

Every few weeks a client sits down in my office, leans forward, and says something like:

"I heard if I give assets away and live seven years, it's all tax free."

If you grew up in the UK or have British relatives, you probably heard of the "7-year rule" for inheritance tax. It is a real rule, but it belongs to UK tax law, not United States or California law. When people try to apply it here, it usually causes confusion, and sometimes very expensive mistakes.

For Californians, there is no 7-year rule for inheritance or gift tax the way people imagine it. There are, however, several different "time rules" that apply to gifts, trusts, Medi-Cal eligibility, retirement accounts, and probate deadlines. Those rules often get blended in conversation, which is why the folk wisdom sounds so inconsistent.

If you are trying to protect your home, help your children, or avoid a mess after your death, you need to know which rules actually matter here, and which belong across the Atlantic.

What the 7-Year Rule Actually Is (and Where It Does Not Apply)

The 7-year rule on inheritance is part of UK law. In simple terms, certain gifts made during your lifetime can fall out of the UK inheritance tax net if you survive seven years after making them. The rule can get more complex with tapering and exceptions, but that is the basic idea.

In the United States, and in California specifically:

- There is no 7-year rule for inheritance tax.
- There is no California inheritance tax at all.
- The federal estate and gift tax system uses a lifetime exemption and annual exclusions, not a seven year survival test.

So when someone in California says "the 7-year rule for trusts," what they usually mean is one of three very different concepts:

1. The UK inheritance tax rule they read about online.
2. The 5-year "lookback" for Medicaid planning, which is federally based and affects Medi-Cal eligibility.
3. Various timing rules on retirement accounts, trusts, and probate that are not actually seven years, but get misremembered.

Sorting out which is which is the first step to building a plan that fits reality, not internet folklore.

Gift and Estate Tax Basics for Californians

Before getting into trusts and timing rules, it helps to anchor the conversation in the right tax system.

California does not impose its own estate or inheritance tax. The key player is the federal government. Two numbers matter:

1. The federal estate and gift tax exemption. For 2024, it is a little over 13 million dollars per person. A married couple can effectively shelter roughly double that with good planning. Unless Congress changes the law, that exemption is scheduled to drop by about half in 2026.
2. The annual exclusion. You can give up to 18,000 dollars per recipient per year (2024 figure, it adjusts periodically) without filing a gift tax return, as long as the gift is a present interest.

When clients ask, “How much tax do you pay if you inherit 100,000 dollars?” the answer is usually: none at the federal or California level just for inheriting. You might pay income tax if that 100,000 dollars is from a pre tax retirement account like a traditional IRA, but that is income tax, not inheritance tax, and it depends on withdrawals, not the size of the inheritance itself.

That is also why questions like “Do trusts avoid inheritance tax?” are often off target for Californians. A trust can help you avoid probate, manage estate tax in very large estates, or control how and when heirs receive funds. For most California families with estates under the federal threshold, there is no inheritance tax problem for the trust to “solve.”

The Real Timing Rules Most Californians Bump Into

Instead of a 7-year rule, Californians run into a patchwork of other rules:

- The 5-year rule for Medicaid and Medi-Cal eligibility.
- The 5-year and 10-year rules for retirement account distributions after death.
- The “5 by 5 rule” in estate planning for certain trust withdrawals.
- Practical deadlines in the probate process.
- A 2-year flavor of trust or benefit rules in specific contexts.

These are separate, and a good plan treats each on its own terms.

The 5-Year Rule for Trusts and Medi-Cal

When people ask, “What is the 5 year rule for a trust?” or “How to avoid the Medicaid 5 year lookback?” they are usually worried about nursing home costs.

Medicaid is federal; Medi-Cal is California’s version. To qualify for long-term care coverage, you must meet asset and income limits. The 5-year lookback is a review of your financial transactions. If you gave away assets or sold them for less than fair market value during the prior 60 months, Medicaid can:

- Treat those transfers as if you still had the money.
- Impose a penalty period when it will not pay for your long-term care.

Creating an irrevocable trust and transferring your home or investments into it may protect those assets from being counted, but only if the transfer occurs outside that 5-year window. That is why some advisors urge people to move assets “at least five years before you might need care.”

No one knows exactly when they will need care, which is why timing is tricky. Move assets too early and you might give up control or flexibility you later wish you had. Wait too long and you might not get through the full five years before needing care.

