have a direct conversation with their named healthcare agent about these preferences, beyond simply having them read the document, consistently report that the agent feels more confident and less burdened by guilt when the moment actually comes. This is a conversation worth having deliberately, not left to be inferred from the document alone.

California-Specific Execution Requirements

California law requires an Advance Health Care Directive to be either notarized or signed in the presence of two qualifying witnesses. Not everyone qualifies as a witness: your healthcare agent cannot serve as a witness, and at least one witness must attest that they are not related to you by blood, marriage, or adoption, and would not be entitled to any portion of your estate. Additional restrictions apply if you are a patient in a skilled nursing facility at the time of signing, requiring a patient advocate or ombudsman as an additional witness.

These requirements are procedural, but a directive executed without meeting them can be challenged or disregarded by a healthcare provider at precisely the moment it is needed most. This is a document worth having your attorney review for proper execution rather than assuming a downloaded template correctly reflects current California requirements.

CHAPTER 9

FINANCIAL POWERS OF ATTORNEY

While the Advance Health Care Directive addresses medical decisions during incapacity, it says nothing about who can manage your finances during that same period, pay your mortgage, run your business, manage your investment accounts, or handle a real estate transaction. That authority comes from a separate document: the Durable Power of Attorney for finances. This chapter addresses how it works, how it should be structured, and how it fits alongside the trust discussed in Chapters 2 and 3.

Scope of Authority and When It Activates

A **Durable Power of Attorney** authorizes an agent, sometimes called an attorney-in-fact, to act on your behalf in financial matters. The word "durable" is significant: it means **the authority continues even if you become incapacitated**, which is precisely the circumstance in which the document matters most. A power of attorney that is not durable terminates at the moment of incapacity, which defeats its purpose for estate planning use.

The scope of authority can be broad, covering banking, real estate transactions, tax filings, business operations, and investment management, or it can be limited to specific powers you choose to grant.

For families in this bracket, where the estate frequently includes real estate, business interests, and investment accounts, **a broad grant of authority is generally more useful than a narrow one**, since a limited document can leave your agent unable to act in a situation you did not specifically anticipate when it was drafted.

Springing Versus Immediately Effective Powers of Attorney

California law allows a Durable Power of Attorney to be structured in one of two ways: immediately effective upon signing, or "springing," meaning it only becomes effective upon a determination of incapacity, typically documented by one or more physicians as specified in the document itself.

An immediately effective power of attorney gives your agent authority the moment you sign, even while you remain fully capable of managing your own affairs. This can feel uncomfortable to some clients, but it avoids a practical problem with springing powers: the delay, and occasionally the disagreement among physicians or family members, involved in formally determining that incapacity has occurred, precisely when your family may need your agent to act quickly, for instance, to make a mortgage payment or respond to a time-sensitive business matter.

A springing power of attorney can feel more comfortable psychologically, since it does not grant authority until it is actually needed, but it requires the document to specify clearly how incapacity is determined and by whom, and families should understand that this determination is not always immediate. There is no universally correct choice here; it depends on your comfort level and your trust in the named agent, and is worth discussing candidly with your attorney.

Coordinating Power of Attorney Authority with an Already-Funded Trust

A properly funded trust, discussed in Chapters 2 and 3, already provides for continuity of management of trust assets during incapacity, since your successor trustee can step in to manage trust property without court involvement. This raises a natural question: if the trust already covers this, why is a power of attorney still necessary?

Two steps meaningfully reduce this risk:

1. **Keep the document reasonably current**, since a power of attorney signed one or two years ago is generally accepted with less friction than one signed a decade earlier.
2. **Consider providing a copy of the document directly to your primary financial institutions in advance**, rather than waiting until the moment your agent actually needs to use it, so that any institutional concerns can be resolved while you are still able to participate in that process yourself.

Choosing an Agent: Same Person as Trustee, or Someone Different?

Many families default to naming the same individual as both successor trustee and financial power of attorney agent, which can work well and creates a simpler, more unified structure to communicate to your family and to institutions.

