

Clients usually start this conversation with a worried whisper across my desk: "How much can I give my kids without getting killed on taxes?"

The fear is understandable. The rules blend tax law, estate law, and sometimes Medicaid rules. On top of that, parents are trying to hit a moving target while also staying fair to their children and protecting their own retirement.

I will walk through the key limits and choices the way I explain them in a real planning meeting, with a focus on practical numbers and common traps parents fall into.

All tax figures here reflect federal law as of 2024. State law and future federal changes can alter the picture, so always confirm with a qualified professional in your state.

The first big distinction: gift tax vs tax on inheritances

Before we touch numbers, you need to separate two very different ideas:

1. Taxes that apply while you are alive, when you give money or property to your children.
2. Taxes that apply at death, when children inherit through your estate or trust.

Under federal law, the key taxes are:

- Gift tax, which looks at what you give away during life.
- Estate tax, which looks at what you own when you die.

There is no federal inheritance tax on the person receiving the money. A child does not pay "federal inheritance tax" for receiving an inheritance from a parent. The tax, if any, applies to the parent's estate itself.

Some states, however, have their own estate or inheritance taxes with much lower thresholds than federal law, and those do hit families by surprise.

So when someone asks, "How much can you inherit from your parents without paying taxes?" the accurate answer is, "It depends what state your parent lives in or owns property in, and how large their estate is, but under federal law most families never come close to the thresholds."



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How much can parents gift during life without gift tax?

For living gifts, you need to know two numbers: the annual exclusion and the lifetime exemption.

The annual exclusion

For 2024, a parent can give up to 18,000 dollars per child, per year, without even filing a gift tax return. Married couples can effectively double this using "gift splitting," so a married pair of parents can give 36,000 dollars per child, per year, if they do the paperwork correctly.

A few practical points from real cases:

- You do not get a tax deduction for these gifts. The benefit is avoiding gift tax, not lowering your income tax.
- The child does not pay income tax on a gift of cash. A gift is not income to them.
- You can give more than 18,000 dollars in a year, you just start eating into your lifetime exemption, and you must file a gift tax return.

This limit applies per recipient. A grandparent with four grandchildren can give 18,000 dollars to each grandchild in 2024, for a total of 72,000 dollars, and still be fully within the annual exemption.

The lifetime exemption

There is also a very large federal lifetime exemption that covers taxable gifts and your estate at death. For 2024, the combined estate and gift tax exemption is 13.61 million dollars per person, or 27.22 million dollars for a married couple, if everything is structured correctly.

When a parent gives more than 18,000 dollars to a child in a year, the extra does not automatically cause tax. Instead, it reduces that parent's lifetime exemption. You report it on a gift tax return, and it is tracked.

Most middle class and upper middle class families will never actually pay federal gift or estate tax. Their lifetime gifts plus the value of their estate will stay below the exemption. The concern is different: Medicaid rules, capital gains tax, family fairness, and state estate or inheritance taxes.

There is an important warning, though. Under current law, that 13.61 million dollar figure is scheduled to drop roughly in half in 2026 if Congress does nothing. Larger estates that feel "safe" today may find themselves exposed later.

How much can children inherit without estate tax?

The same lifetime exemption applies at death. If a parent dies in 2024 with an estate worth 5 million dollars, and they have not used their exemption during life, there is no federal estate tax. The entire estate can pass to the children (or anyone else) without federal estate tax.

If the parent had made prior large gifts that used up some of the lifetime exemption, then whatever is left of the exemption will shield part of the estate, and the rest may be subject to federal estate tax at rates up to 40 percent.

From the child's perspective, there is usually no federal tax simply for inheriting. The pain points show up elsewhere:

- Some states impose inheritance tax on beneficiaries when they receive money.
- Certain inherited assets, like retirement accounts, come with income tax when withdrawn.
- If the estate is very large, the estate itself can owe federal or state estate tax before anything is distributed.

So when a client asks me, "How much can you inherit from your parents without paying taxes?" I usually answer in layers:

- Under federal estate tax law, most children can inherit any amount without personally paying estate tax. The tax, if any, is paid by the estate before they receive funds.
- Under state law, the answer depends heavily on where the parent lives and what the state thresholds and rates are.
- Under income tax law, inheriting retirement accounts or certain investments can create future income tax obligations for the child.

