

The three questions every California trust should answer

A short guide before Tuesday — and a useful self-check anytime.

Most of the people I sit down with already have a trust. They built one years ago — sometimes decades ago — with a lawyer who's now retired or moved on. The binder has been sitting in a drawer ever since. It comes out for a refinance, maybe gets photocopied for a new financial advisor, and then goes back in the drawer.

That's not a failure. That's normal. Estate planning isn't something you handle once and never touch again — it's a living document tied to a life that keeps changing.

This short read is a way to check whether the plan you have (or the plan you're about to build) still does what you wanted it to do. Three questions. Most people I see can answer one or two of them with confidence. The third is usually where the gap shows up.

1 Are your assets actually in the trust?

This is the question that catches more families off guard than any other.

A trust is a legal container. To actually hold something, the asset has to be retitled into the trust's name. The deed to the house, the brokerage account, the rental property — each one has to be formally transferred. If the title still reads "John and Mary Smith" instead of "The Smith Family Trust dated March 2008," then for legal purposes, that asset isn't in the trust at all.

This step is called funding, and it's the single most common reason trusts don't do what their owners thought they would. The document can be beautifully drafted and still fail at the moment of truth — because half the assets it was supposed to protect were never moved in.

A good check: pull out your deed and your last brokerage statement. Look at how the owner is listed. If the trust's name isn't there, the trust doesn't own it.

2 Is the person you named still the right person?

Every trust names a successor trustee — the person who steps in if you can't (or once you're gone) to manage things on behalf of the family. Most people name their spouse first, then an adult child, a sibling, or a close friend as backup.

Lives change. The brother who was the obvious choice in 2008 may have moved across the country, gotten sick, or simply grown apart. The adult child who was twelve when you signed the document is now thirty-two and either ready for the role or definitely not.

Ask yourself: if something happened to me tomorrow, is the person currently named in my trust still someone I'd want making those decisions? Are they someone the rest of the family would accept? Are they still alive, healthy, and in a position to do it?

If the answer is "I'd need to think about that" — it's worth thinking about.

3 Has anything changed in your family — or in the law — since you wrote it?

A trust is a snapshot of a moment. Every life event reshapes the picture: a marriage, a divorce, a new grandchild, a death, an adult child's bankruptcy or addiction or new spouse, a move out of state, the sale of a major asset, a serious illness.

California law has also shifted in ways that affect plans drafted before the changes:

- Proposition 19 (effective 2021) reshaped the property tax landscape — specifically, what happens when a parent passes a home to a child.
- The SECURE Act (2019, with significant updates since) changed how retirement accounts pass to non-spouse beneficiaries. Stretch IRAs are largely gone, replaced by a 10-year payout rule.

Plans built before these changes often have provisions that no longer match the rules they're operating under. They still function — but they may not do exactly what you intended.

If your honest answer to any of these is "I'm not sure" — you're not alone, and you're not in a hopeless place. The whole point of our upcoming workshop is to help you go from "I'm not sure" to "I know exactly where I stand."

See you at 10.

Warmly,

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