
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
Probate Division — Stanley Mosk Courthouse
Selling a Probate Property in
Los Angeles

A Comprehensive Legal Guide for Executors, Heirs, and Practitioners

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> ⚠ **Disclaimer**
> This document is for informational and educational purposes only. It does not constitute legal advice and does not create an attorney-client relationship. Laws change frequently. Verify all information with current sources and consult a licensed California probate attorney for guidance specific to your situation.

Key Numbers at a Glance (Effective April 1, 2025)

$208,850 Small estate affidavit threshold (personal property, §13100)	**$750,000** Primary residence simplified petition threshold (AB 2016, §13151)
12–24 mo Typical LA County probate duration (simple to average estates)	**4 months** Mandatory creditor claim window — cannot be shortened (§9100)
$46,000 Combined statutory fees on a $1M estate (attorney + executor)	**$15M** Federal estate tax exemption per individual (OBBBA, July 2025)

1. What Is Probate, and When Is It Required in California?

Probate is a court-supervised legal process through which a deceased person's estate is administered: debts are paid, assets are inventoried and appraised, and property is distributed to heirs or beneficiaries. In California, probate is administered by the Superior Court in the county where the decedent resided at the time of death.

Not every death triggers probate. California law imposes a value threshold: formal probate is generally required only when a decedent owned assets in their individual name — assets not held in a trust, not jointly held with right of survivorship, and not subject to a beneficiary designation — whose gross value exceeds the applicable statutory threshold.

The Formal Probate Threshold

For decedents who died on or after April 1, 2025, the gross estate threshold for formal probate is $208,850 for personal property (Prob. Code §13100). This figure is adjusted every three years by the Judicial Council using the Consumer Price Index (Prob. Code §890). The next adjustment is April 1, 2028.

> ⚠ **Critical: Gross Value, Not Net Equity**
> The threshold is calculated on GROSS value, not net equity after debts. A home worth $900,000 with a $600,000 mortgage counts as $900,000 toward the threshold. This is the most commonly misunderstood aspect of California probate law and dramatically affects whether simplified procedures are available.

The Formal Probate Threshold

Asset Type	Why Excluded / Transfer Mechanism
Vehicles, vessels, mobile homes registered with CA	Pass by DMV affidavit; no probate required
Community/quasi-community property → surviving spouse/RDP	Passes by operation of law or spousal property petition

Asset Type	Why Excluded / Transfer Mechanism
Life insurance proceeds with named beneficiary (not estate)	Contractual, non-probate transfer
Retirement accounts (IRA, 401k) with named beneficiary	Contractual, non-probate transfer
Joint tenancy property	Right of survivorship operates automatically on death
Assets in a valid, funded living trust	Trust owns the asset; no probate needed
POD/TOD designated bank and investment accounts	Contractual beneficiary designation controls transfer

Four Conditions That Trigger Formal Probate

All four conditions must be met for formal probate to be required:

1. Asset is titled solely in the decedent's name.
2. Asset does not pass by operation of law (e.g., not joint tenancy, not CPWROS).
3. No valid beneficiary designation directs the asset to a named recipient.
4. Gross value of those probate assets exceeds $208,850 (deaths on/after April 1, 2025).

📋 **LA County Context**
Because the median home price in Los Angeles County significantly exceeds $208,850, virtually every LA homeowner whose property is titled solely in their name — without a funded living trust — will require formal probate. In practice, real property is the primary driver of probate in LA County.

2. Avoiding Probate: Alternatives and Their Tradeoffs

California law provides several pathways to transfer assets at death without triggering formal probate. Understanding these options — and their limitations — is essential for both pre-death estate planning and post-death administration.

A. Small Estate Affidavit — Personal Property (§§13100–13106)

An heir may collect a decedent's personal property (bank accounts, investment accounts, personal belongings) by presenting a sworn affidavit to the asset holder, provided the gross estate does not exceed $208,850 (effective April 1, 2025). No court filing is required. At least 40 days must have elapsed since death. The institution holding the asset is legally obligated to transfer on receipt of a compliant affidavit; refusal without good cause exposes the holder to attorney fee liability (§13105(c)). This procedure does NOT work for real property.

B. Petition to Determine Succession to Primary Residence (AB 2016 / §§13150–13157) — NEW April 2025

Assembly Bill 2016 (effective for deaths on/after April 1, 2025) dramatically expanded the simplified petition procedure. A decedent's California principal residence valued at or below $750,000 (gross, not equity) may now be transferred through a Superior Court petition rather than full probate. The prior threshold had been $184,500, rendering the procedure effectively unavailable in most of Southern California for years.

⚠ **AB 2016 Limitations — Read Carefully**
Primary residence only: Not vacation homes, rental properties, or commercial buildings.
Court petition required: Unlike the §13100 affidavit, this requires a Superior Court filing and hearing.
Six-month waiting period: Not just 40 days.
No statutory fees: The §13151 procedure is not subject to the §10810 fee schedule — a significant cost saving.
Title insurance risk: Many title companies are currently refusing to issue title insurance on properties transferred via this procedure without additional indemnification, because the process skips standard creditor notification steps. Always confirm insurability with a title company BEFORE relying on this procedure.

C. Revocable Living Trust

Assets held in a properly funded revocable living trust bypass probate entirely. Trust administration is private, faster (weeks vs. months), and not subject to California's statutory fee schedule. The trust must be funded — assets must be retitled in the name of the trust — for this to work. An unfunded trust provides zero probate protection. For virtually every Los Angeles homeowner, a living trust is the most efficient and reliable probate-avoidance strategy.

D. Joint Tenancy with Right of Survivorship

Property held in joint tenancy passes automatically to surviving joint tenants upon death, without probate. The survivor records an Affidavit — Death of Joint Tenant with the county recorder. Limitation: Joint tenancy creates immediate co-ownership and may trigger gift tax, property tax reassessment, or complicate the estate plan. Under Proposition 19 (effective Feb. 16, 2021), the parent-child property tax exclusion is significantly restricted — consult a tax attorney before using joint tenancy as an estate planning tool in California.

E. Beneficiary Designations (POD / TOD)

Payable-on-death designations on bank accounts, transfer-on-death designations on investment accounts, and named beneficiaries on life insurance and retirement accounts all pass assets outside of probate through simple claim procedures. These designations override a will and must be kept current — outdated or incorrect designations are a leading cause of unintended outcomes.





F. Community Property with Right of Survivorship (CPWROS)

California allows married couples and registered domestic partners to hold property as CPWROS. At the first spouse's death, the survivor takes the property without probate and receives a full step-up in tax basis on the entire property — a significant income tax advantage over joint tenancy (which only provides a half step-up). The correct deed form must be recorded to establish CPWROS title.