There are situations, however, where naming different individuals makes sense. Where your successor trustee is a professional or corporate trustee, discussed in Chapter 4, appointing a family member as your power of attorney agent for matters outside the trust, personal tax filings, government benefit applications, or personal property not held in the trust, can provide a more personal layer of support alongside the professional trustee's more formal administration.

Similarly, where you have concerns about a single individual holding too much unchecked authority across every aspect of your affairs, splitting these roles between two trusted individuals provides a natural, built-in check.

There is no requirement that these roles be held by the same person, and the right choice depends on your family's specific dynamics and the level of trust and capability you have in the individuals available to serve.

CHAPTER 10

TAX CONSIDERATIONS FOR THE $2–10 MILLION ESTATE

Tax planning is often the most misunderstood piece of estate planning for families in this range. Some assume their estate is far too large to avoid tax exposure without aggressive, complicated planning. Others assume, incorrectly, that California's lack of a state estate tax means there is nothing to plan for at all. Neither assumption is accurate, and this chapter addresses where families in the $2 million to $10 million range actually stand.

The Federal Estate Tax Exemption and Portability

The federal government imposes an estate tax on estates exceeding a specific exemption amount, an amount that is adjusted periodically and has been the subject of significant legislative change in recent years. Because this figure changes based on federal law, and because it is one of the most consequential numbers in your entire plan, we address the current exemption amount directly with clients rather than stating a fixed figure here that may already be outdated by the time you read this. What matters structurally, regardless of the specific number in effect at any given time, is understanding two concepts that apply to virtually every married couple in this bracket.

The first is that each spouse has their own individual exemption. The second is portability: if the first spouse to die does not use their full exemption, the unused portion can, if properly elected on a timely filed estate tax return, be transferred to the surviving spouse, effectively allowing a married couple to combine their exemptions.

Claiming portability requires filing a federal estate tax return after the first spouse's death, even if no tax is owed, which is a step some families mistakenly skip because they assume a return is unnecessary when the estate is not taxable. Failing to file for portability when it would have been available is one of the more common and entirely avoidable errors we see in estates that could otherwise have preserved significant future tax benefit for the surviving spouse.

For most families squarely within the $2 million to $10 million range, particularly married couples, the combined exemption available through portability means federal estate tax exposure may be limited or nonexistent, though this depends entirely on the exemption amount in effect at the time of death, which is a genuine unknown for younger clients planning decades in advance. This is precisely why the flexible planning structures discussed below, and the periodic review discussed in Chapter 12, matter more than trying to plan permanently around today's exemption figure.

Step-Up in Basis and Why How You Hold an Asset Matters

Separate from the estate tax exemption entirely, one of the most valuable tax benefits available to your family is the step-up in basis. When you die owning an appreciated asset, real estate, stock, or a business interest that has grown in value since you acquired it, your beneficiaries generally receive that asset with its cost basis "stepped up" to its fair market value as of your death, rather than the amount you originally paid. This can eliminate capital gains tax on decades of appreciation entirely if the asset is sold shortly after inheritance.

This benefit depends significantly on how an asset is held and titled, particularly for married couples in a community property state like California. Community property generally receives a full step-up in basis on both halves of the asset upon the death of the first spouse, not just the deceased spouse's half, which is more favorable than the treatment typically available in non-community-property states.

This is a meaningful reason to confirm, as part of the funding process discussed in Chapter 3, that jointly acquired assets are actually characterized and titled as community property, rather than as joint tenancy or another form of ownership that may not receive the same favorable treatment.

This is also a central reason why lifetime gifting, discussed below, requires careful consideration. An asset gifted during your lifetime carries over your original cost basis to the recipient, forfeiting the step-up entirely. An asset transferred at death generally receives the step-up. For a highly appreciated asset, the tax cost of gifting it away during your lifetime can, in some cases, exceed the estate tax benefit the gift was intended to achieve, which is precisely the kind of tradeoff that requires numbers specific to your situation rather than a general rule.

Irrevocable Trust Strategies for Estates Approaching the Exemption

For families whose estate is approaching or may eventually exceed the applicable federal exemption, whether due to continued growth, business success, or future changes in the law, several irrevocable trust strategies are worth understanding at a general level, even if the details require direct consultation with your attorney.