State estate and inheritance taxes: the hidden trap

Many families live in states with no separate estate or inheritance tax and assume that is universal. It is not.

Several states have their own estate tax with thresholds much lower than the federal exemption, often in the 1 million to 3 million dollar range. Others have an inheritance tax that applies based on who receives the money. Children often get better rates or higher exemptions than more distant relatives, but they are not always exempt.

A very typical problem: a couple's combined estate is worth about 3 million dollars, heavily concentrated in a house and retirement accounts. They are far below the federal threshold, so they relax. But they live in a state with a 1 million or 2 million dollar estate tax threshold. Their estate plan does nothing to address that, and their children end up with an unpleasant bill that could have been reduced or eliminated with basic planning.

If you are searching "attorney near me" for estate planning, this is one of the first questions to ask: "Does our state have its own estate or inheritance tax, and are we anywhere close to its threshold?" A good lawyer will

answer plainly and, if needed, outline straightforward techniques to limit the impact.

Gifting strategies: how to help your children now without hurting yourself later

The best way to gift money to an adult child depends on your goals. Some parents want to reduce their estate for tax or Medicaid reasons. Others simply want to see their children enjoy part of their inheritance while the parents are alive and healthy.

Common strategies I see in practice include direct gifts of cash within the annual exclusion, helping with down payments, funding retirement accounts for adult children, or using 529 plans for education.

One thing I remind parents repeatedly: do not give away money you might need for your own long term care and retirement. I see more regret from over-gifting than under-gifting. Once you give away assets, especially into irrevocable trusts, your flexibility shrinks.

When parents ask, "What is the best way to gift money to an adult child?" I usually focus on three questions:

- Are you financially secure enough that this gift will not jeopardize your ability to age with dignity?
- Do you need to consider Medicaid rules and the five year lookback?
- How important is control or structure for this money, given your child's age, habits, and marriage situation?

Only after those are clear do we talk about vehicles like outright gifts, gifts into trusts, 529s, or assisting with debt payoff.

Medicaid rules and the 5 year lookback

Many people hear about "Medicaid loopholes" and assume there is a simple trick to protect assets from nursing home costs at the last minute. That is a dangerous misconception.

Medicaid is a means tested program. To qualify for long term care coverage, you must meet strict financial limits. If you give away assets within a certain period before applying, Medicaid will treat those transfers as if you still had the money. You can be penalized with a period of ineligibility.

This is what people mean when they talk about "how to avoid Medicaid 5 year lookback." There is no magic way to avoid it. The rule is that Medicaid examines your financial transfers for the five years before you apply. Gifts during that time, without fair market value in return, can hurt you.

So what is the 5 year rule for irrevocable trusts in this context? If you transfer assets into an irrevocable trust for the purpose of Medicaid planning, Medicaid will still look at that transfer. If it happened within five years of you applying, it will likely create a penalty period.

That is why true Medicaid planning must be done long before a crisis. Waiting until someone is already in the nursing home, then trying to create a trust to hide assets, is what families often call the "Medicaid loophole." In reality, that approach frequently fails and can create legal and financial trouble.

In some other countries, like the United Kingdom, people refer to a "7 year rule for trusts" relating to inheritance tax. In the U.S., there is no general "7 year rule for trusts" for tax purposes. We instead deal with lifetime gift and estate tax rules, and Medicaid's five year lookback. Online articles sometimes mix these up, which only adds to the confusion.

Can a nursing home take your house if it is in a trust?

This is one of the most emotionally loaded questions I hear.

If your house is in a revocable living trust, that trust is effectively you for Medicaid. The house is still a countable resource, subject to the same rules as if you held it in your own name. So yes, for Medicaid and nursing home purposes, the house in a revocable trust is not protected.

With an irrevocable trust, the answer is more nuanced. If you transfer your house into an irrevocable trust and give up control, and more than five years pass before you need Medicaid, the house may be protected from Medicaid spend down in many states. But you have also given up direct control, and you must still navigate your state's estate recovery rules for Medicaid.

When people ask, "Can a nursing home take your house if it's in a trust?" they are usually asking whether they can have their cake and eat it too: full control of the house, plus complete protection from long term care costs, with no time delay. The law does not allow that combination.

An irrevocable trust can be a tool, but only if it fits your age, health, and willingness to give up control, and only if it is established long before any crisis.

