

QUIZ

DO I NEED AN ATTORNEY TO DRAFT MY WILL?

Legally, you do not need an attorney to draft your will. A will does not have to be prepared or even reviewed by an attorney for it to be valid. You can find do-it-yourself wills on the Internet and preprinted forms at office supply stores. However, keep in mind that your will must comply with legal standards. A probate judge won't bend the rules, just because you wrote your will yourself. If your will is denied probate, your estate will pass under your state's intestacy laws just as though you had no will.

You will need to decide for yourself if you feel competent to handle your own will or if you would be better served by hiring an estate planning attorney. Take this quiz to discover how complex your estate plan might be and whether your situation may lend itself to self-representation.

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- 1. Are you married and do you and your spouse disagree on how to divide your joint and individual estates?**
 - a. I'm married and my spouse and I disagree. (10 points)
 - b. I'm married, but we generally agree. (5 points)
 - c. I'm not married. (1 point)

- 2. Do you have minor children (under age 18) who will inherit from your estate or need a guardian to look after them or their property should you die?**
 - a. Yes. (10 points)
 - b. No. (1 point)

- 3. Do you have children from more than one spouse or partner or children from a prior marriage and a current spouse or partner?**
 - a. Yes. (10 points)
 - b. No. (1 point)

- 4. Do you own significant assets (say, over \$1 million) that might be subject to estate taxes at your death?**
 - a. Yes. (10 points)
 - b. No. (1 point)

- 5. Do you have heirs (e.g., a child) you wish to disinherit?**
 - a. Yes. (10 points)
 - b. No. (1 point)

- 6. Are your family dynamics complicated and is there a chance that your will may be contested after your death?**
 - a. Yes. (10 points)
 - b. Not sure (5 points)
 - c. No. (1 point)

- 7. Do you have a beneficiary with special needs who will need long-term care?**
 - a. Yes. (10 points)
 - b. No. (1 point)

- 8. Do you want to leave a portion of your estate to charities or nonprofit organizations?**
 - a. Yes. (10 points)
 - b. No. (1 point)

- 9. Do you own a small business, have large stock interests in a company, or have other complex business assets?**
 - a. Yes. (10 points)
 - b. I am self-employed but my business has minimal assets. (5 points)
 - c. No. (1 point)

- 10. Do you want to make more complex plans for what happens to your property—for example leaving your house in trust to a spouse and then on his or her death having it pass to your children?**
- a. Yes. (10 points)
 - b. Not sure (5 points)
 - c. No. (1 point)
- 11. Do you currently have estate planning documents in place?**
- a. Yes, I have a will and a trust. (10 points)
 - b. Yes, I have an old will. (5 points)
 - c. No. (1 point)
- 12. Do you know the formal execution requirements for a will in your state?**
- a. No. (10 points)
 - b. Sort of. I have an idea or can figure it out. (5 points)
 - c. Yes, I have researched this and know what a valid executed will requires (1 point)

IF YOUR SCORE IS 61 – 120

You potentially have some complex estate planning issues. Hire an attorney or at the minimum, speak to an attorney about your situation. Estate planning, if done poorly or incorrectly, can have dire consequences. Beneficiaries may not receive what you intended them to receive, your estate may pay more taxes than necessary, and your minor children may not be adequately provided for.

The list of unintended complications and catastrophes created by do-it-yourself estate plans is long. Every year thousands of cases go to court where wills are challenged because of inconsistencies, contentious family dynamics, or failure to follow required formalities in execution. If you have many of the complex issues outlined in this quiz-- for example, a second marriage, minor children, large estate, a business, special needs beneficiary, a trust, or you are not informed about your state's will execution requirements, consulting with an attorney is in your best interest.

State laws are very specific about what can and cannot be in a will and other estate planning documents such as a trust, or medical or financial power of attorney; who can and can't serve as a personal representative, trustee, health care surrogate or attorney in fact; who can and can't be a witness to a will, trust, or medical or financial power of attorney; and what formalities must be observed when signing a will or other estate planning documents. For example, in Florida, a personal representative must either be related to you by blood or marriage or a resident of the state. A qualified estate planning attorney will ensure that you are not tripped up by the complexities of estate planning laws.

IF YOUR SCORE IS 26 – 60 POINTS

You have some complex estate planning issues that you ought to at least discuss with an estate planning attorney. A consultation is especially suggested if any one of your answers to the questions in this quiz was worth 10 points. A consultation will enable you to better understand how the law may affect your estate planning goals. Some attorneys will provide free consultation or an hour of time at a flat rate. If money is tight, check your state's bar association to see if you can find low-cost legal help. In some states or municipalities, various organizations do wills at a reduced rate for first responders or military personnel.

IF YOUR SCORE IS 12 – 25 POINTS

You may be able to draft your own will, but keep in mind, even if your total score is low, if you have any 10-point answer, you should at least talk to an attorney. The best candidates for self-prepared wills are single, have no minor children, and minimal assets.

In addition, you should be aware that even a basic estate plan requires more than a will. You should also have a durable power of attorney appointing an agent to manage your finances should you become incapacitated; a living will expressing your wishes for end of life care; and a health care power of attorney appointing an agent to make medical decisions for you if you are unable to make them for yourself.

Online services and forms will enable you to get the basics completed. If you take the do-it-yourself path, make sure you understand what is required for a valid will (or other estate planning document that you attempt to create) in your state. Many of the online templates are generic and have blanks for signatures, a notary, and witnesses, but this does not mean they conform to your state's execution requirements. All online will generation sites, as well as pre-packaged fill-in-the-blank wills, come with legal disclaimers to consult with an attorney if you have questions.

The old "Buyer Beware" warning certainly applies to estate planning. You may think that you'll be saving a few dollars by doing it yourself, but your family may be in for a rude awakening when they learn that part or all of your will (or other estate planning document) is not valid or will not work as you had anticipated. If there are errors, your loved ones could end up spending thousands of dollars working with an estate planning attorney after the fact to try to fix your mistakes. Some mistakes are not fixable even with the best legal help.

In summary, even if you fit into this category, you may want to hire an attorney in a limited capacity to either review your proposed will or at the very least help you execute the do-it-yourself documents.

Not all attorneys will agree to this arrangement. You will need to find a qualified attorney who will be comfortable in purely an advisory role as opposed to your hired advocate.