

On paper, inheritance looks simple. You sign a will, maybe set up a trust, tell the kids what you want, and life moves on. Then someone dies, and the wheels come off: frozen accounts, family arguments, Medi-Cal letters, and months of waiting for a judge to sign basic paperwork.

I have seen California families with modest estates spend more in avoidable fees and taxes than it would have cost to hire a seasoned estate planning attorney three times over. The mistakes are almost always the same, and most of them are fixable with relatively simple changes.

This is a practical walk through of the missteps I see most often, why they matter in California specifically, and what you can do differently.

Why California inheritance planning is its own animal

Estate planning rules are state specific, and California has quirks that catch even financially savvy people off guard.

Probate here is slow and expensive. Statutory probate fees are a percentage of the gross estate value, not the net after mortgages or debts. A \$1 million home with a \$700,000 mortgage is treated as a \$1 million asset for fee purposes. That alone pushes many families toward living trusts.

California is also a community property state. Spouses often have different ideas of what "our" means. Title on the deed, beneficiary designations, and how accounts were funded can change who legally owns what at death.

There is no California inheritance tax, and there is currently no state estate tax, but there is property tax, income tax on inherited retirement accounts, and potential Medi-Cal estate recovery. Those three show up again and again in the worst surprise stories.

When you add federal rules on retirement accounts and trusts on top of California specific law, you get a landscape where well meaning choices can produce painful results.

Mistake 1: Assuming a will is enough in California

The single most common inheritance mistake is believing, sincerely, that "I have a will, so I'm covered."

A will is a letter of instructions to the probate court. It does not avoid probate. It does not keep your affairs private. It does not automatically move assets to the people you name.

Do all wills in California have to go through probate?

Not every estate requires a full formal probate, but that is the default if assets in the deceased person's name exceed California's small estate threshold (the number changes periodically, but it is in the low six figures). Certain assets, like life insurance with a beneficiary, transfer on death accounts, and properly funded living trusts, avoid probate by their nature.

A will governs only what is left in the deceased person's individual name and subject to probate. If that includes a house or a sizable brokerage account, the family will likely face probate unless planning was done ahead of time.

What happens if you do not file probate in California?

I regularly meet families who are years past a parent's death and never opened probate. They kept paying the property taxes and maybe the mortgage, and assumed that meant the house was "theirs now."

Legally, the title is still in the deceased person's name. That becomes a serious problem when they try to sell, refinance, or deal with Medi-Cal recovery issues. At that point you are looking at a delayed probate, sometimes with additional complexity if heirs have died, divorced, or declared bankruptcy in the meantime.

There is also a creditor claim framework built into probate. If you do not open probate, certain creditor clocks may not start, which can leave lingering exposure. That is one reason California law ties some deadlines to events like "within 2 years after death." Those 2 year rules are not about inheritance tax here; they are about creditor rights and certain claims.

Why you have to wait, and that "10 months after probate" idea

People often ask why they "have to wait 10 months after probate" before they can distribute everything. There is nothing magical about 10 months. What they are bumping into are timelines for notice to creditors, tax filings, and potential will contests, many of which fall in the 4 to 12 month range.

Competent executors and trustees usually hold back a reserve until they are confident taxes, fees, and major claims are settled. That may feel conservative, but distributing too early and then receiving a tax bill is much worse. If you are an executor, document your reasoning; judges care whether you acted prudently, not whether you used a specific number of months.

Mistake 2: Setting up a living trust and then undermining it

Parents in California hear that a living trust is essential, then rush to buy one from an online form or a low cost seminar. The trust gets signed, the binder goes on a shelf, and everyone relaxes. Years later, the children discover that almost nothing was actually titled in the trust's name.

That gap between the paper trust and the real world assets is where much of the damage happens.

Is it better to have a will or a trust in California?

For many homeowners, a revocable living trust is more effective than relying solely on a will. A properly funded trust can avoid probate on the house, manage assets if you become incapacitated, and provide clearer instructions after death.

