

# 4 Great Risks of On-Line Legal Documents

---

*Barry Peters, Esq.*  
101 Eagle Glen Lane  
Eagle, Idaho 83616  
(208) 939-2600  
[www.BarryPeters-Law.com](http://www.BarryPeters-Law.com)

When considering the creation of a Last Will and Testament or a Living Trust, one inevitably sees or hears about services such as *LegalZoom.com* and its competitors. They promise to provide important legal documents without all of the trouble and expense of involving an attorney in the process.

Anyone thinking about this option should consider four critical aspects of such a decision. Unfortunately, it is easier to create a catastrophe using do-it-yourself on-line documents than one might imagine.

**Consider carefully the following 4 great risks of on-line legal documents:**

- 1. *One Size Doesn't Fit All:*** The very nature of Wills and Trusts generated on-line is that they present customers with a very finite set of options. They are produced under the premise that what works for regular people under normal circumstances should work for everyone. Although a limited amount of tailoring is available, the truth is that "regular people under normal circumstances" are hard to find. Unless you view yourself in that category, you should be cautious about using documents that are created with that assumption.

What kinds of special circumstances take one out of the standard category? Any of the following:

- Parents of minor children
- Business owners
- Parents of children who have poor spending habits
- Blended families
- Parents of special-needs children
- People who want to leave nothing to a spouse or a child
- Owners of IRA's or 401K accounts
- People who own property jointly with someone other than a spouse
- People with a net worth in excess of \$1,000,000
- People who own property in more than one state
- Parents who wish to leave a more generous gift to some children than others

These and many other circumstances should immediately take one out of the one-size-fits-all category. Skilled legal expertise will help navigate these complex issues.

- 2. *The Devil in the Details:*** Wills and Trusts are governed by a precise set of legal standards. Each state sets its own standards. The failure to strictly adhere to the technical requirements of the state in which the Will or Trust is signed could result in a legal contest between the heirs you designated and those who would have received your estate, but for the provisions of your Will or Trust. The resulting legal battle could demolish your family and result in years of expensive litigation for the ones you intended to bless with generous gifts in your Will or Trust.

As a starting point, when your Will is signed, it is crucial to remember that there must also be in attendance two witnesses and a Notary Public. If there is no witness or only one witness, the Will is invalid, even if it is notarized. If there are two witnesses, but no Notary Public, someone may be required to track down the witnesses to obtain an affidavit proving that you actually signed the Will in their presence. If the witnesses have died or left the area, that may prove to be impossible. If the notarization was added after the Will was signed and witnessed, the Will is invalid.

With an on-line Will or Trust, it is surprisingly easy to overlook one or more of those requirements. And the failure to comply with any such technical requirement opens the door for any heir who is dissatisfied with your wishes to challenge your Will and throw the situation into a protracted legal battle.

- 3. *Failure to Fund:*** Under a Living Trust, the process by which the property of the people making the trust is transferred into the trust is called “funding.” Unless the persons making the Living Trust change the ownership of their property, most of the advantages of the Living Trust will be lost. For example, failure to transfer assets into the trust will result in probate being required even though avoiding probate was usually a major reason for creating the Trust in the first place.

So unless the on-line service ensures that all real estate is deeded into the name of the Trust (and makes sure that the deed is actually recorded in the county recorder’s office), the on-line Trust will be fatally flawed. Similar problems can occur if substantial bank accounts, stocks and bonds, motor vehicles, or other assets are not properly transferred into the Trust when it is created. Yet on-line services do not and cannot walk a person through that process.

At the same time, the transfer of real property into the trust could jeopardize the homeowner’s property tax exemption unless an appropriate affidavit is recorded along with the deed. Yet on-line document services omit that affidavit and run the risk of costing Idaho customers up to \$1,500 per year in additional property taxes.

- 4. *Ancillary Documents:*** To have a thorough estate plan requires more than just a Living Trust Agreement. The complete plan should include all of the following:
- *Living Trust Agreement*

- ***Last Will and Testaments*** for both the husband and the wife to insure that any property inadvertently left out of the Trust is brought in at the time of death
- ***Living Wills*** to specify the medical care that each person desires to receive in the event that he or she is in a coma with no chance of recovery
- ***General Powers of Attorney*** to clearly authorize someone to assist in both financial and medical matters in the event of disability or other need
- ***Warranty Deeds*** transferring each piece of real estate into the Living Trust
- ***Affidavit Regarding Residence of Trust*** to insure that the homeowner's property tax exemption is not lost in the process of setting up the Trust

Unless an on-line package includes all of these documents, it is inherently incomplete, increasing the odds of significant problems for you and your loved ones either while you are living or when you pass away.

***CONCLUSIONS:*** Essentially, on-line legal document services invite you to “bet the ranch” on their minimalist products. They ask you to place all of the property that you have worked a lifetime to accumulate into an arrangement that is easily jeopardized. So, as a starting point, you should never consider the use of such a service unless:

- You fit into the “normal person in regular circumstances” that are presumed by such services
- You are confident that all of the exacting technical requirements of the applicable state law are met, both with respect to the contents of the documents and the manner in which they are signed, witnessed, and notarized
- All of your property is properly and completely transferred or re-titled into the name of the Living Trust
- All of the necessary ancillary documents listed above are included in the package of on-line legal documents.

While meeting these legal requirements is technically possible with an on-line service, it is very easy to overlook one or more of the required details leaving your loved ones with a potential disaster on their hands.

It is also worth noting that the tremendous savings of legal fees promised by ***LegalZoom.com*** and other such services tend to be seriously over-stated. For a sober apples-to-apples comparison of the complete Living Trust Package offered by attorney Barry Peters and the equivalent documents offered by ***LegalZoom.com***, see the chart at [www.BarryPeters-Law.com/Apples-to-Apples](http://www.BarryPeters-Law.com/Apples-to-Apples). What you will find is that Barry Peters offers a complete Living Trust Package that is thoroughly and carefully crafted to address the unique details of your circumstances. You will also find that his pricing is very competitive, even when compared to on-line products.