An **Irrevocable Life Insurance Trust, or ILIT,** holds a life insurance policy outside of your taxable estate, ensuring the death benefit is not counted toward your estate's value for tax purposes, while still providing liquidity your family may need to cover taxes, expenses, or to equalize inheritances among beneficiaries, an issue that can be particularly relevant for the business succession planning discussed in Chapter 11.

A **Spousal Lifetime Access Trust, or SLAT,** allows one spouse to make a gift into an irrevocable trust for the benefit of the other spouse, removing the gifted assets from the taxable estate while still allowing indirect access to the funds through the beneficiary spouse during the couple's lifetime. This strategy has become more prominent as a way to use a larger available exemption before a potential future reduction, though it carries its own complexity, particularly if the couple later divorces, since access through the beneficiary spouse is generally lost at that point.

Direct gifting strategies, using the annual gift tax exclusion or a portion of the lifetime exemption, can also reduce the size of a growing estate over time. These strategies are highly dependent on your specific asset composition, growth trajectory, and family goals, and are best evaluated in a dedicated planning conversation rather than adopted as a general practice.

Where California Families Mistakenly Assume Protection That Doesn't Exist

California does not impose a state estate tax or inheritance tax, and clients frequently, and reasonably, take some comfort in this fact. It is worth being precise, however, about what this protection does and does not cover.

California does impose ordinary state income tax on income generated by a trust after your death, including income generated by trust assets before final distribution to beneficiaries, and beneficiaries should understand that inheriting assets does not mean inheriting them tax-free from an income tax perspective going forward.

And, as discussed at length in Chapter 3, California's lack of an estate tax provides no protection whatsoever from Proposition 19 property tax reassessment, which can impose a substantial and entirely separate cost on inherited real estate regardless of the estate's overall size or any federal estate tax exposure.

Families sometimes conflate the absence of a state estate tax with a broader sense that California is a low-tax environment for estate transfers generally, and the property tax reassessment issue in particular shows that this is not consistently the case.

CHAPTER 11

BUSINESS AND PROFESSIONAL PRACTICE SUCCESSION

For many families in this bracket, a business or professional practice represents not just a significant share of net worth, but also an operating enterprise that depends on continuity, licensing, client relationships, and, often, the owner's personal involvement. This chapter addresses how business succession planning intersects with, and sometimes complicates, the rest of your estate plan.

Buy-Sell Agreements and How They Interact with the Estate Plan

If you own a business with one or more partners, whether a law firm, medical practice, or closely held company, there is very likely already a buy-sell agreement, partnership agreement, or operating agreement in place that dictates what happens to your ownership interest upon your death, disability, or retirement. **This existing agreement takes precedence over, or at minimum significantly constrains, what your estate plan can accomplish with respect to that interest**, and it is essential that your estate plan is drafted with full awareness of its terms rather than in isolation from it.

A common and serious problem arises when a trust or will attempts to leave a business interest to a beneficiary in a way that conflicts with a buy-sell agreement's mandatory purchase provisions, for instance, a provision requiring surviving partners to purchase the deceased owner's interest at a formula price, regardless of what the estate plan separately directs. In this situation, the buy-sell agreement generally controls, and the estate plan's provision may simply fail to operate as written, creating confusion and potential dispute among your family and your business partners at an already difficult time.

Before finalizing your estate plan, your buy-sell agreement, partnership agreement, or operating agreement should be reviewed directly against your trust's provisions regarding that business interest, to confirm the two documents work together rather than at cross purposes. This is a coordination step that is easy to overlook, since the buy-sell agreement is often drafted by business counsel at a different time, and sometimes by a different attorney entirely, than the estate plan itself.

Valuing and Transferring Closely Held Business Interests

Unlike publicly traded securities, a closely held business interest, whether a professional practice, a family company, or a partnership share, does not have a readily observable market price. Valuing this interest, for purposes of an estate plan, a buy-sell agreement, or eventual estate tax reporting if applicable, generally requires a qualified business valuation, and the methodology used can meaningfully affect both the fairness of the outcome among your beneficiaries and any tax consequences involved.