A simple will is still important. It catches anything that accidentally gets left in your name and pours it into the trust if a judge allows. But a pour over will paired with an empty trust does not avoid probate. Title controls.

The "better" option is almost always a coordinated mix: a revocable trust for major assets, a will for legal backup, beneficiary designations on retirement accounts and life insurance, and perhaps transfer on death provisions for some bank accounts.

What are the disadvantages of putting your house in a trust?

People worry about losing control if they put their house in a trust. With a standard revocable living trust in California, you are usually the trustee and the primary beneficiary while you are alive and competent. That means you can still live in the house, sell it, refinance it, and claim property tax exemptions.

The main downsides are:

You have to handle retitling correctly and keep the paperwork straight for lenders and title companies. Some older loans used to get touchy about "due on sale" clauses, though that is far less common now when the transfer is into your own revocable trust.

If you forget to update the trust after major life changes, the plan may not match your intentions years later.

If you think you are using a revocable trust for asset protection or for Medicaid (Medi-Cal) planning, you may be mistaken. Revocable trusts typically do not shield your house from your own creditors or from Medi-Cal estate recovery.

What should you not put in a trust?

Despite what some one size fits all books say, not everything belongs in a revocable living trust.

Retirement accounts like IRAs and 401(k)s should not be retitled into the name of the trust during your lifetime. The tax rules do not permit that. Instead, you name primary and contingent beneficiaries, which might include your trust in some cases.

Health savings accounts and certain tax advantaged plans generally follow the same pattern.

Vehicles are often left out of trusts unless there is a specific reason, partly to avoid issues at the DMV and with insurance.

You also want to be careful about putting active small businesses or professional practices directly into a revocable trust without legal and tax advice. Sometimes an interest in an LLC or corporation is the right thing to hold, but the details matter.

What is the downside of a living trust in California?

There are costs. A solid estate plan with a trust, will, powers of attorney, and health care directives in California often runs in the range of a few thousand dollars. That is still usually less than the cost of a full probate on a house and a modest brokerage account, but you have to pay it up front.

There is also more ongoing responsibility. You need to title new accounts and real estate correctly, update the trust after major life changes, and choose a trustee who can actually do the job.

Some people ask, "What is better than a trust?" For many California families, the right answer is "a coordinated plan." A trust alone is not automatically superior to a carefully crafted mix of wills, beneficiary designations, joint title, and simple pay on death accounts. The wrong trust, drafted or used poorly, can be worse than no trust.

Mistake 3: Sloppy or harmful beneficiary designations

Beneficiary designations are the quiet workhorses of inheritance. They move money efficiently outside probate, but only if they are accurate, updated, and coordinated with the rest of the plan.

Outdated or ill chosen beneficiaries are a frequent source of disaster.

Who should you not name as a beneficiary?

You usually want to think twice about naming:

Young children directly. Minor children cannot legally manage inherited assets. The court will likely appoint a guardian of the estate, and that process can be slow and expensive. A trust, whether under your will or separate, is often better.

Beneficiaries with serious addiction, gambling, or creditor problems. Leaving them a lump sum outright can do more harm than good. A discretionary or spendthrift trust gives some protection.

People receiving needs based public benefits. An outright inheritance could disqualify them from programs. A properly drafted special needs trust can preserve benefits while improving quality of life.

Ex spouses, unless you truly intend that. It is astonishing how often ex spouses remain beneficiaries on old retirement plans because nobody looked.

Your estate as beneficiary on retirement accounts, unless a professional recommended it for a specific reason. That choice can accelerate taxes and drag what should be a quick transfer into the probate system.

Worst assets to inherit and why they hurt

People often ask about “the six worst assets to inherit” or “the worst assets to inherit” generally. The problem assets are not always the ones you think.

