

PUGET SOUND BUSINESS JOURNAL

ONLINE PLANNING

Do will-drafting programs fit your needs?

When it comes to estate planning, there is no such thing as a “one-size-fits-all” plan. Family dynamics, estate taxes, second marriages and stepchildren, family businesses and planning for a special needs child can all be factors in preparing an estate plan that meets an individual’s goals and objectives.

Several websites now allow consumers to create their own estate planning documents. As a result, estate planning documents, once thought to be solely the purview of attorneys, can now be created with a few mouse clicks. While it may be easy to create a do-it-yourself will, are such wills really a good idea? To answer this question, we tested several online will-drafting programs.

► **Some good, basic wills:** Some programs produce effective documents for consumers wishing to create a basic will. These programs provide several useful options that allow consumers to express their feelings about specific end-of-life issues and their wishes with respect to the disposition of their assets. For example, in addition to making specific bequests of property to loved ones, some online programs allow consumers to choose how to leave assets to their spouse or children and in what percentages or shares. Several programs also provide guidance with respect to leaving assets to minor children and allow consumers to choose how trusts for minor children should be structured.

► **Incorrect references:** Some online wills include references to statutes or laws that have been repealed or superseded. Because most consumers do not have a working knowledge of their particular state’s estate, trust and probate laws, the problem may not come to light until after the individual’s death, when it is time to administer the will.



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► **No special needs planning:** Wills benefiting children with special needs or non-U.S. citizen spouses require certain provisions to avoid loss of government benefits (in the case of special needs individuals) or the payment of estate taxes (in the case of non-U.S. citizen spouses). Most online will-drafting programs do not provide for special needs planning. The result is that provisions for special needs beneficiaries or non-U.S. citizen spouses in a will may inadvertently negatively affect the government benefits received by a special needs child or result in the payment of estate taxes. These problems could be avoided with proper planning.

► **No long-term trusts:** While many online programs allow trusts to be created for children, most do not allow assets to be kept in trust throughout a child’s lifetime or beyond a certain age. Many consumers want to keep assets in trust during a child’s lifetime. The inability to engage in long-term or protective planning for a child can result in the loss of valuable tax strategies or loss of asset value due to a child’s bad habits.

► **Tax planning not available:** Most online programs fall short when it comes to estate tax planning. Individuals with taxable estates

usually want to defer the payment of estate taxes, if possible. Different techniques can be used to protect the amount that can pass free of estate tax, but these options are not available in most programs. Beneficiaries of wills that do not provide for proper planning could be faced with an unexpected estate tax bill.

► **Questions can be unclear:** While savvy individuals may be able to navigate through online programs and create a workable will, inputting the wrong information or answering questions incorrectly may result in a will that is unclear or invalid. As a result, it may be necessary for the beneficiaries to go to court to reform the will. These types of fixes are costly and time-consuming and could be avoided through properly drafted documents.

► **Information not necessarily private:** Consumers should also research the companies advertising these services before drafting documents. The Washington state attorney general’s office investigated one online service to determine whether it had turned over private, personal and financial information to third parties. Thus, consumers should beware before entering sensitive, personal or financial information on these websites.

For some individuals, an online will may be all they can afford and the best they can do to have a guardian appointed for their children and direct what happens to their assets. Other individuals have complex estates or family situations and need the assistance of an attorney to help them meet their estate planning goals. Regardless of whether you try to draft something yourself or have an attorney draft estate planning documents for you, you should do your research to make sure that you are obtaining a quality product.