

## TOP 5 REASONS TO NOT USE A COMPUTER PROGRAM TO DRAFT YOUR WILL

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### 1. Do You Understand What Passes Through Your Will?

In preparing your Will, your top priority is in making sure your assets are distributed as you see fit. However, your Will only controls the distribution of assets which pass through your estate. For example, jointly owned real estate will pass to the surviving joint owner, not through your estate. Therefore, such property does not pass through your Will. Likewise, a life insurance policy, retirement account or TOD/POD (“transfer on death”/“pay on death”) account will pass to the designated beneficiary and not through your estate, regardless of the terms of your Will. If you use a computer program to prepare your Will, even if the Will appropriately directs how you want your property to be distributed, your property may not end up in the hands of the beneficiaries that you wish to benefit. For example, if you create a trust in your Will for your minor children, but you designate your children as beneficiaries of your life insurance policy, upon your death, the insurance proceeds will be paid to your children and not to the trust. You need to look at your assets and beneficiary designations together in order to be sure that your Will works the way you want. Our firm will review your assets and help you to devise a plan that will coordinate those assets and ensure they end up in the hands of the beneficiaries you wish to benefit.

### 2. Who Will Pay Your Death Taxes?

Many of the computer programs will ask you the following question: Who should pay your death taxes? But, would you know how to respond? You will need to decide whether each beneficiary should be responsible for their share of the tax or whether your residuary estate should bear the tax. This can be a complicated question, depending on the nature of your assets and beneficiaries, and should not be taken for granted. Our firm can help to ascertain your objectives and counsel you regarding the consequences of the various tax clauses you could incorporate into your Will.

### 3. Guaranteeing Proper Execution

A computer program might be able to insert the appropriate notary page and witness signature lines in your Will, but how a Will should be executed is not always that straightforward. In New Jersey and Pennsylvania, in order for your Will to stand on its own after your death (i.e., be “self-executing”), it must be signed by you, two witnesses and a notary public. That, however, raises additional questions, including: “Who can/should serve as a witness?” and “How many original Wills should I sign?”, among others. Consulting with our firm will help to ensure proper execution.

### 4. Understanding the Terminology

It is difficult to create a Will without encountering some legal terminology. Fiduciaries such as executors, trustees, and guardians each serve an important role in your Will and each serve in a very different capacity. Understanding their respective responsibilities is critical to ensuring your estate, trust and even your minor children are “administered” properly. Likewise, understanding the difference between your “personalty” and your “residuary estate” are critical to understanding your Will’s dispositive scheme. Even a term as relatively generic as “heir” carries with it legal significance that the average person is not likely to appreciate. We can help you parse through the legalese.

5. Tax and Trust Planning

Most computer programs are not state specific. New Jersey has an estate tax with an exemption of \$675,000. That being the case, you may need some tax planning in your Wills to help avoid/minimize this tax. Trust planning can help you do so. However, understanding how the tax is imposed so that you can understand how to best protect your assets is a complicated question which should be addressed with an estate planning attorney. Furthermore, there are different types of trusts, some which prioritize control over flexibility and vice versa. Selecting the appropriate tax-planning trust and the appropriate trustee to administer such trust should be discussed with us so we can explain your options to minimize or eliminate tax.