Highly appreciated traditional retirement accounts, such as large IRAs or 401(k)s, can be very tax heavy for non spouse beneficiaries. A child inheriting a \$500,000 traditional IRA may have to empty it within 10 years under federal “10 year rule” distribution requirements, which can push them into higher tax brackets.

Non qualified annuities can also be clumsy, because part of the value is taxable income when withdrawn, and the rules for stretching them are complex.

Timeshares, small fractional interests in land, and illiquid partnership interests are often a headache because they carry ongoing costs and are hard to dispose of.

By contrast, appreciated stock held in a taxable account and real estate usually receive a step up in basis at death. That can make them relatively tax friendly to inherit, especially in a state like California with no inheritance tax.

How much tax you pay if you inherit \$100,000 depends far more on what type of \$100,000 it is than on the number itself. Cash is tax neutral as an inheritance. A \$100,000 traditional IRA inherited by a non spouse beneficiary may produce income tax as it is withdrawn. Understanding that distinction is one of the keys to choosing which assets fund which inheritances.

Mistake 4: Ignoring long term care, Medi-Cal, and the “nursing home will take the house” fear

Few topics produce more anxiety than the possibility of losing a home to nursing home costs. The reality in California is more nuanced than most headlines.

Can a nursing home take your house if it is in a trust?

Nursing homes themselves do not take houses. The issues are who pays for care, and whether the state seeks reimbursement after death.

In California, Medi-Cal can pay for long term care if you qualify financially. Historically, the state then had the right to seek estate recovery from assets left in the estate, often including the home if it passed through probate. That is where living trusts and title planning came in.

A revocable living trust generally does not shield your home from Medi-Cal estate recovery, because assets in a revocable trust are still considered available to you. Irrevocable trusts are a different story, but they come with serious trade offs in control and flexibility.

Families often ask about the “Medicaid 5 year lookback” or “how to avoid the Medicaid 5 year lookback.” That 5 year rule refers to federal rules that penalize transfers made within 5 years of applying for Medicaid in many states.

California's rules and lookback periods have been in transition and are not identical to what you read about in other states. Relying on generic online advice here is risky.

If you ask, "Can I lose my home if my husband goes into a nursing home?" the answer depends on factors like whether you remain living there, how title is held, and how care is funded. Medi-Cal has protections for community spouses, but you can still create problems if you start shifting assets around without guidance.

There are also scattered references online to a "2 year rule for trusts" or a "2 year rule after death." Those usually relate to specific tax or creditor provisions, not a general inheritance rule. If you see a simple slogan without detail, be skeptical.

The practical fix is to talk with someone who understands both California elder law and estate planning before a crisis hits. Trying to cure things after [California Estate Planning](#) someone has already entered a nursing home is much more limited.

Mistake 5: Misunderstanding trust tax rules and timing rules

Trusts are powerful tools, but their tax rules are less forgiving than many people assume.

Do trusts avoid inheritance tax and what taxes do trusts avoid?

In the United States, there is no federal inheritance tax. There is a federal estate tax, which affects only very large estates, and there are income taxes on trust income and on certain types of inherited assets.

California currently has no state inheritance tax and no state estate tax. A trust in California does not avoid federal estate tax if your estate is above the federal exemption; that requires specific planning and sometimes specialized trust designs.

What a revocable living trust does reliably avoid is probate on assets titled in its name. It does not magically erase property tax, income tax, or federal estate tax. Some irrevocable trusts can shift future appreciation out of your taxable estate or separate income from ownership, but those are more advanced tools.

The 5 by 5 rule, the 5 of 5000 rule, and the 5 year rules for trusts

You will see several "5" rules mentioned in trust discussions, and they are easy to confuse.

The "5 by 5 rule in estate planning," also called the "5 or 5 power" or "5 of 5000 rule in trust" contexts, refers to a provision that allows a beneficiary with a power of withdrawal to take the greater of \$5,000 or 5 percent of the trust principal each year without being treated as making a taxable gift if they do not exercise the power. This often appears in trusts designed to use annual exclusion gifts or to give beneficiaries limited access while still protecting tax status.