G. Revocable Transfer-on-Death (TOD) Deed (§§5610–5696)

California authorizes property owners to designate a beneficiary to receive real property at death through a recorded TOD deed, without probate. The owner retains full control during their lifetime and may revoke at any time. Some title companies scrutinize TOD deed transfers with extra caution — confirm insurability before relying on this method.

✓ Bottom Line: Hierarchy of Probate Avoidance for LA Residents
(1) Fund a revocable living trust — best solution for most homeowners.
(2) Beneficiary designations on all financial accounts, retirement accounts, and life insurance.
(3) CPWROS for married couples holding real estate — full step-up in basis.
(4) AB 2016 / TOD deeds — useful tools with important limitations.
(5) Small estate affidavit — only when personal property gross value is under $208,850.

3. Jurisdiction and Venue in Los Angeles County

California Probate Jurisdiction(Prob. Code §§7051–7052)

The Superior Court has exclusive jurisdiction over probate proceedings. Jurisdiction is proper in the county where the decedent was domiciled at the time of death. For a California non-resident who owned California real property, jurisdiction is proper in the county where the real property is located (§7052).

The Filing Location (LA County Specific)

All decedents' estate probate matters in Los Angeles County are filed with the LA Superior Court Probate Division. The primary — and for most estates the only — filing location is:

Stanley Mosk Courthouse — Probate Division
Address: 111 North Hill Street, Los Angeles, CA 90012
Phone: (213) 830-0800
Hours: Monday–Friday, 8:30 a.m. – 4:30 p.m.
Metro: Civic Center/Grand Park Station (Red/Purple Lines)
Parking: Courthouse parking garage and surrounding lots (paid)
Security: Plan for screening delays; arrive early for hearings

Department Assignment

The Probate Division encompasses multiple departments at Stanley Mosk that hear decedents' estate matters. Your petition is assigned to a specific department number, which appears on your hearing notice. Conservatorship, guardianship, and some trust matters may be heard at branch courthouses depending on the parties' locations.

Antelope Valley Branch

Residents of the Antelope Valley region file at the Michael D. Antonovich Antelope Valley Courthouse, 42011 4th Street West, Lancaster, CA 93534.



Electronic Filing (Current as of June 2026)

A General Order dated March 20, 2026 rescinded the previously mandatory e-filing requirement for probate records. LA County probate currently accepts both e-filing (through approved Electronic Filing Service Providers via lacourt.ca.gov) and paper filing. This is an active area of procedural change — always verify current requirements at the court's website before filing. Attorneys previously mandated to e-file should confirm current obligations.

The Probate Examiner Notes System(LA-Specific — Critical to Understand)

Los Angeles uses a Probate Examiner Notes system that distinguishes it from most California counties. Court-employed probate attorneys review every petition before the scheduled hearing and post pre-hearing notes online identifying defects, deficiencies, or required cures. Petitioners and attorneys can access these notes through the court's website before appearing.

A petitioner who addresses all examiner notes before the hearing date can typically have the matter approved at the first setting without continuance. Appearing at a hearing without having

> ⚠ **LA Practice Requirement**
> Always check Probate Examiner Notes online at least five court days before any hearing at Stanley Mosk. All documents and courtesy copies must be delivered to the Probate Division Clerk's Office by 8:30 a.m. on the hearing date. Parties and attorneys must also report to the clerk's office by that time.

4. Step-by-Step Probate Timeline: Filing Through Distribution

California probate is governed by mandatory waiting periods — primarily the four-month creditor claim window (§9100) — that establish an irreducible minimum timeline. In Los Angeles County, court volume and scheduling density systematically extend cases beyond that minimum. Plan for 12–24 months for a routine estate; contested matters routinely take 2–4 years.

The absolute minimum for any California probate — even the simplest estate with no real property and a cooperative beneficiary — is approximately 8 months, because the creditor window alone consumes four of those months.

Stage-by-Stage Timeline

All decedents' estate probate matters in Los Angeles County are filed with the LA Superior Court Probate Division. The primary — and for most estates the only — filing location is:

Stage	Timing	Key Actions & LA County Notes
Lodge Will / Pre-Filing Prep	Days 1–14	Lodge original will with court (Prob. Code §8200 — within 30 days of learning of death). Obtain 10+ certified death certificates. Gather deeds, bank statements, account records, insurance policies, vehicle titles, and any trust documents.
File Petition for Probate (DE-111)	Weeks 1–3	File at Stanley Mosk Probate Division. Pay $435 filing fee (Gov. Code §70650(a)). Court assigns case number, department, and hearing date — typically 30–45 days out in LA County (smaller counties: 3–4 weeks). Request IAEA authority in the petition.
Publication and Notice	Between filing and hearing	Publish Notice of Petition to Administer Estate in a court-approved LA County newspaper for three successive weeks, first publication at least 15 days before hearing (§8120). Mail notice to all heirs/beneficiaries at least 15 days before hearing (§8003). File proofs of publication and service before or at hearing. Defective notice = automatic continuance.

Stage	Timing	Key Actions & LA County Notes
Initial Petition Hearing	~6–10 weeks after filing	Court appoints executor/administrator. If examiner notes addressed, typically approved at first setting. If defects remain, continued 4–8 weeks. Personal representative signs DE-147 (Duties and Liabilities). Bond filed if required. Letters Testamentary or Letters of Administration issued. IAEA authority granted if requested.
Direct Creditor Notice	Within 30 days of appointment	Mail Notice of Administration to all known/reasonably ascertainable creditors (§9050). Review bank statements, mail, tax returns to identify creditors. Direct mailing triggers 60-day deadline for that creditor. Failure to give notice to known creditors risks personal liability.
Inventory and Appraisal (DE-160)	Within 4 months of appointment	Personal representative lists all probate assets. Probate Referee (court-appointed) appraises all non-cash assets as of date of death. Cash valued by personal representative. File DE-160 with court. Values set the basis for statutory fees and income tax step-up basis.
Creditor Claim Period	4 months from first publication (or 60 days from direct notice, whichever is later)	Creditors file claims using Form DE-172. Personal representative allows or rejects each claim using DE-174 within 30 days. Disputed claims may require litigation. Secured creditors' liens survive regardless. NO DISTRIBUTION may occur until this window closes and valid claims are addressed.
Estate Administration / Asset Management	Months 4–12+	Manage estate assets, file income tax returns (Form 1041 / CA 541). Pay valid creditors per priority order (§11420). Selling real property — including whether court confirmation and an overbid hearing are required — is covered in full in Section 5 (Selling the House During Probate).

