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TRUST AND ESTATE PLANNING SPECIALISTS

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## **35 REASONS FOR CALIFORNIANS TO HAVE A TRUST-BASED ESTATE PLAN**

1. Assets in the trust avoid guardianship on incapacity. There are many circumstances where powers of attorney cannot do the same thing.
2. Easily changed should you desire to do so. Re-drafting a will is more difficult.
3. Easily moves with you from state to state because it is valid in every state and interpreted by the state where it was written. Wills are designed to be valid and interpreted in the state they are drafted in. Wills are interpreted by the death state, which may not be the same state in which it was drafted.
4. Provides one planning document full of instructions for your care upon your incapacity. Powers of attorney cannot provide those instructions, and wills cannot work until your death. Powers of attorney, unlike your trust, terminate upon death. Powers of attorney probably won't work if the Principal can't be found because of the risk that they have died and the POA is now invalid.
5. Provides one planning document full of instructions for the care of your loved ones upon your incapacity. Powers of attorney cannot provide those instructions, and wills cannot work until your death.
6. Provides one planning document full of instructions for the care of your loved ones upon your death. Wills do not work until probated and to accomplish the same thing, assets must be distributed to the estate. Probates are more expensive and can take weeks, months, and in some cases years if there are problems in probate.
7. Provides control of your assets for your family in case of your disappearance or absence instead of your family perhaps having to wait for several years to have you declared dead to access assets and information. Without this ability, upon disappearance, it can take years before one can be declared to be legally dead, leaving the family unable to access assets and accomplish things such as repairing or selling the family home.
8. Provides continuity in the handling of your affairs by efficiently transferring your property to your loved ones after death. Probate takes more time, and isn't always smooth.
9. Acts as a receptacle to own or be the beneficiary of assets. Wills do not work until probated and to accomplish the same thing, assets must be distributed to the estate. That can take weeks, months, and in some cases years if there are problems in probate.

10. Trusts make the best beneficiaries of life insurance policies because if an individual is named, and they are incapacitated or dead, then the proceeds go through either guardianship or probate. If the estate is named, then the proceeds are subject to the debts of both the decedent and the beneficiary. Otherwise, life insurance proceeds are not subject to the debts of either.
11. Allows life insurance to be paid to the trust without being subject to your current or future debts or creditors. Wills do not work until probated and to accomplish the same thing, assets must be distributed to the estate. That can take weeks, months, and in some cases years if there are problems in probate.
12. Allows life insurance to be paid to the trust without being subject to current or future debts or creditors of beneficiaries'. If life insurance is paid to the estate, it is subject to the debts and creditors of the insured and the beneficiaries.
13. Allows life insurance to be paid to the trust so it passes according to your distribution and control plan. Life insurance left directly to beneficiaries can be subject to divorces, lawsuits, and creditors, or it may undo your overall planning due to lack of coordination with your distribution plan. It will also pass to the beneficiary without any controls, and may bypass your tax planning.
14. Upon your incapacity, it avoids the expenses and fees associated with guardianship on all assets owned by your trust. Guardianship usually costs tens of thousands of dollars and puts a judge, creditors, and everyone but your family in charge of your affairs.
15. Avoids the expenses and fees associated with probate on all assets owned by your trust. Probate can be expensive and time consuming. It absolutely provides a forum for disgruntled heirs to bring disputes, often without them paying legal fees on the front end. It benefits your creditors. But the worst thing it does it put a judge, disgruntled heirs, creditors, alleged creditors, and everyone but your family in charge of your affairs.
16. Ensures your family's privacy following your incapacity or death by avoiding guardianship and probate on all assets owned by your trust. Guardianship and probate are public and anyone can obtain the information in those files.
17. Enables you to rely on your Trustees should you wish to travel or otherwise delegate the day-to-day management of your financial affairs. Powers of attorney may not work when you are traveling, and it will be too late to do anything about it. Again, if you can't be found, there is no guarantee that you are alive and the institution likely won't risk allowing the use of the POA in case you are dead.
18. Enables you to measure how your successor Trustees perform when you delegate management duties to them. You will never know how the executor of your will performs.
19. Is difficult for disgruntled heirs to attack and helps avoid disputes. By avoiding probate, it forces disgruntled heirs to hire and pay legal fees on the front end of this action to dispute your plan.
20. Can eliminate your family paying for medical procedures that were not authorized by your medical agents to the extent your estate avoids probate. If your estate goes through probate, unscrupulous medical professionals can force medical procedures upon you or a loved one and force your estate to pay the costs.
21. Upon death, adequately provide for the surviving spouse, children, or other beneficiaries. No other planning device provides enforceable instructions.

22. For married couples, it achieves at least some of your death tax objectives by using both exemption equivalents. This is far more efficiently done in a trust than in a will. That's because of the disadvantages of having life insurance either paid to an individual or paid to an estate to tax advantage of the tax planning.
23. Can have a private incapacity panel that allows incapacity to be determined by a private panel instead of through the courts or the medical profession. Wills do nothing for someone who is incapacitated. There are several situations where powers of attorney won't work but that the trust will.
24. Can allow a Trust Protector to modify or update the estate plan if there are changes in laws or circumstances that make it necessary or beneficial without spending the money to go to court and without having to depend on a judge's approval.
25. Can allow a Trust Protector to modify or update the estate plan to protect assets from creditors of beneficiaries.
26. Can allow a Trust Protector to modify or update the estate plan to take advantage of tax saving opportunities.
27. Can allow each spouse to control the disposition of property so that in case of remarriage of the surviving spouse, the children are not accidentally disinherited. (A/B Plan)
28. Can allow the first decedent to control the distribution of his or her share of community property and his or her separate property while postponing any estate tax due until the surviving spouse dies. (QTIP Trust)
29. Can eliminate disputes between the surviving spouse and prior marriage children over the control or distribution of assets. (QTIP Trust)
30. Can eliminate the possibility that if the surviving spouse remarries, the first decedent's children don't get what was intend for them to have. (QTIP Trust)
31. Can avoid disputes between different sets of children from previous marriages. (QTIP Trust)
32. Can create protective trusts for your loved ones that are free from the supervision of the probate court.
33. Can provide creditor and lawsuit protection for children, including protection from failed marriages, and protection from estate taxation on the child's death.
34. Can provide that if a beneficiary gets divorced, has current creditors, even if unknown to you, or is sued in the future, what you leave them will not be lost to those events.
35. Can provide that if a beneficiary has special needs requiring them to remain eligible for a governmental assistance program.