The "5 year rule for a trust" and the "5 year rule on trusts" often refer to distribution rules for certain inherited retirement accounts that must be fully distributed within 5 years after death if there is no "eligible designated beneficiary." Under more recent federal law, many non spouse beneficiaries now face a 10 year rule instead. Online articles sometimes lag behind or mix these concepts.

The "7 year rule for trusts" or "7 year rule on inheritance" is more commonly a United Kingdom tax concept about gifts falling out of an estate after 7 years. It does not apply directly to California, but the phrase still shows up in articles that wander between UK and US law.

When you see these terms, pin down which country's system the author is describing, and whether they are talking about gift tax, estate tax, or retirement account distribution rules. They are not interchangeable.

Mistake 6: Treating the will as a dumping ground for every wish

Wills are powerful documents, but they are not magic wands. Trying to control every detail of life from the grave often backfires.

Three things to avoid putting in a will

There are no absolute universal bans, but there are categories that usually do not belong in a will.

Extremely detailed funeral instructions. By the time the will is read, the funeral is often over. Use separate written instructions and talk to your family.

Provisions that conflict with beneficiary designations or joint ownership. The will cannot override a properly completed beneficiary form on a life insurance policy or IRA. Trying to do so only breeds confusion and litigation.

Conditions that are illegal or fundamentally disruptive. Wills that try to enforce discriminatory conditions, require a beneficiary to divorce a spouse, or micro manage religious practice invite court challenges.

Some wills try to deal with complex retirement account rules, business succession, and long term trusts for grandchildren in a single document. That is asking a single tool to do very different jobs. Often, a will that pours assets into one or more well drafted trusts, combined with clear beneficiary designations, is cleaner and more durable.

Can I sell my house to my son for 1 dollar?

This question surfaces often in conversations about avoiding probate or Medi-Cal. Selling a house to a child for \$1 is usually a bad idea.

From a tax perspective, the IRS will treat that as a gift of almost the entire value. Your child will take your low basis, which destroys the step up in basis they would have received if they inherited the house. That can create a large capital gains bill when they sell.

From a property tax perspective, California's rules on parent child transfers have changed significantly, especially after Proposition 19. Transferring the house can trigger reassessment unless the situation fits within current exemptions, which are narrower than they used to be.

From a control perspective, you no longer own the house. If your child later divorces, gets sued, or runs into financial trouble, your roof may be on the line.

There are better ways to arrange for your house to pass to your children, often through a living trust or a carefully structured transfer on death mechanism, while still preserving tax advantages.

What is the best way to leave your house and other inheritance to your children?

The best way depends on your children's ages, financial maturity, health, and your own goals.

For many California parents, a revocable living trust holding the house, with clear instructions that the children may sell or keep it after your death, is a strong foundation. You can include provisions for equalization if one child wants to live in it and another prefers cash.

"What is the best way to leave inheritance to your children?" broadens that question to all assets. Often, a mix of outright gifts for responsible adults, staggered distributions for younger or less experienced beneficiaries, and targeted trusts for vulnerable beneficiaries is more effective than a single rule for everyone.

Mistake 7: Panicking or freezing right after someone dies

The hours and days after a death are emotionally raw. People either rush to make big financial decisions or avoid everything. Both reactions create problems.

Here is a short checklist of what not to do immediately after someone dies in California, based on the patterns I see most often.