Stage	Timing	Key Actions & LA County Notes
Petition for Final Distribution (DE-295)	Months 9–18	File when administration substantially complete. Includes formal accounting of all receipts and disbursements, fee requests for attorney and executor, and proposed distribution. Court sets hearing; notice given to all interested parties. Ensure all tax returns filed and Medi-Cal reimbursement claim addressed before filing.
Final Distribution Hearing	Months 12–24	Court reviews accounting, approves fees, rules on objections. If no objections and accounting is accurate, hearing is typically brief. Order for Final Distribution signed. Personal representative distributes assets: real property by certified court order recorded with county recorder. Receipts filed showing completion. Estate formally closed.

⚠ LA County Timeline Factors — Why LA Takes Longer

Court calendar density: LA Superior Court Probate Division handles more filings than any other California county. A continued matter waits significantly longer for the next available date than the same continuance in Sacramento, Riverside, or Ventura County.

Real property ubiquity: Given LA's median home values, most estates include at least one piece of real property, requiring appraisal, administration, and often a court-confirmed sale with overbid hearing.

Mandatory creditor period: The four-month §9100 window applies statewide, but LA's calendar density means the downstream effects of any delay are amplified.

5. Selling the House During Probate

Because most Los Angeles probate estates include a home, and because that home is usually the estate's largest asset, selling it correctly is often the single most consequential task the personal representative will handle. This section covers whether the sale needs court confirmation, how the overbid process works if it does, what is required to get the home ready for market, and what the personal representative can and cannot do along the way.

Does the Sale Need Court Confirmation?

It depends entirely on what authority the personal representative was granted at the initial petition hearing. There are two paths, and the difference between them is significant.



	Full IAEA Authority	No IAEA / Limited Authority
Court confirmation required?	No — sale can close without a hearing	Yes — sale must be confirmed at a court hearing
Overbidding at a hearing?	No	Yes — the accepted offer becomes the minimum bid
Required step before closing	Notice of Proposed Action (DE-165) mailed to all heirs/beneficiaries; 15-day objection window	Report of Sale and Petition for Order Confirming Sale (DE-260), filed within 30 days of accepting the offer (§10308)
Typical timeline to close	30–45 days (similar to a standard resale)	Add 30–60+ days for the confirmation hearing and overbid window; often 3–6 months total
Minimum acceptable price	At least 90% of the Probate Referee's appraised value (§10309); below that requires court confirmation regardless	Set by the court at the hearing through the overbid process
Buyer's risk of losing the deal	Low — functions like a normal sale once accepted	Real — even an accepted, inspected, fully negotiated offer can be outbid in open court

Full IAEA authority (granted under §§10400–10592) is requested in the initial Petition for Probate (DE-111) and is granted in the vast majority of California probates. With full authority, the personal representative can list the property, negotiate offers, accept terms, and open and close escrow — functioning much like a standard residential transaction. The only required step is mailing a Notice of Proposed Action (NOPA) to all heirs, beneficiaries, and anyone who has filed a request for special notice, at least 15 days before the sale closes (§10580). If no one objects in writing within that window, the sale proceeds without any court hearing at all.

📋 **When Court Confirmation Is Required Even With IAEA Authority**

- The personal representative has only limited IAEA authority (the court can grant full or limited authority, and in some cases all heirs must consent to full authority).
- No IAEA authority was requested or granted at all (rare, but possible if the will restricts it or the court declines to grant it).
- An heir or beneficiary files a **timely written objection** to the Notice of Proposed Action within the 15-day window — this forces the sale into court confirmation regardless of IAEA status (§10589).
- The negotiated sale price falls **below 90%** of the Probate Referee's appraised value.

How the Overbid Process Works

When court confirmation is required, the personal representative's accepted offer does not finalize the sale — it becomes the opening bid at a public court hearing. Any qualified buyer may appear at that hearing and outbid the accepted offer in open court, governed by a statutory formula (Prob. Code §10311).

THE OVERBID FORMULA

The first overbid must exceed the accepted offer by at least 10% of the first $10,000 plus 5% of the remaining balance of the accepted offer.

> Worked Example — $500,000 Accepted Offer
> Accepted offer: **$500,000**
> First $10,000 × 10% = **$1,000**
> Remaining $490,000 × 5% = **$24,500**
> Minimum first overbid = $500,000 + $1,000 + $24,500 = **$525,500**

If more than one party wants to overbid, the court sets minimum bidding increments for subsequent rounds and the process proceeds like a live auction in the courtroom. The court will generally confirm the sale to the highest bidder unless the personal representative has instructed otherwise before the hearing.

PRACTICAL MECHANICS OF THE HEARING

- Cashier's check required: Overbidders must typically present a 10% deposit in certified funds (cashier's check — no personal checks) at the hearing to participate.
- Original bidder can compete: The buyer whose offer was originally accepted may also participate in the overbidding and is not guaranteed the property simply because they bid first.
- Broker commissions differ: Under LA Superior Court local rules (LR 14.66, 14.67), the original bidder's broker is typically allowed up to 5% of the sale price; an overbidder's broker's commission is capped relative to the overbid amount.
- Order confirming sale: Once the court confirms the winning bid, a conveyance is executed referencing the court's order. A certified copy of the order must be recorded along with the deed (§10314(a)).

> **⚠ What Court Confirmation Means for Buyers and the Estate**
> For **buyers:** an accepted offer in a court-confirmation sale is not a secured deal. Inspections, loan approval, and emotional investment can all be lost if a higher bidder appears at the hearing. Buyers in this situation should budget extra time and be prepared for the possibility of losing the property even after a fully negotiated, inspected offer.
> For the **estate:** the overbid process exists to maximize sale proceeds for the beneficiaries — and it can succeed at that. But it adds real time (often 2–4 months beyond a normal closing) and can scare off conventional, financed buyers who can't tolerate the uncertainty, sometimes leaving the field to all-cash investors who expect a discount.

Getting the Home Ready for Sale

Preparing a probate property is different from preparing a typical resale, and the difference matters legally as well as practically. The guiding principle in California probate sales is: clean it out, but generally don't renovate it.

WHAT YOU SHOULD DO

- Clear out personal property and belongings. Remove furniture, clothing, papers, and personal effects — after the Inventory and Appraisal has been completed and any items of value have been identified, appraised, or distributed per the will. Don't dispose of anything before the inventory is filed.
- Haul away trash and debris. Junk removal and full-house cleanouts are common and expected estate expenses. In the LA market, a full-service junk removal/cleanout for a single-family home typically runs $500–$3,000+ depending on the volume of belongings and whether donation, recycling, or disposal is required. Keep receipts — these are reimbursable, documented estate administration expenses.
- Clean thoroughly. A professional deep clean (carpets, windows, kitchens, bathrooms) measurably improves marketability and is a normal, modest estate expense.
- Improve curb appeal. Basic landscaping cleanup — mowing, trimming, removing dead plants, pressure-washing walkways — is inexpensive and meaningfully affects first impressions and buyer turnout.
- Secure the property. Change the locks if multiple parties had keys during the decedent's life, confirm all doors and windows are secured, and consider a basic alarm or vacant-property insurance rider — vacant homes are a target for break-ins and squatting, a genuine risk in parts of LA County.
- Handle utilities and basic maintenance. Keep utilities on (especially during escrow, for inspections), maintain the landscaping so the home doesn't look abandoned, and address any obvious safety hazards (loose railings, exposed wiring) that could create liability during showings.