Where only one of your children is active in the business and others are not, this valuation question becomes intertwined with the distribution fairness discussion in Chapter 5. Leaving the business itself to the involved child, while providing other assets of comparable value to your other children, generally works better in practice than leaving all children equal, undivided shares in a business that only one of them is equipped, or willing, to operate.

An undivided interest split among children with different levels of involvement and different expectations is one of the more common sources of prolonged family and business conflict following a death, particularly where one sibling wants to continue operating the business and another wants to be bought out immediately.

Continuity Planning for Incapacity, Not Just Death

Business succession planning is frequently framed entirely around death, but incapacity presents an equally significant, and arguably more common, risk. A business owner who suffers a stroke, a serious illness, or a debilitating injury may survive for years in a condition that prevents them from running the business, without any of the death-triggered provisions in a buy-sell agreement or estate plan ever being activated.

This is precisely where the financial power of attorney discussed in Chapter 9, and the trust structure discussed in Chapters 2 and 3, need to specifically address business operations, not just personal financial affairs. **Your power of attorney and your trust should clearly authorize your successor trustee or agent to step into an active management or ownership role in the business during your incapacity**, including the authority to make day-to-day operational decisions, sign on business accounts, and interact with partners, clients, and licensing bodies as necessary to keep the business functioning. Without this specific authorization, a business can stall administratively at precisely the moment continuity matters most, even though the owner is still alive.

Coordinating with an Existing Partnership or Operating Agreement

Beyond the buy-sell provisions discussed above, your business's own governing documents, its operating agreement if an LLC, its partnership agreement if a partnership, or its bylaws and shareholder agreements if a corporation, may include other provisions directly relevant to your estate plan. These can include restrictions on who may hold an ownership interest, requirements for partner or member approval before an interest can transfer to a trust or an heir, rights of first refusal held by other owners, and specific procedures for valuing and transferring an interest that differ from what a generic buy-sell agreement might provide.

For licensed professional practices in particular, state licensing requirements may restrict ownership to individuals holding the relevant professional license, which can mean a surviving spouse or child who is not licensed in that profession cannot hold a direct ownership interest at all, regardless of what the estate plan or trust otherwise provides, and may instead be entitled only to the economic value of the interest through a required buyout. This is a critical detail to confirm directly with your business or corporate attorney, in coordination with your estate planning attorney, well before it becomes relevant, since it directly shapes what your estate plan can actually accomplish with respect to that interest.

CHAPTER 12

KEEPING THE PLAN CURRENT

An estate plan is not a document you complete once and set aside. It is a structure built around your family, your assets, and the law as they exist at a specific point in time, all three of which change. This chapter addresses when and how to revisit your plan so it continues to function as intended.

Trigger Events That Require a Plan Review

Rather than reviewing your plan on an arbitrary calendar schedule alone, we recommend treating specific life events as immediate triggers for review, since these are the moments when a plan drafted under different circumstances is most likely to no longer reflect your actual wishes or your actual asset picture.

A **marriage,** whether your own or a beneficiary's, warrants review, particularly given the community and separate property considerations discussed in Chapter 6 for blended families, and the potential need to update beneficiary designations discussed in Chapter 3.

A **divorce**, similarly, requires prompt attention, not only to your own plan but to beneficiary designations on retirement accounts and life insurance, which do not automatically update simply because a divorce is finalized, and which have, in numerous documented cases, resulted in an ex-spouse receiving assets a decedent clearly did not intend for them.

The **birth of a child or grandchild** warrants review of guardian designations, discussed in Chapter 6, and distribution provisions, discussed in Chapter 5, to ensure a new family member is properly accounted for rather than accidentally excluded through outdated document language.

A **death**, whether of a beneficiary, a named trustee, or a healthcare agent, requires updating your successor designations discussed in Chapter 4 and Chapter 8, since a plan that still names a deceased individual in any capacity creates unnecessary complications for your family.