For California homeowners, this is where the question often comes: “Can a nursing home take your house if it is in a trust?” If the house is in a properly drafted and funded irrevocable trust, and the transfer happened outside the 5-year lookback, it may be better protected. If the house is in your revocable living trust, it is still considered your asset for Medi-Cal purposes. A revocable trust does not shield the home from long-term care means testing.

The 5-Year Rules on Retirement Accounts

There are also “5-year rules” that apply to retirement accounts, not to trusts themselves. These show up with inherited IRAs, Roth conversions, and certain beneficiary situations.

For example, some non-spouse beneficiaries must withdraw all funds from an inherited IRA within 10 years of the original owner's death. Before the SECURE Act, there was a common 5-year rule in certain circumstances. Even now, there are 5-year rules around Roth IRAs for tax-free withdrawals.

These rules are federal tax rules, not California specific, and they are separate from Medi-Cal planning. Confusing them with the 7-year rule only muddies the water.

The 5 by 5 Rule and the "5 of 5000" Rule in Trusts

The "5 by 5 rule in estate planning," sometimes called the 5 or 5, or the "5 of 5000 rule in trust," is another concept that gets folded into this stew of numbers. It has nothing to do with lookback periods. Instead, it is about how much a beneficiary can withdraw from a trust each year without causing certain tax problems.

Under this common provision, a beneficiary is allowed to withdraw the greater of:

- 5,000 dollars, or
- 5 percent of the trust principal each year.

If the beneficiary does not exercise that right, the unused amount often lapses. Drafted carefully, this can help avoid the withdrawal right being treated as a taxable gift or causing the trust assets to be dragged into the beneficiary's own taxable estate.

For a California family using trusts to pass property between generations, the 5 by 5 rule is a tool to manage flexibility and tax exposure, not a timing rule like the 7-year or 5-year concepts discussed above.

The 2-Year Rules You Hear About

Clients sometimes ask, "What is the 2 year rule after death?" or "What is the 2 year rule for trusts?" The answer depends on the context.

In practice, "2 years" pops up in a few places:

- Certain wrongful death and creditor claim statutes of limitation.
- Deadlines for making some post-death tax elections.
- Internal trust or buy-sell agreement provisions that give a surviving spouse or co-owner time to make decisions.

There is no universal 2-year rule for trusts or inheritance in California. Any 2-year deadline needs to be tied to a specific statute, contract, or plan provision.

Wills, Trusts, and Probate: Where the Real Pain Lies

For most California families, the question is not "How do I beat the 7-year rule?" but "Is it better to have a will or a trust in California?" and "Do all wills in California have to go through probate?"

A will is a set of instructions to the court about who should receive your assets and who should serve as executor. It does not avoid probate. If you die with only a will and your estate is above relatively modest thresholds (or holds real property), your executor will likely have to open a probate case.

Some assets do bypass probate automatically. Typical examples include:

- Bank and brokerage accounts with properly completed beneficiary designations or Payable on Death (POD) / Transfer on Death (TOD) designations.

- Retirement accounts and life insurance with named beneficiaries.
- Property held in joint tenancy with right of survivorship or community property with right of survivorship.

So when people ask, “Which bank accounts avoid probate?” the real answer is: accounts with valid beneficiary or POD/TOD designations, and accounts titled in a trust. The account itself does not have a magic exemption. The titling and beneficiary setup do the work.

A revocable living trust is usually the best way to leave a house to your children in California while avoiding probate. When the trust owns the home and the trust is properly drafted, your successor trustee can transfer or sell the property after your death without a court case, subject to paying legitimate debts, taxes, and observing the trust’s instructions.

Without a trust, the house likely goes through probate. That is where questions like “Why do you have to wait 10 months after probate?” come from. That time frame is not fixed law, but a reflection of:

- Formal notice and creditor claim periods.
- Court hearing schedules and processing delays.
- Time needed to value, market, and sell property, then account and distribute.

As a practical matter, many California probates take 9 to 18 months, sometimes longer. During that time, beneficiaries often cannot sell or refinance property freely. If no one files probate at all, the situation can drift for years until someone needs clear title, at which point the legal cleanup is more complex and expensive. That is what you are really risking when you ask, “What happens if you do not file probate in California?”

The Biggest Mistakes People Make with Wills and Trusts

The most common inheritance mistake I see is not about a specific clause, but about mismatched planning: the will says one thing, the trust says another, and the beneficiary designations say something else entirely.