WHAT YOU GENERALLY SHOULD NOT DO — AND WHY

⚠ Probate Properties Are Typically Sold "As-Is" — Avoid Cosmetic Repairs

California probate properties are conventionally sold as-is. Making cosmetic repairs or upgrades — new paint, refinished floors, updated fixtures — can inadvertently conceal defects the personal representative may not even be aware of, creating disclosure and liability exposure later. A fresh coat of paint over a water stain, for example, can later be characterized as concealment rather than cosmetic improvement, even if that was not the intent.

The personal representative typically did not live in the home and often has limited firsthand knowledge of its condition — this is precisely why probate sales are exempt from California's standard seller disclosure requirements (see below). Making repairs undermines that protection by implying knowledge and judgment the representative may not actually have.

ESTIMATED PRE-SALE COSTS — LA COUNTY

Service	Typical LA County Cost Range	Notes
Full-house junk removal / cleanout	$500 – $3,000+	Scales with volume; full estate liquidation/cleanout services may handle both cleanout and donation/sale of contents
Professional deep cleaning	$300 – $800	Carpets, windows, kitchen, bathrooms
Landscaping cleanup / curb appeal	$200 – $1,000	One-time cleanup vs. ongoing maintenance during the listing period
Locksmith / re-keying	$150 – $400	Recommended whenever multiple parties held keys
Minor safety repairs	$200 – $2,000+	Handrails, exposed wiring, broken locks, smoke/CO detectors (legally required at sale in CA)
Pre-listing inspection (optional)	$400 – $700	Not required, but can help set realistic pricing and flag major issues early
Vacant property insurance rider	Varies by carrier	Standard homeowner policies often exclude vacant-property coverage after 30–60 days

Choosing a Probate-Experienced Real Estate Agent

Standard residential listing agreements and purchase contracts do not account for fiduciary capacity, the 90-day listing limitations sometimes imposed by local rule, NOPA timing, or court commission approval in confirmation sales. The California Association of Realtors publishes standardized probate-specific forms for exactly this reason. An agent without probate experience can create real exposure for the personal representative — for example, by listing the property before Letters have actually issued (the personal representative has no legal authority to act until Letters are granted) or by using a standard listing agreement that doesn't account for court approval requirements.

- Confirm the IAEA authority level before pricing, marketing, or accepting any offer.
- Use the C.A.R. probate-specific listing agreement and purchase contract forms. not standard residential forms.
- Prepare buyers for the overbid risk up front if the sale requires court confirmation, so they understand the process before investing in inspections and loan approval.
- Coordinate with the probate attorney on NOPA timing (full authority) or the Report of Sale and Petition for Order Confirming Sale (limited authority / court confirmation), since these are court filings, not just real estate paperwork.

6. Required Filings and Forms

California probate uses standardized Judicial Council forms throughout the process. Los Angeles County supplements these with local forms for specific procedural steps. Below are the most frequently used forms with their purpose explained.

Judicial Council Forms (Statewide)

Form Number	Name	Purpose
DE-111	Petition for Probate	Initiates the probate proceeding; requests appointment of personal representative, admission of will to probate, and IAEA authority. Primary document filed at the outset.
DE-140	Notice of Petition to Administer Estate	Published in newspaper and mailed to heirs/beneficiaries. Contains hearing date, time, and department.
DE-147	Duties and Liabilities of Personal Representative	Signed by the executor/administrator before letters issue; confirms understanding of fiduciary duties.
DE-150	Letters Testamentary / Letters of Administration	Court order granting the personal representative legal authority to act. Certified copies ($25/each) needed for each financial institution.
DE-160	Inventory and Appraisal	Lists all probate assets and date-of-death values. Completed by personal representative (cash) and Probate Referee (non-cash). Basis for statutory fee calculation.
DE-165	Notice of Proposed Action	Required under IAEA before taking significant actions (selling real estate, major investments). 15-day objection window; if no objection, action proceeds without court hearing.

Form Number	Name	Purpose
DE-172	Creditor's Claim	Used by creditors to file claims against the estate within the statutory claim period.
DE-174	Allowance or Rejection of Creditor's Claim	Used by personal representative to formally allow or reject each creditor claim.
DE-295	Petition for Final Distribution	Requests court approval of accounting, attorney/executor fees, and proposed distribution to beneficiaries. Filed when administration is complete.
DE-300	Maximum Values for Small Estate Procedures	Judicial Council publication showing current threshold amounts. Reference document — not filed, but used to verify applicable thresholds.
DE-305	Affidavit Re Real Property of Small Value	Transfers other real property (not primary residence) valued at ≤$69,625 without full probate. Requires court petition.
DE-310	Petition to Determine Succession to Real Property	Transfers primary residence valued ≤$750,000 without full probate under AB 2016 (§§13150–13157).
Prob-045 / DE-221	Spousal/Domestic Partner Property Petition	Transfers community and quasi-community property to surviving spouse/RDP without full probate. Much faster and less expensive than formal probate.

Judicial Council Forms (Statewide)

📋 **Local Form Requirement**
Los Angeles County has its own approved local forms supplementing the Judicial Council forms. These include forms for continuance requests (see Local Rule 4.14), status reports, and specific LA-required procedural steps. Always check the LA Superior Court's local forms page at lacourt.ca.gov before filing — local forms are required alongside statewide forms in many situations.

7. Probate Fees: The Complete Cost Breakdown

California probate is among the most expensive in the United States. Statutory fees are calculated on gross estate value before subtracting any debts, and both the attorney and the executor are each entitled to the full statutory amount. For a heavily mortgaged LA property, this produces costs that frequently shock families expecting to receive significant equity.

Statutory Fee Schedule (Prob. Code §§10800 & 10810)

Both the attorney (§10810) and the executor/administrator (§10800) receive the same percentage-based fee. These are calculated independently — the estate pays each party separately. The fee schedule below applies to each role.