1. Do not start moving money between accounts or changing titles “to be helpful” before you understand whose name things are legally in and what the will or trust says. Unplanned transfers can trigger tax and legal issues.
2. Do not rush to disclaim inheritances or sign any complex forms from insurance companies, retirement plans, or Medi-Cal without understanding the consequences. Disclaimers and elections are powerful and mostly irreversible.
3. Do not stop paying every bill blindly. Some expenses, like property insurance and basic utilities, may need to continue to protect the estate assets. Others, like certain subscriptions or unsecured debts, may be better handled after opening an estate.
4. Do not clean out safes, storage units, or the home of financial documents without at least making a careful inventory. It is easy to throw away bonds, stock certificates, or old life insurance policies.
5. Do not assume you must handle everything alone. A brief consultation with an attorney familiar with California probate and trust administration early in the process can prevent expensive missteps.

On the flip side, do not delay getting at least a basic understanding of what needs to be done because the paperwork feels overwhelming. Probate and trust administration have timelines. Missing them can narrow your options.

Mistake 8: Underestimating the value of a coordinated, professional plan

Many families hesitate to hire help because they are worried about cost or they had a bad experience with an overly complex plan in the past.

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What is the average cost for estate planning in California?

Costs vary widely by region and complexity. As a rough, real world sense:

A basic will based plan for a single person with modest assets may be in the low four figures with a competent attorney.

A comprehensive revocable trust based plan for a couple, including wills, durable powers of attorney, and health care directives, often ranges from the low to mid four figures, more if there are businesses, blended families, or special needs beneficiaries.

Those numbers can feel high compared to do it yourself software, but they are usually small compared to the combined probate fees, delays, and family conflict that surface when a plan fails.

Which bank accounts avoid probate?

In California, bank accounts with properly set up pay on death (POD) or transfer on death (TOD) designations, joint tenancy accounts with right of survivorship, and accounts titled in the name of a living trust can often avoid probate.

The catch is coordination. Too many accounts in joint tenancy with one child "for convenience" can unbalance your intended distribution and cause hurt feelings later. Too many POD designations pointing around the trust can undermine the central plan. The goal is not to slap POD labels on everything, but to use them strategically.

Which is better, a revocable or irrevocable trust?

A revocable living trust is flexible. You can change it, revoke it, and retain full control while you are alive and competent. It is the core tool for probate avoidance and basic incapacity planning for most California homeowners.

An irrevocable trust is harder to change and generally cannot be revoked unilaterally. The trade off is that certain irrevocable trusts can offer tax advantages, asset protection features, or special benefits for life insurance and charitable giving.

For routine family inheritance planning in California, a revocable trust is usually the starting point. Irrevocable trusts come into play when you are dealing with large estates, specific tax strategies, or more advanced planning.

Where the odd pieces fit: the \$10,000 death benefit and small perks that get lost

Every so often, a family discovers a small “\$10,000 death benefit” from an old employer, union, or association. They are not imagining it. Many pension plans, fraternal organizations, and group life policies include modest death benefits.

There is no single, universal \$10,000 death benefit in California law. The amount depends entirely on the specific plan or policy. Social Security, for example, offers a one time lump sum death payment that is much smaller than \$10,000.

The lesson here is less about the number and more about thoroughness. When someone dies, it is worth checking with former employers, unions, professional associations, and any benefit plans you can track down. Small benefits add up, and they are often overlooked.

Bringing it together

If I had to answer, “What is the most common inheritance mistake?” in one sentence, I would say this: assuming that a few individual documents or transactions, taken in isolation, will magically create a coherent plan.

A strong California estate plan is not just a will or just a trust. It is how the will, the trust, the beneficiary designations, the way the house is titled, and your real life family dynamics all mesh.

The simple fixes are rarely glamorous:

Review and update beneficiary designations when you have major life changes.

Make sure your trust actually owns what it is supposed to own.

Do not rely on selling property for \$1 or handwritten notes to solve complex tax and title issues.

Plan honestly around long term care and Medi-Cal instead of hoping rules from another state will apply here.

Spend the money once to get solid California specific advice, then keep the plan alive by revisiting it every few years.

That modest investment of thought and effort, done while you are healthy, is what keeps your house, your savings, and your relationships from being consumed by the very system you were trying to avoid.