Relocation, whether your own move to or from California or the acquisition of out-of-state property, warrants review given the state-specific issues discussed throughout this guide, particularly around Proposition 19 in Chapter 3 and the execution requirements for healthcare directives in Chapter 8.

The **sale or purchase of any significant property, or a material change in a business interest** discussed in Chapter 11, requires confirming that the funding checklist from Chapter 3 is current and that no newly acquired asset has been left outside the trust.

And **changes in law**, whether to the federal estate tax exemption discussed in Chapter 10, Proposition 19 itself, or other relevant statutes, warrant a review even in the absence of any change in your personal circumstances, since a plan built around a prior legal landscape can become less effective, or in some cases counterproductive, as the law shifts beneath it.

A Practical Review Cadence

Beyond trigger events, we recommend a baseline review with your attorney **every three to five years** even if no specific trigger event has occurred, simply because gradual changes, in your relationships with named fiduciaries, in the composition and value of your assets, and in your own thinking about distribution provisions discussed in Chapter 5, can accumulate without any single moment prompting a reconsideration.

This review does not need to be extensive in most years. Often it confirms that the plan remains appropriate as drafted. Its value lies in catching the years where something has quietly shifted, a named trustee has moved out of state or is no longer the right fit, a business interest has grown significantly relative to the rest of the estate, or a beneficiary's circumstances have changed in a way that affects the distribution structure discussed in Chapter 5, before that shift becomes a problem discovered only after your death or incapacity.

Amendment Versus Restatement

Not every update requires rebuilding the plan from scratch. A trust amendment is a targeted document that changes a specific provision, updating a successor trustee, adjusting a specific bequest, or modifying a distribution age, while leaving the remainder of the trust intact. This is appropriate for discrete, limited changes and is generally faster and less costly than a full restatement.

A trust restatement rewrites the trust in its entirety, while technically preserving the original trust's date and, in many cases, its funding, meaning assets already titled in the trust's name generally do not need to be retitled again. A restatement is appropriate when changes are extensive enough that a series of amendments would make the document difficult to read and administer accurately, when a significant life event such as divorce or remarriage requires substantial revision, or when the underlying trust structure itself needs updating to reflect current law or a materially different family or asset situation than existed when the trust was originally drafted.

Your attorney can advise, given the scope of any particular change, which approach is appropriate, but it is worth understanding the distinction so that a series of accumulated amendments does not eventually create a document that is more confusing, rather than more current, than the plan it was meant to update.

Recent and Upcoming California Law Changes Worth Watching

Given how directly Proposition 19's reassessment rules affect real estate held by families in this bracket, discussed at length in Chapter 3, this remains an area worth monitoring closely, particularly as inflation adjustments to the $1 million exclusion threshold are applied periodically and as any further legislative refinement to the parent-child exclusion is considered. The federal estate tax exemption discussed in Chapter 10 is similarly subject to change based on federal legislative action, and families with estates approaching the exemption threshold should treat this figure as something to reconfirm at each review, rather than as a fixed constant.

We communicate directly with our clients when a change in California or federal law is significant enough to warrant an out-of-cycle review, but the trigger-event framework above, combined with the baseline three-to-five-year cadence, is the most reliable way to ensure your plan continues to reflect both your family's circumstances and the legal landscape it operates within.

CHAPTER 13

HAVING THE FAMILY CONVERSATION

Every chapter in this guide addresses a legal or financial structure. This final chapter addresses something different: how you communicate the plan you've built to the people it affects. Families who handle this conversation thoughtfully consistently experience less conflict, less confusion, and less resentment than families who leave the entire plan to be discovered after a death or incapacity. This is not a legal requirement, but it is, in our experience, one of the most consequential steps in making an estate plan actually work as intended.

What to Share with Adult Children, and When

There is no single correct answer to how much detail to share, and the right level of disclosure depends on your family's dynamics, your children's maturity and financial sophistication, and your own comfort with privacy. It is worth distinguishing, however, between sharing the structure of your plan and sharing every specific figure within it, since these are not the same decision.