Estate Value Bracket	Rate	Fee on That Bracket	Cumulative Fee (Each Party)
First $100,000	0.04	4000	4000
Next $100,000	0.03	3000	7000
Next $800,000	0.02	up to $16,000	up to $23,000
Next $9,000,000	0.01	up to $90,000	up to $113,000
Next $15,000,000	0.005	up to $75,000	up to $188,000
Over $25,000,000	Court-determined	—	—

Statutory Fee Schedule (Prob. Code §§10800 & 10810)

Gross Estate Value	Attorney Fee	Executor Fee	Combined Statutory Fees	Approx. Total All-In Costs
300000	9000	9000	18000	~$20,000–22,000
500000	13000	13000	26000	~$28,000–32,000
750000	18000	18000	36000	~$40,000–46,000
1000000	23000	23000	46000	~$52,000–58,000
1500000	28000	28000	56000	~$65,000–75,000
2000000	33000	33000	66000	~$80,000–95,000

Extraordinary Fees (§§10801 & 10811)

When the attorney or executor performs services beyond ordinary administration — litigating a will contest, managing a business, handling complex tax issues, overseeing a contested real estate sale — they may petition the court for additional extraordinary compensation. Courts typically approve reasonable hourly rates ($250–$500/hour for attorney; less for executor) for genuinely extraordinary work. Extraordinary fees require court approval and a noticed hearing. Courts scrutinize these petitions; routine work characterized as extraordinary is a common source of disputes.

Other Costs

Cost Item	Typical Amount	Notes
Initial petition filing fee	435	Gov. Code §70650(a)
Final distribution filing fee	435	Gov. Code §70650(c)
Probate Referee fee	0.1% of appraised value	Min. $75, max. $10,000 (Prob. Code §8963)
Newspaper publication (LA County)	$200–$1,000	Must use court-approved newspaper; rates vary by publication
Bond premium (if required)	$500–$2,000/year	Based on estate size; often waived in will or by agreement
Certified death certificates	~$21 each (LA County)	Order 8–12; required by each financial institution
Certified copies of Letters	~$25 each	Required for each bank, broker, title company
Real estate costs (if sold)	Commission + title + escrow	Typically 5–7% of sale price; use probate-experienced broker
Federal estate tax return (Form 706)	$3,000–$10,000+ CPA fees	Only if gross estate exceeds $15M federal exemption
Medi-Cal reimbursement	Varies — can be substantial	Required if decedent received long-term care benefits; reinstated Jan. 2026

⚠ The Gross Value Trap in Los Angeles
In LA, it is common for an estate to consist primarily of a mortgaged home. If the home is worth $900,000 with a $650,000 mortgage, the gross estate for fee purposes is $900,000 — producing combined statutory fees of approximately $34,000 — even though net equity is only $250,000. After fees, court costs, the Probate Referee, publication, and bond, a beneficiary expecting $250,000 in equity may receive $210,000 or less.

Strategies to Reduce Fees

- Negotiate attorney fees: Statutory percentages are the maximum. Many attorneys accept less, particularly for routine estates. Always discuss fees before engagement and get any arrangement in writing.
- Executor fee waiver: Executors who are also beneficiaries should consider waiving their fee. The fee is taxable income; waiving means more flows to them as tax-advantaged inheritance. Family members serving as executor routinely waive this fee.
- IAEA authority: Requesting full IAEA authority reduces court hearings and attorney time, reducing extraordinary fee exposure.
- Probate avoidance (prospective): A living trust, funded during lifetime, eliminates all of these costs for future estates.



8. The Executor / Administrator: Role, Powers, and Duties

Letters Testamentary vs. Letters of Administration

Document	Issued When	Key Distinction
Letters Testamentary	Decedent left a valid will naming an executor who accepts the role	Executor's authority derives from the will; court confirms appointment
Letters of Administration	No will (intestate), will fails to name executor, or named executor unable/unwilling to serve	Court selects administrator following priority order (§8461)
Letters of Administration with Will Annexed (CTA)	Will exists but named executor cannot or will not serve	Hybrid situation; court appoints administrator to carry out will's terms

The substantive powers granted by each type of letter are substantially identical. The distinction primarily affects the appointment process and the court's priority order in selecting the representative.

Letters Testamentary vs. Letters of Administration

When there is no will, California law establishes the following priority order for whom the court will appoint as administrator:

1.Surviving spouse or registered domestic partner
2.Children
3.Grandchildren
4.Other issue (descendants)
5.Parents
6.Siblings
7.Other heirs per intestate succession
8.Creditors (after 40 days from death)
9.Other persons deemed suitable by the court

The Independent Administration of Estates Act (IAEA) (§§10400–10592)

Most petitions in LA County request authority under the **Independent Administration of Estates** Act, which allows the personal representative to handle most estate transactions without prior court approval. This includes selling real estate, paying creditors, investing funds, and other administrative actions. IAEA significantly reduces the number of court hearings and compresses the overall timeline.

Under IAEA, the personal representative may take most actions by giving a **Notice of Proposed Action** (**DE-165**) to interested parties at least 15 days in advance. If no one objects, the action proceeds without a court hearing. If an interested party objects, court approval is required before proceeding. This is far more efficient than seeking court approval for every transaction.

IAEA authority is granted at the initial petition hearing if requested in the petition. Always request full IAEA authority in the DE-111 unless there is a specific reason not to.

Core Fiduciary Duties

- Collect, secure, and protect all estate assets promptly after appointment.
- Complete the Inventory and Appraisal within four months.
- Manage estate property prudently during administration.
- Notify all known creditors within 30 days and address claims timely.
- File all required tax returns (income and estate).
- Keep accurate, comprehensive accounting records from day one.
- Treat all beneficiaries impartially — avoid self-dealing.
- Make distributions only after court authorization via Order for Final Distribution.

> ⚠ **Seek Legal Counsel**
> Fiduciary duties are extensive and breach carries real personal liability: removal by the court, surcharge for losses caused, and potential civil lawsuits from beneficiaries. Self-represented personal representatives handling LA County probate without counsel face meaningful procedural risk, particularly given the Examiner Notes system, strict deadlines, and complexity of real property administration. Professional counsel is strongly advisable for any estate involving real property, multiple beneficiaries, or creditor disputes.

9. Creditor Notification and the Claims Process



Published Notice (§8120)
The Notice of Petition to Administer Estate must be published in a court-approved newspaper of general circulation in LA County for three successive weeks, with the first publication at least 15 days before the initial hearing. This triggers the creditor claim period: creditors have four months from the date of first publication to file a claim (§9100). In LA County, verify that your chosen newspaper is on the court's current approved list at lacourt.ca.gov — this list changes periodically.

Direct Notice to Known Creditors (§9050)
The personal representative must mail notice directly to all known or reasonably ascertainable creditors within 30 days of appointment. A creditor who receives direct mailed notice has 60 days from the mailing (or the date of publication, whichever is later) to file a claim. The personal representative who fails to give direct notice to a known creditor may face personal liability for that creditor's unpaid claim.

To identify creditors: review all bank statements, credit card bills, utility bills, medical provider bills, tax records, and any other financial records for the decedent. Conduct a thorough review — creditors you overlook can come back against you personally.