Irrevocable trusts: when they help and when they hurt

A lot of marketing material tries to sell irrevocable trusts as a cure for every estate planning fear. That is not the reality I see in files that land on my desk after something has gone wrong.

An irrevocable trust can create gift tax issues if funded incorrectly, can limit your access to your own money, and can have income tax consequences. There is also the downside of putting your house in an irrevocable trust: you may lose the ability to refinance easily, your property tax exemptions may be affected in some jurisdictions, and changing your plan later becomes far more complicated.

For most middle class families, the only three reasons you should have an irrevocable trust are fairly narrow:

1. Significant Medicaid planning, done early and coordinated with an elder law attorney who understands your state's rules.
2. Asset protection for high risk professions or situations, when it is critical to keep certain assets beyond the reach of creditors, and state law supports the structure.
3. Very high net worth estate tax planning, where the federal or state estate tax will otherwise take a real bite and advanced strategies actually save money.

Outside those lanes, revocable living trusts, beneficiary designations, and straightforward wills tend to work better, with fewer side effects.

The 5 by 5 rule in estate planning

The 5 by 5 rule in estate planning usually comes up in the context of certain trust provisions that give a beneficiary the power to withdraw the greater of 5,000 dollars or 5 percent of the trust principal each year.

That formula is used to keep withdrawals within levels that do not trigger unwanted gift tax consequences, while still giving a beneficiary some annual access and potentially favorable tax treatment. It is a niche concept, but if you have a trust with withdrawal rights for children or grandchildren, you may hear your attorney mention a "5 by 5 power" as part of the design.

From a parent's perspective, this is not usually a tax saving magic trick. It is more of a tool for structuring how and when a child can tap trust funds, while navigating specific sections of the tax code.

Wills, trusts, and your house: how to leave real estate to children

Parents agonize over whether it is better to leave a house in a will or trust. There is no single answer, but I can walk through how the decision usually plays out.

Leaving the house by will means the property will pass through probate. Probate is the court process that validates the will, pays debts, and transfers assets. In some states probate is relatively simple and inexpensive. In others, it is slow and costly.

Using a revocable living trust lets the house pass to your children outside probate, if you have properly retitled the property into the trust during your life. This can speed things up and avoid court involvement, especially helpful when children live out of state or when you own property in multiple states.

When clients ask, "What is the best way to leave your house to your children?" I focus on three questions:

- How complicated or expensive is probate in your state?
- Do you have more than one child, and do they get along well enough to own a house together?
- Is the house your primary asset, or one of many?

A revocable living trust is often the cleanest answer. It also makes it easier to coordinate with other planning, such as who manages the property if you are incapacitated.

Using an irrevocable trust for the house is very different. For tax and Medicaid purposes, it might help in the right circumstances, but you must weigh that against the loss of control. Parents who rush into this step without honest advice sometimes regret it when they want to sell or borrow against the property later.

Avoiding probate: what happens to bank accounts?

When people type "Which bank accounts avoid probate" into a search engine, they are usually trying to keep things simple for their children.

Certain types of accounts can bypass probate if set up correctly:

- Joint accounts with right of survivorship, which pass automatically to the surviving owner.
- Payable on death (POD) or transfer on death (TOD) designations, where you name a beneficiary directly on the account.
- Accounts titled in a revocable living trust.

These approaches do not avoid income tax or estate tax, but they keep the account out of the probate process. That can be a relief for families, especially when liquid funds are needed to pay immediate expenses after a death.

Be careful, though. Joint accounts, PODs, and TODs can accidentally override the overall plan in your will or trust. I have seen many cases where one child is added to Mom's account "for convenience" and then legally becomes the sole owner at Mom's death, even though the will says everything should be split equally among the children.

This kind of mismatch is perhaps the most common inheritance mistake: assets that pass by beneficiary designation or joint title do not match what the will or trust says, and the family is left arguing over what Mom "really wanted."

Who should you not name as a beneficiary?

Beneficiary designations can be powerful, but also dangerous. When clients ask, “Who should I not name as a beneficiary?” I usually caution against a few categories:

- Minor children, because a court may need to appoint a guardian or conservator for the funds, and a trust would handle this more smoothly.
- Individuals with serious creditor problems or active lawsuits, because their inheritance may be snatched immediately.
- Beneficiaries who are on means tested government benefits, such as certain disability programs, because a direct inheritance can disqualify them.
- Ex spouses, if you never updated old beneficiary forms, which happens more than people like to admit.