When people ask “What are the biggest mistakes people make with their will?” or “What are common mistakes people make with trusts?” the patterns repeat.

First, people sign a will and trust, then never fund the trust. The house stays in their personal name. Bank accounts stay outside. When they die, their beautifully drafted trust controls very little, because almost nothing was titled in it. Their family ends up in probate anyway.

Second, they never update beneficiary designations. An ex-spouse, old friend, or estranged sibling stays on a retirement account or insurance policy. That account passes outside the will and trust, ignoring carefully crafted instructions.

Third, they name the wrong people as decision makers. When you ask, “Who should I not name as a beneficiary?” the same list often appears for trustees and executors too: people who are financially irresponsible, in active addiction, embroiled in lawsuits, or in severe marital trouble. Yet those are exactly the people many clients feel obligated to “help” by putting them in charge, which rarely ends well.

Fourth, they try to be too clever with cheap transfers. That is where questions like, “Can I sell my house to my son for 1 dollar?” come up. Technically you can sell for 1 dollar, but legally and for tax purposes, you are making a gift of the difference between market value and 1 dollar. That can cause capital gains problems for your child later and can trigger Medicaid lookback penalties if you need long-term care.

Fifth, they assume a trust fixes everything. That leads directly to, “What is the downside of having a trust?” and “What is the downside of a living trust in California?”

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The Downsides and Limits of Trusts

Trusts are excellent tools, but not magic shields. The typical revocable living trust used for probate avoidance in California has several limits:

- It does not protect assets from your own creditors while you are alive. Revocable means you still control and benefit from the assets, so the law usually treats them as yours for creditor and Medi-Cal eligibility purposes.
- It does not avoid income tax. The trust is either disregarded for tax purposes while you are alive, or taxed at compressed trust rates after your death if assets remain in trust.
- It costs money and effort to set up and maintain. You need to fund it properly, keep asset titles aligned, and update it with major life events.
- It can fail if poorly drafted or never updated. Law changes, family dynamics shift, and what made sense at 55 may no longer fit at 80.

So when someone asks, "Is it wise to put your house in a living trust?" the answer is usually yes for probate, incapacity planning, and privacy. But it is not the right tool if your main goal is long-term care asset protection. For that, an irrevocable trust may make more sense, with trade-offs in control and access.

Is there something "better than a trust"? It depends on your goal. For some, carefully structured beneficiary designations and TOD deeds can achieve what they want without a full trust. For others, a combination of revocable and irrevocable trusts, limited liability entities, and insurance works best. The question is not what structure is best in the abstract, but what fits your assets, family, and risk profile.

As for, "What are the disadvantages of putting your house in a trust?" the main practical issues are:

- Paperwork and cost to create and fund the trust.
- Need to coordinate with your lender and insurer if you have a mortgage.
- Requirement to keep track of the trust when refinancing, selling, or doing major transactions.
- Potential mistakes if the trust is drafted or funded improperly.

For most Californians with a home worth several hundred thousand dollars or more, those disadvantages are mild compared to the cost, delay, and public nature of probate.

What You Should Not Put in a Trust or a Will

Not [California Estate Planning](#) everything belongs inside your living trust. When clients ask, “What should you not put in a trust?” or “What are three things to avoid putting in a will?” the same categories come up.

Here are typical items to keep out of your revocable trust, or at least to handle carefully:

1. Certain retirement accounts. IRAs, 401(k)s, and similar plans usually should not be retitled into a living trust during your lifetime. Instead, you name the trust (or individuals) as beneficiaries if appropriate. Retitling can create immediate taxable distributions.
2. Vehicles you use every day. In California, you usually do not need every car title in the trust. Some people keep high value vehicles or collectibles in a trust, but everyday cars can get tangled in trust administration, DMV processes, and insurance.
3. Short term spending accounts. Your basic checking account, from which you pay regular bills, can be in your trust, but for some people, keeping a small personal account outside the trust for routine use makes logistics simpler, especially while they are healthy.

As for wills, the items you should not put in a will include:

1. Assets controlled by beneficiary designation. Retirement accounts and life insurance with named beneficiaries will not follow your will, so instructions about them in the will can mislead your heirs.
2. Too much detail on digital accounts and passwords. Those change often. Better to reference a separate, regularly updated list rather than hard coding sensitive information into a will.
3. Vague instructions about “who deserves what” with no enforceable standards. Wills should contain clear, objective directions, not emotional guidance that an executor cannot turn into action.

