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Revocable Living Trusts

Key points for our first meeting

What Is a Living Trust?

A revocable living trust is a written agreement that holds your property during your lifetime and says what happens to it afterward. As the **Settlor**, you transfer your assets into the trust. You also serve as its **Trustee**, managing those assets, and as its **Beneficiary**, enjoying them. Day to day, nothing changes: you buy, sell and spend just as you do now.

You also choose a **Successor Trustee**, who steps in if you become incapacitated or when you die and carries out your written instructions, without a court order. You may change or revoke the trust at any time during your life. At death, the trust (or, for a married couple, the deceased spouse's share) becomes irrevocable.

Why Have a Living Trust?

1. **Avoid probate and its cost.** In California, an estate with more than $208,850 in probate assets generally must go through probate court. Probate fees are set by statute and figured on the estate's **gross** value, so a mortgage does not reduce them.
2. **Save time.** Probate typically takes 9 to 18 months. A successor trustee can often begin acting within weeks.
3. **Keep your affairs private.** A probate file is a public court record. A trust is not filed with the court.
4. **Plan for incapacity.** If you can no longer manage your affairs, your successor trustee steps in **without a court conservatorship**.
5. **Avoid a second probate.** Real estate in another state can be held in the trust, so no separate probate is needed where it is located.
6. **Control the inheritance.** Hold assets in trust for minors, young adults, beneficiaries with special needs, or anyone with creditor or spending concerns.
7. **Protect a blended family.** Provide for a surviving spouse while making sure each spouse's children ultimately receive that spouse's share.
8. **Keep a business running.** A successor trustee can step in at once to run a business, vote shares or manage rental property.
9. **Plan for taxes as a couple.** The federal estate tax exemption is $15 million per person in 2026. A well-drafted trust preserves the community property basis step-up and sets up portability or a bypass trust.

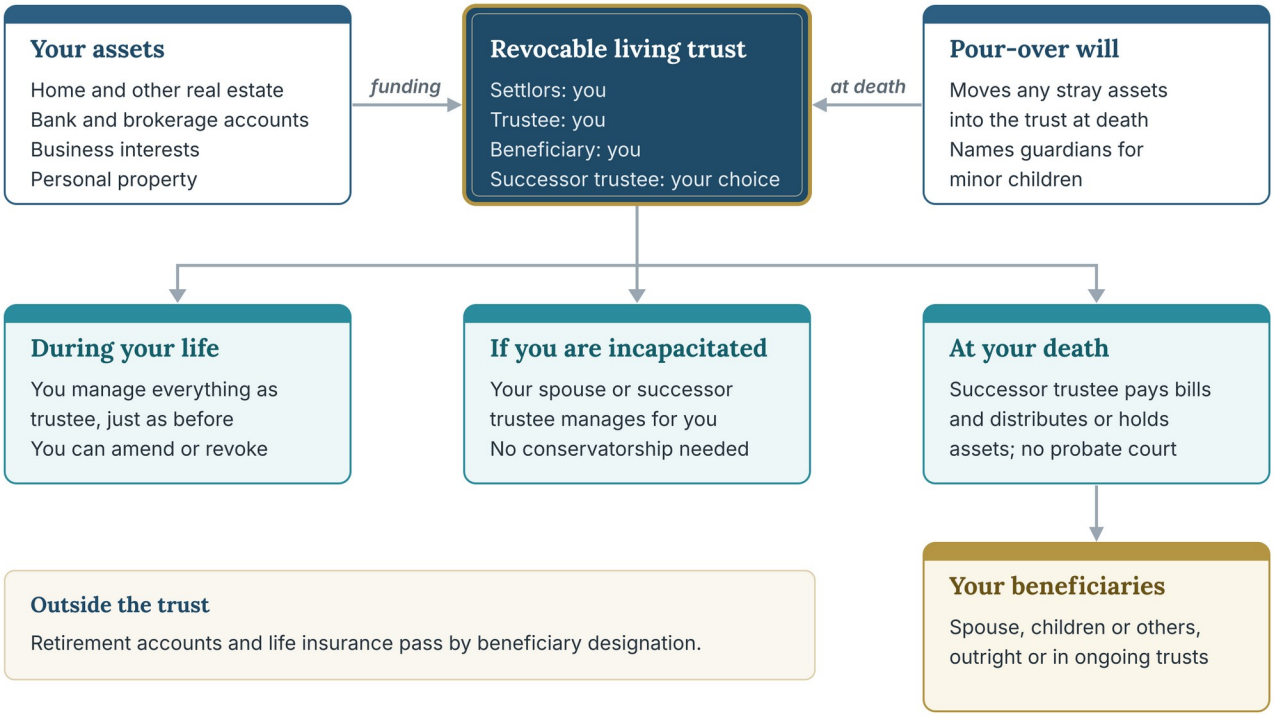
What probate costs in California

Gross probate estate	Statutory fees (attorney + executor)
$500,000	$26,000
$1,000,000	$46,000
$2,000,000	$66,000

Statutory fees only; extraordinary fees and court costs are additional. A simpler court petition may be available for a primary residence worth up to $750,000.

How a Living Trust Works

You keep control during life; a successor trustee takes over without court.



Key point: the trust controls only the assets titled in its name. **Funding** the trust (retitling your accounts and property into it) is just as important as signing it.

Options for the Surviving Spouse

For a married couple, the surviving spouse's half always stays in a revocable trust that the survivor controls. **The decision is how to hold the deceased spouse's half.** The five options differ only in that respect.



Questions to guide the choice

- **Is this a first marriage, with children you share?** Options 1 to 3 are usually the simplest, and they give a full income-tax basis step-up at the second death.

- **Are there children from a prior marriage?** Options 4 or 5 lock in each spouse's share for that spouse's own children.
- **Is your estate near or above $15 million?** A QTIP trust (Option 3) or A/B/C trusts (Option 5) defer estate tax while securing the deceased spouse's chosen beneficiaries.
- **Would you rather decide later?** The disclaimer trust (Option 2) lets the survivor decide within 9 months after the first death.

Documents We Will Prepare

Document	What it does
Revocable Living Trust	Holds your assets and sets the rules for incapacity, death and distribution
Pour-Over Will	Moves any stray assets into the trust and nominates guardians for minor children
Certification of Trust (Prob. Code § 18100.5)	A short summary that banks and title companies accept instead of the full trust
Durable Power of Attorney	Lets your agent handle finances outside the trust, such as retirement accounts and taxes
Advance Health Care Directive	Names your health care agent and records your medical wishes
Trust Transfer Deeds	Retitle your real estate to the trust without a property tax reassessment
Assignment of Personal Property and Business Interests	Transfers untitled property, stock and LLC interests to the trust
Funding Instructions and Beneficiary Designations	Guide you in retitling accounts and coordinate retirement accounts and life insurance with the plan

Depending on your family, we may also prepare a Spousal Property Agreement, a Special Needs Trust, or a Memorandum for Distribution of Tangible Personal Property.

Points to Remember

- **No creditor protection during your life.** Because you can revoke the trust, its assets are still treated as yours.
- **No property tax reassessment** when your home goes into your own trust. Transfers to your children later are governed by Proposition 19.
- **Review your plan every 3 to 5 years,** and after a marriage, divorce, death, birth, move or major change in your assets.

Next step

Please complete our Estate Planning Questionnaire before our first meeting. Questions? Call **(949) 429-2578** or email **jhartmann@attorneyjrh.com**.

This summary is general information about California law as of 2026. It is not legal advice for your situation, and reading it does not create an attorney-client relationship.