Coordination is key. If your will creates a trust for a child for good reasons, but your retirement account pays that child directly as a beneficiary, the account will skip the protections of the trust. Reviewing and updating beneficiary designations is one of the simplest, most effective steps in comprehensive estate planning.

What should not be included in a will?

People often try to cram everything into their will, which usually backfires.

Some items do not belong there:

- Assets that pass by beneficiary designation, such as life insurance or retirement accounts, are governed by their own forms. Your will’s instructions for those are often irrelevant.
- Property already titled in a revocable living trust will pass under the trust document, not the will.
- Detailed instructions about funeral arrangements are often better placed in a separate letter or directive, because the will may not be located or opened until after services are held.
- Certain digital assets or practical information, such as passwords, tend to be better handled in an organized memo or digital vault, rather than as part of the legal will.

A will is a core part of the plan, but it is not the whole plan. That is why lawyers use the term “comprehensive estate planning”: it means aligning your will, trusts, beneficiary designations, powers of attorney, health care directives, and sometimes business and Medicaid strategies, so they all work together.

What is comprehensive estate planning, really?

People hear the phrase and assume it means an expensive binder. In my practice, comprehensive estate planning means three things:

- First, every major asset has a clear path of ownership if you become incapacitated, and a clear path of inheritance at your death, with proper tax and probate planning.
- Second, your key decision makers are chosen and empowered: who handles your finances if you are disabled, who makes medical decisions, who serves as executor or trustee.
- Third, you have considered special risks, such as second marriages, disabled children, family businesses, or exposure to estate tax or Medicaid rules, and added targeted tools where necessary.

It is not about complexity for its own sake. It is about making the simple parts truly simple, and reserving complexity only for problems that actually need it.

How much does it cost to have an estate planning attorney?

Costs vary widely by region, complexity, and how the lawyer structures fees. In many parts of the United States, a straightforward will based plan might range from several hundred dollars to a few thousand. A more sophisticated plan with revocable living trusts, tax planning, and Medicaid or asset protection features can run higher.

In my experience, families are less upset by the absolute number than by surprises. A good attorney should be able to give you a clear fee range upfront after hearing your goals, and should explain why certain tools are necessary or not.

A red flag is a “one size fits all” trust package sold as the only solution, without a meaningful [orange county estate planning attorney](#) discussion of your assets, your health, and your family dynamics. Some families need a trust. Some do not. Some need an irrevocable trust; many absolutely do not. Thoughtful advice often saves money over time, even if the initial fee is higher than an online form.

A quick reference: common limits and rules parents ask about

Here is a compact view of some of the key federal numbers that drive many of these decisions:

Topic Typical 2024 Rule or Threshold (Federal)	
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Annual gift exclusion per recipient	18,000 dollars per year, per recipient
Married couple’s annual exclusion (split gifts)	36,000 dollars per year, per recipient, with proper filing
Lifetime estate and gift tax exemption per person	13.61 million dollars (scheduled to reduce in 2026 absent legal changes)
Federal inheritance tax on children	None, tax is on estate, not on beneficiary
Medicaid lookback for gifts	5 years before application, in most states
Typical “5 by 5 rule” in trusts	Beneficiary may withdraw greater of 5,000 dollars or 5 percent annually

State law can alter or add to these, especially with separate estate or inheritance taxes and specific Medicaid rules. Always treat this table as a starting point, not the final word.

Putting it all together: design a plan that fits your real life

Underlying all of these questions is one bigger question: what combination of tools lets you support your children, protect yourself, and keep taxes and red tape reasonable?

For some parents, that means modest lifetime gifts within the annual exclusion, a well drafted will, beneficiary designations lined up to avoid conflicts, and maybe a revocable living trust to avoid probate. For others, health issues or a larger estate mean talking seriously about irrevocable trusts, Medicaid planning, and tax driven structures.

The most important step is rarely the most glamorous one. It is sitting down with accurate information, listing your assets and goals honestly, and working with an advisor who will tell you when a complex strategy is unnecessary.

If you are searching “attorney near me” because you are worried about how much you can give or leave to your children without taxes or surprises, start with a conversation. Bring real numbers. Ask about federal and state tax thresholds, probate in your state, and how Medicaid rules might apply to you. From there, a tailored plan is far more powerful than any rule of thumb you can find online.

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