Most families find value in communicating the general framework: that a trust exists, who has been named as successor trustee, discussed in Chapter 4, roughly how distributions are structured, discussed in Chapter 5, and the reasoning behind any provisions that might otherwise be misunderstood, such as the blended family structures discussed in Chapter 6 or the special needs planning discussed in Chapter 7. This level of disclosure prepares your family for what is coming without necessarily requiring you to share exact account balances or property values, which many clients prefer to keep private during their lifetime.

Where a plan includes an unequal distribution, discussed in Chapter 5, or a structure that could otherwise be misread as favoritism, exclusion, or distrust, a general explanation during your lifetime is particularly valuable. Silence in these situations does not preserve neutrality. It simply ensures that your children first encounter the reasoning, or the absence of any explained reasoning, after you are no longer available to clarify your intent.

Avoiding Surprise and Resentment Without Giving Up Privacy

The goal of this conversation is not full transparency for its own sake, but rather ensuring that nothing in your plan reads as a surprise capable of being misinterpreted as a message you did not intend to send.

A QTIP trust structured to protect children from a prior marriage, discussed in Chapter 6, can easily be misread by a surviving spouse as a lack of trust if never explained, when its actual purpose is to guarantee, not question, that both the spouse and the children are provided for.

Similarly, a special needs trust holding a different share under different terms than a sibling's outright inheritance, discussed in Chapter 7, can read as unequal treatment to a sibling who does not understand the protective purpose behind the different structure.

In both cases, a **brief, calm explanation**, framed around your actual goals rather than around suspicion or fear of conflict among your children, tends to be received far better than families expect going into the conversation. Most adult children, when given the reasoning behind a decision, are far more capable of understanding and accepting it than parents anticipate.

What they generally cannot accept gracefully is discovering an unexplained structure only after a parent's death, when the person who could have explained it is no longer available to do so.

Preparing a Successor Trustee or Executor for the Role Ahead of Time

Beyond managing expectations among beneficiaries, there is real value in preparing whoever you have named as successor trustee, discussed in Chapter 4, or healthcare agent, discussed in Chapter 8, for the responsibilities they may eventually carry. A named trustee who learns of the role only through the trust document itself, with no prior conversation, starts the position without any of the practical context, your reasoning, your family dynamics, the location of key records, that would otherwise make the role considerably easier to step into.

This conversation does not need to happen all at once, and it does not need to include every detail of your financial life. It can begin simply by confirming that the person is willing to serve, walking through the general scope of the responsibility described in Chapter 4, and letting them know where to find key documents and how to reach your attorney when the time comes.

This single conversation, often no more than an hour, meaningfully reduces the burden your successor trustee or healthcare agent will face when they are called upon to act, frequently during one of the more difficult periods your family will experience.

CONCLUSION

A PLAN BUILT FOR YOUR FAMILY, NOT A TEMPLATE

The chapters in this guide reflect the questions we work through with every family whose estate falls in this range, but the answers to those questions are never the same twice. The right trustee, the right distribution structure, the right approach to a blended family or a special needs beneficiary, all of these depend entirely on your specific family, your specific assets, and your specific goals.

A plan built by adapting a generic template to your circumstances tends to leave gaps precisely where your situation differs from the assumptions the template was built around. A plan built around your actual family, from the outset, does not have that problem.

ABOUT HUBER LAW GROUP

Huber Law Group is a California law firm focused on trust and estate law. With nearly 25 years of experience serving California clients, Huber Law Group is guided by our core values of integrity, responsiveness, excellence, and efficiency.

Founder Jonathan Huber is designated as a Certified Specialist in Estate Planning, Trust, and Probate Law by The State Bar of California Board of Legal Specialization. We handle estate planning, trust administration, and probate matters.

NEXT STEPS

If your estate, or your family's circumstances, reflect the complexity this guide has addressed, the next step is a direct conversation with our office. Every family's plan begins with understanding your specific assets, your specific family relationships, and your specific goals, not with selecting from a menu of standard documents.

If you'd like to schedule a free initial consultation, give our team a call at 916-525-7980 or email us at info@huberlawgroup.com!