Filing a Creditor Claim
Creditors must file a Creditor's Claim (Form DE-172) with the probate court and serve a copy on the personal representative. The claim must state the basis, amount, and supporting documentation. Late-filed claims are generally barred — the creditor loses the right to collect from the estate (though secured creditors retain their lien on specific property). The personal representative has no discretion to pay a late claim without court authorization.

Allowing or Rejecting Claims
The personal representative must act on each claim within 30 days of its filing (or before the distribution date, whichever comes first) using Form DE-174. If rejected, the creditor has 90 days to file a lawsuit — if they miss this deadline, the claim is permanently barred. If allowed, the claim is paid according to §11420's priority order.

Priority of Debt Payment (§11420)

When estate assets are insufficient to pay all debts, California law imposes strict priority:

1. Administration expenses (attorney fees, executor fees, court costs)

2. Funeral expenses

3. Family allowances

4. Secured debts (mortgages, liens — attached to specific property)

5. State and federal taxes

6. Medi-Cal reimbursement claims

7. Judgments against the decedent

8. All other unsecured debts



Beneficiaries receive distributions only after all debts in higher priority classes are fully satisfied. In an insolvent estate, beneficiaries may receive nothing.

10. Inventory and Appraisal (DE-160) and the Probate Referee



The Requirement

The personal representative must file an Inventory and Appraisal (Form DE-160) within four months of appointment (§8800). This document lists every probate asset, the date of death, and its fair market value as of that date. It serves as: (1) the basis for calculating statutory fees; (2) the income tax basis for inherited assets (step-up rule); and (3) the definitive public record of estate assets. Supplemental inventories are filed if additional assets are discovered after the initial filing.

The Probate Referee

The California State Controller's Office assigns a Probate Referee — a court-appointed, state-licensed appraiser — to independently determine the fair market value of all non-cash assets as of the date of death. The Referee appraises: real estate, stocks, bonds, mutual funds, business interests, collections, jewelry, art, and other property with subjective value. Cash and cash equivalents (bank account balances stated in dollars) are valued by the personal representative directly, without Referee involvement.

Referee fee: 0.1% of the appraised value of assets they appraise, minimum $75, maximum $10,000 (§8963). For a single LA property worth $900,000, the Referee fee is $900. Retain the Referee promptly after appointment to ensure completion before the four-month deadline.

Tax Significance: The Step-Up in Basis(IRC §1014)

✓ **Critical Tax Planning Note**
Inherited assets receive a **stepped-up basis** equal to fair market value at the date of death. This eliminates income tax on ALL appreciation during the decedent's lifetime.
Example: A Los Angeles home purchased in 1985 for $250,000, worth $1.8 million at death, gets a new basis of $1.8 million. If the heir sells at $1.8 million, there is zero capital gains tax owed.
Community property advantage: For community property (including CPWROS), BOTH halves receive a full step-up — not just the decedent's half. Joint tenancy only steps up the decedent's half. This is a significant reason married couples in California often prefer CPWROS over joint tenancy for real estate.

11. Court Hearings: What to Expect at Each Stage



The Initial Petition Hearing

The first hearing is administrative in nature. The court confirms proper notice was given, reviews the petition for defects, and — if everything is in order — appoints the personal representative and (if applicable) admits the will to probate. In LA County, the probate attorneys will have already posted Examiner Notes. If notes were addressed, the hearing can conclude in minutes. If not, continuance is almost certain.

The personal representative (and usually their attorney) should appear. After appointment, the personal representative signs DE-147, bond is posted if required, and Letters are issued. IAEA authority is granted at this hearing if requested.

The Examiner Notes System in Practice (LA-Specific)

Before each scheduled hearing, court probate attorneys post notes online identifying defects. Common LA examiner note issues include:

- Incorrect or missing notice allegations in the petition
- Defective proof of publication (wrong paper, insufficient publications, wrong timing)
- Defective proof of service on required parties
- Inconsistent property descriptions between deed and petition
- Missing required attachments (copy of will, property deeds, etc.)
- Missing allegations required by LA local rules
- Failure to allege IAEA authority properly

Best practice: Check notes at least 5 court days before every hearing. File a written supplement or amended petition responding to each noted deficiency before the hearing date.



If a case is not progressing toward closure, the court sets an Order to Show Cause (OSC) or Status Report Hearing — standard case management tools. LA County dockets frequently show "OSC Re: Petition for Final Distribution or Status Report" hearings, particularly on cases that have been open for more than 12 months. The personal representative or their counsel must appear and provide a credible status update. Repeated failures to appear or provide adequate updates can result in sanctions or removal.

The Final Distribution Hearing

This is the most consequential hearing: the court reviews the complete accounting, approves fees, rules on any objections, and authorizes distribution. All interested parties are entitled to notice and may appear to object. If no objections and the accounting is accurate, the hearing is typically brief. After the Order for Final Distribution is signed, the personal representative distributes assets, files receipts from beneficiaries, and the estate is formally closed.

Real Estate Sale Confirmation Hearings

When real estate must be sold through the court-confirmed sale process — because the personal representative lacks full IAEA authority, or a beneficiary objected to an IAEA-noticed sale — the confirmation hearing itself follows the overbid procedure described in detail in **Section 5** (**Selling the House During Probate**). In brief: the personal representative files a Report of Sale and Petition for Order Confirming Sale, the court sets a hearing, competing buyers may submit overbids under the statutory formula, and the court confirms the sale to the highest bidder. This process commonly adds 2–4 months to the transaction timeline and is a frequent feature of LA County probate given the prevalence of real property in local estates.

12. Spousal Property Petitions and California Community Property



California's Community Property Framework

California is one of nine community property states. All property acquired by either spouse during the marriage (while domiciled in California) is generally community property, with each spouse owning an undivided one-half interest. Property acquired before marriage, or acquired during marriage by gift or inheritance, is separate property. This distinction significantly affects how assets pass at death and what probate — if any — is required.

How Community Property Passes at Death

The surviving spouse automatically owns their 50% share of community property outright — no probate needed for that half. As to the decedent's 50%: if the will (or intestate succession) directs that share to the surviving spouse, the transfer can often be accomplished through a Spousal Property Petition rather than full probate. If the will directs the decedent's share to someone other than the spouse, or if there is no will and other heirs are involved, full probate may be required for that portion.

The Spousal Property Petition (Prob. Code §§13500–13660)

A surviving spouse or domestic partner may file a Spousal or Domestic Partner Property Petition to have the court confirm their right to community and quasi-community property without going through the full probate process. This is significantly faster (often 2–3 months vs. 12–24 months), less expensive (not subject to statutory fee schedule), and simpler than formal probate. LA Superior Court handles these through the same Probate Division at Stanley Mosk.

The petition requires the court to determine: (1) which assets are community or quasi-community property; (2) whether those assets pass to the surviving spouse under the will or by intestate succession; and (3) to confirm the survivor's title to those assets.