Getting these boundaries right is just as important as answering detailed questions like “What taxes do trusts avoid?” For most California families, a living trust avoids probate, not tax.

The “Worst” Assets to Inherit, and How to Do Better for Your Children

The phrase “the six worst assets to inherit” gets thrown around in articles and seminars. Different experts list slightly different items, but the idea is similar: some assets carry hidden tax or administrative baggage.

Commonly problematic inheritances include:

1. Pre tax retirement accounts. Inheriting a large traditional IRA is like inheriting a tax time bomb. Every dollar withdrawn will likely be taxable income, and post SECURE Act rules often force faster withdrawals.
2. Highly appreciated property received by lifetime gift. If you give your child a rental property during your life, they take your original tax basis. If they inherit it at your death, they usually get a step up in basis to fair market value, which can mean far lower capital gains tax when they sell.

3. Minority interests in closely held businesses with no clear exit or governance plan. Heirs end up with illiquid, contentious stakes that are hard to value or manage.

This is why questions like “What is the best way to leave your house to your children?” matter. For many Californians, the best approach is a living trust that:

- Holds the home during your life.
- Avoids probate at death.
- Transfers the property with a step up in basis.
- Provides clear instructions about whether children should sell, rent, or occupy, and how to treat any child who wants to live there.

The same logic applies to “What is the best way to leave inheritance to your children?” It is rarely a single account or form. A mix of trust planning, proper titling, and tax awareness usually works better than simply naming children as joint tenants on everything or gifting assets too early.

Special Questions About Spouses, Nursing Homes, and Losing the House

A recurring fear in California is, “Can I lose my home if my husband goes into a nursing home?” or its variation, “Can a nursing home take your house if it is in a trust?”

The nursing home itself does not usually “take” the house. The real issues are eligibility for Medi-Cal, how the house is counted as an asset, whether there is a Medi-Cal estate recovery claim after death, and what planning was or was not done beforehand.

Federal law and California policy provide some protections for a “community spouse,” the one who stays at home while the other enters a facility. But the rules are technical, and they change. If you are married and worried about losing the house to long-term care costs, generic internet advice will not substitute for a tailored review of your finances, health picture, and timing.

Revocable living trusts will not solve this by themselves. Irrevocable trusts, life estate deeds, and other tools may help, but they work best when implemented before a crisis, with a clear understanding of the 5-year lookback and current Medi-Cal recovery practices.

Practical Costs and When to Get Help

People often ask, “What is the average cost for estate planning in California?” The honest answer is that it varies widely.

For a basic package in many parts of the state, including a revocable living trust, pour over will, powers of attorney, and healthcare directives, you might see fees in the range of a few thousand dollars. More complex plans, with tax planning, business entities, or advanced irrevocable trusts, can climb significantly.

On the other hand, a full probate of a modest California estate can easily cost tens of thousands of dollars in statutory fees and expenses. From that standpoint, a well drafted trust looks much less expensive.

When someone dies, the question “What not to do immediately after someone dies?” has more practical weight than all the clever tax concepts combined. The top mistakes I see in those first days are:

- Rushing to close or retitle accounts without understanding how they are owned.

- Taking big distributions from retirement accounts without tax advice.
- Leaving the decedent's house vacant and uninsured, or letting family move in without clear agreements.
- Ignoring legal deadlines out of overwhelm.

Part of smart planning is not just the documents you sign, but the instructions you leave and the advisors your family knows how to call.

Pulling It Together: What the 7-Year Rule Means for You

For Californians, the "7-year rule for trusts" is mostly a red herring. The real work of protecting your family revolves around:

- Understanding that California has no inheritance tax, and the federal exemption shelters most estates from estate tax.
- Using a revocable living trust, properly funded, to keep your estate out of probate and to make incapacity smoother.
- Respecting the 5-year lookback rules if long-term care planning is a priority, and recognizing that revocable trusts do not protect assets from Medi-Cal means testing.
- Paying attention to the 5 by 5 rule and other trust mechanics if you are building multigenerational structures.
- Avoiding common mistakes with wills, beneficiary designations, and poorly thought out gifts.

If you remember nothing else about the 7-year rule, remember this: it is not part of California law. Do not anchor your planning to it. Instead, focus on the rules that actually govern your assets, your health risks, and your family's dynamics.

Then work with professionals who can translate those rules into a plan that fits you, not the internet's loudest myths.