LA local rule: Agreements between spouses about non-pro-rata division of community property (§3100 et seq.) must be attached to the petition if they exist. Where the petition concerns real property, copies of the deeds showing vesting at the decedent's date of death must be attached.

Quasi-Community Property

Property acquired while the couple was domiciled in a non-community-property state that would have been community property if acquired in California is 'quasi-community property.' California treats it similarly to community property upon the death of the spouse who acquired it. This is a significant issue for couples who moved to California later in life after accumulating assets in common-law states like New York, Florida, or Texas.



Separate Property and Intestate Succession

A decedent's separate property passes according to their will, or by intestate succession (§§6400–6414) if there is no will. For intestate estates, separate property is divided among the surviving spouse, children, and other relatives according to complex statutory formulas. The surviving spouse does NOT automatically receive all separate property, and the distribution can be counterintuitive. These rules are a frequent source of family disputes requiring full probate in LA County.

⚠ Seek Legal Counsel

Characterization of property as community vs. separate is one of the most complex and fact-intensive areas of California estate law. Commingling, property acquired in other states, premarital agreements, and transmutation agreements all affect the analysis and can dramatically alter what the surviving spouse receives. Professional legal counsel is essential in any estate with both community and separate property components — which describes the majority of LA County married-couple estates.

13. Will Contests: Grounds, Standing, and Process

Standing: Who Can Contest a Will

Only an **"interested party"** has standing to contest a will in California. The Probate Code defines an interested party as someone with a direct financial or legal interest in the estate — typically a person who would inherit under a prior will, or under intestate succession if the contested will were invalidated. Being a relative who feels shortchanged is insufficient standing. Only about 2 in 100 will contests ultimately succeed — an early, realistic assessment of the merits is essential before investing in litigation.

Grounds for Contesting a Will

Ground	What Must Be Proved	Practical Notes
Lack of Testamentary Capacity	At the moment of signing, the decedent did not understand: (1) the nature of making a will, (2) the extent of their property, or (3) the natural objects of their bounty (their heirs)	Medical records, witness testimony about mental state are key. Dementia alone does not equal incapacity — assessment is specific to the moment of signing. Lucid intervals matter.
Undue Influence	A person in a position of trust over the decedent improperly pressured them to change the will in a way that does not reflect their true wishes	Most common ground in elder abuse situations. Direct evidence is rare; circumstantial evidence is typically relied upon. Isolation, secrecy, and recent changes favoring caretakers are red flags.
Fraud or Forgery	The will was deliberately falsified, or the decedent signed it based on material misrepresentations about what they were signing or about third parties	Handwriting experts and forensic document examiners are often required. Execution witnesses are critical.
Lack of Due Execution	The will was not properly executed — not signed, not witnessed by two qualifying witnesses present at the same time, or otherwise defective on its face	Technical defects can invalidate an otherwise genuine will. California allows courts to consider extrinsic evidence to determine intent (§21102).
Revocation	The decedent validly revoked the will before death — by physical destruction with intent to revoke, a subsequent will, or express written revocation	A later, validly executed will generally revokes all prior wills unless limited by its terms.

Deadlines — The 120-Day Rule

> ⚠ **Critical Deadline**
> A will contest must be filed within 120 days after the court admits the will to probate. If the contestant was given special notice under Prob. Code §1220, the deadline is 60 days from that notice.
> Missing this deadline is fatal to the contest — there is no extension and no exception. The clock begins at the initial petition hearing when the will is admitted. Any person considering a contest must consult counsel immediately after learning of the probate filing.

Process and Timeline

Will contests are heard as evidentiary proceedings in the Probate Division. They typically involve: written objections filed before the hearing; discovery (depositions, document requests, subpoenas); expert witnesses (medical, handwriting, forensic); and multiple hearings and a trial. Contested probate in LA County routinely takes 2–4 years to resolve. Even an ultimately unsuccessful contest delays distribution to all beneficiaries and significantly increases administration costs for the entire estate.

No-Contest Clauses (§§21310–21315)

A will may include a no-contest clause providing that a beneficiary who contests the will forfeits their inheritance. However, California law significantly limits enforceability: a contest brought with probable cause (a reasonable belief it may succeed, based on facts known at the time of filing) will not trigger forfeiture, even if the contest ultimately fails. Counsel must be engaged to evaluate probable cause before filing any contest in an estate with a no-contest clause.

14. Tax Considerations in California Probate

California Estate Tax: None
California does not impose a state estate tax or inheritance tax. California families need only concern themselves with federal estate tax. This is an important distinction from states like Oregon, Washington, or Massachusetts, which impose state estate taxes at thresholds well below the federal exemption.

Federal Estate Tax — Current Threshold (Effective 2026)
Under the One Big Beautiful Bill Act (OBBBA), signed July 4, 2025, the federal estate tax exemption was made permanent and substantially increased. As of 2026, the exemption is $15 million per individual and $30 million per married couple, indexed for inflation beginning in 2027. This exemption covers the gross estate for federal tax purposes — including all probate AND non-probate assets (trusts, retirement accounts with named beneficiaries, life insurance, jointly held property). Very few California estates, even those with significant Los Angeles real estate, will exceed this threshold.

For estates that do exceed the threshold: Form 706 (Federal Estate Tax Return) must be filed within nine months of death, with a six-month extension available. An IRS estate tax closing letter may be required before final distribution, adding weeks or months to the timeline.

📋 **Important Distinction: Estate Tax ≠ Probate**
Being below the $15M federal estate tax exemption does NOT mean avoiding probate. Probate is triggered by assets titled in the decedent's name alone exceeding $208,850 — a threshold relevant to virtually every Los Angeles homeowner. Estate tax and probate are entirely separate legal systems that operate independently.



Income Tax on Inherited Assets: The Step-Up in Basis (IRC §1014)
Inherited assets receive a stepped-up income tax basis equal to fair market value at the date of death. This eliminates capital gains tax on all appreciation during the decedent's lifetime. For community property (including CPWROS), BOTH halves receive a full step-up — not just the decedent's half. For joint tenancy, only the decedent's half is stepped up. This difference can be worth tens of thousands of dollars in LA's appreciated real estate market.

Income Tax During Administration(Form 1041 / CA Form 541)
The estate is a taxpayer during administration. All income earned by estate assets after the date of death — rental income, interest, dividends, business income — must be reported annually on a fiduciary income tax return (Form 1041 federal; California Form 541). The personal representative is responsible for filing these returns for each year the estate remains open and for paying any taxes owed from estate assets. Failure to file estate income tax returns can result in penalties and personal liability.

Medi-Cal Estate Recovery
As of January 1, 2026, California reinstated asset limits for Medi-Cal long-term care eligibility. Where Medi-Cal paid for a decedent's long-term care (nursing home, in-home care, etc.), the California Department of Health Care Services has a reimbursement claim against the estate. This can be a substantial, unanticipated debt. The personal representative must notify DHCS of the death and satisfy any valid Medi-Cal claim before distributing assets to beneficiaries. Ignoring a Medi-Cal claim and distributing early can create personal liability.

Proposition 19 — Property Tax Reassessment(Effective Feb. 16, 2021)
This is frequently the most financially significant tax consideration in LA County probate. Proposition 19 fundamentally changed the parent-child property tax exclusion. A child who inherits a parent's home must now move into it as their primary residence within one year of the parent's death to preserve the parent's low assessed value ("factored base year value"). The exclusion is also capped — it only protects up to approximately $1 million above the parent's current assessed value.

Children who receive a property but do not occupy it face full reassessment to current market value — potentially a dramatic property tax increase in the LA market. For a home with a $100,000 assessed value but a $1.5 million fair market value, the annual property tax increase could exceed $15,000. This issue should be addressed proactively as soon as a probate estate includes real property.

15. Common Mistakes, Delays, and How to Avoid Them in LA County

At the Filing Stage

DEFECTIVE OR INCOMPLETE NOTICE

include: publishing in a non-approved newspaper; insufficient lead time before the hearing; incorrect proof of service; mailing to wrong or incomplete addresses; omitting required parties. If notice is defective, the court cannot hear the petition — the matter is continued 4–8 weeks minimum, and the entire downstream timeline shifts.

Prevention: Confirm the newspaper is court-approved before publishing. Calendar the publication dates carefully. Mail notice to every heir, beneficiary, and required party identified in the Probate Code. File proofs of publication and service before the hearing.

INCONSISTENCIES IN PETITION DOCUMENTS

Names, property descriptions, and dates must be precisely consistent across all filings. A discrepancy between the name on a deed and the name on the petition, or an incorrect legal property description, will trigger examiner notes and require corrected filings, adding weeks to the case.

IGNORING EXAMINER NOTES (LA-SPECIFIC)

Appearing at a hearing without reviewing and addressing Examiner Notes virtually guarantees a continuance. Check notes at least five court days before every hearing. File written supplements responding to each noted deficiency.

During Administration

LATE INVENTORY AND APPRAISAL

The DE-160 must be filed within four months of appointment. Retain the Probate Referee promptly — don't wait until month three. Late filing triggers court inquiries, status hearings, and potential sanctions.

INADEQUATE CREDITOR NOTIFICATION

Failure to mail direct notice to known creditors within 30 days of appointment can create personal liability for the personal representative for that creditor's claim. Conduct a thorough creditor identification review immediately after appointment.

SELLING PROPERTY WITHOUT PROPER AUTHORITY

Real estate sales outside the IAEA Notice of Proposed Action process, or without court confirmation when required, can constitute a breach of fiduciary duty and void the transaction. Before any real estate action, confirm: (1) What IAEA authority was granted? (2) Was DE-165 properly sent and the 15-day objection period completed? (3) Did anyone object, requiring court approval?

DISTRIBUTING ASSETS BEFORE COURT AUTHORIZATION

No distribution to beneficiaries may be made before: (a) the creditor claim period has expired, (b) all valid claims are addressed, (c) all required tax returns are filed, (d) Medi-Cal claims are addressed, and (e) a court Order for Final Distribution has been issued and signed. Early distributions create personal liability for the personal representative.

At Case Closure

INACCURATE OR INCOMPLETE ACCOUNTING

The final accounting must capture every transaction during administration. Gaps, errors, or unexplained variances identified at the final hearing require correction before the distribution order issues, adding months to closure. Maintain a meticulous transaction ledger from day one — not as a retrospective reconstruction.

TAX RETURNS NOT FILED

Confirm all income tax returns (Form 1041/CA 541) are filed for every year the estate was open, and all taxes are paid, before filing the Petition for Final Distribution. If the estate exceeds the $15M federal threshold, confirm Form 706 is resolved. Obtain IRS transcripts if needed to confirm filing.

Estate Planning Mistakes That Create Probate Problems (For Planners to Note)

UNFUNDED TRUSTS

The single most common and costly estate planning mistake in California. A living trust that was never funded — assets never retitled in the trust's name — provides zero probate protection. The decedent's property goes through probate exactly as if no trust existed, triggering the full statutory fee structure. Every asset intended to avoid probate must be positively transferred into the trust during the grantor's lifetime.

OUTDATED BENEFICIARY DESIGNATIONS

Retirement accounts and life insurance with stale designations (deceased beneficiaries, prior spouses, no designation at all) flow into the probate estate and trigger the full probate process. Review and update designations after every major life event: marriage, divorce, death of a named beneficiary, birth of a child, significant change in relationships.

BELIEVING A WILL AVOIDS PROBATE

A will is a probate document. It is admitted to and operates through the probate process. Having a valid, carefully drafted will does not avoid probate — it only controls how assets are distributed within probate. Many LA families discover too late that a well-prepared will still results in 12–24 months of Superior Court proceedings and tens of thousands of dollars in statutory fees.

✓ Executor's Practical Checklist for LA County Probate

□ Order at least 10 certified death certificates immediately (budget $21 each in LA County).
□ Retain probate counsel — LA's Examiner Notes system and local rules create real procedural risk for unrepresented parties.
□ File promptly — delay at the start is delay at the end.
□ Secure and inventory all estate assets immediately after appointment.
□ Check Probate Examiner Notes at least 5 court days before every hearing.
□ Mail direct creditor notice within 30 days of appointment (§9050). Keep copies.
□ Retain Probate Referee promptly — DO NOT wait until month 3 of the 4-month window.
□ Maintain a complete transaction ledger from day one of appointment.
□ File income tax returns for each year the estate is open (Form 1041 / CA 541).
□ Address Medi-Cal reimbursement claim before distributing assets.
□ Advise inheriting children of the one-year Prop. 19 occupancy deadline for property tax exclusion.
□ Make NO distributions before receiving a signed Order for Final Distribution from the court.

DISCLAIMER AND LIMITATION

This document is for informational and educational purposes only. It does not constitute legal advice, does not create an attorney-client relationship, and should not be relied upon as a substitute for consultation with a licensed California probate attorney regarding your specific situation. Laws and court procedures change; verify all information with current sources before acting. Current as of June 2026.

Key statutory references: Prob. Code §§13100, 13150–13157 (AB 2016), 10800, 10810, 9100, 9050, 8963, 8800, 890, 10300–10314 (court-confirmed sales), 10400–10592 (IAEA), 10580 (NOPA) | Civil Code §§1102.2, 1710.2 (disclosure) | Federal: IRC §1014, OBBBA (July 2025) | LA Superior Court Local Rules Ch. 4, LR 14.65–14.67

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