

Wal-Mart wills: Should you trust estate planning to a big box store?

By Gail Johnson – Mon, 14 Jul, 2014 2:31 PM EDT



Walmart may be best known for deals on toilet paper and snack food, but the store is now also selling wills. The legal document is yours for \$99.

Axess Law has started offering legal documents to big-box shoppers at a few of the megachain's Ontario locations, with plans to expand across Canada.

A hundred bucks seems like a bargain, considering that the average price for a simple will is around \$369, according to Canadian Lawyer magazine. A complex will could run up to \$1,000, while having such a document drawn up at a big firm could cost even more.

Discount and DIY wills seem to be a growing trend: besides will kits, many wills can be found online for under \$100. Will-O-Matic is a version that's akin to TurboTax and that costs \$77 (on sale now for \$67); there's even a free one available at CanadaWills, a website that relies on donations.

About 56 per cent of Canadians do not have wills, according to 2012 survey by LawPro. Twenty-nine per cent of Canadian adults polled said they didn't have one because they don't know how to get started or believe they can't afford one.

Wills only the first step in estate planning

There are advantages to clicking your way to an inexpensive will: aside from low cost, they're easy and quick. But there are caveats.

"You get what you pay for," says Wendy Brookhouse, president of Black Star Wealth Partners in Halifax.

Brookhouse says that even the most seemingly minor legal language can have ramifications that consumers may not appreciate at the time. As an example she points to the will of her grandfather, who recently died just shy of 102. His will stated two executors, his son and a family friend.

"Because the word 'and' was there, nothing could be processed on that will until the friend would relinquish his right to be executor and any fees that came with it," Brookhouse says. "If the wording had been 'and/or', there wouldn't have been the headache."

All sorts of factors can come into play when it comes to executing a will, from feuding family members to financial and tax implications of each and every decision.

"I think you need a lawyer and a financial advisor involved," Brookhouse says. "Let's say you have \$100,000 in RRSPs and \$100,000 in your home, and you say you're going to leave your RRSPs to Joe and your home to Mary. Joe has to pay taxes on RRSPs, but there are no taxes on the house."

She adds that a will is just one piece of a larger plan, which should also encompass things like powers of attorney and Do Not Resuscitate orders.

Annie Kvick, a North Vancouver money coach with Money Coaches Canada, says that she often has clients ask her why they should bother paying a lawyer for a will, especially when their financial situation seems straightforward.

"I ask my clients if they like to pay a little now or a lot later and how much mess they like to pass on to their loved ones," Kvick says. "Estate lawyers frequently see the costly mess that is created when people die with a low cost will and a poorly planned estate that results in a lengthy estate process with thousands of dollars in unnecessary legal fees and higher estate taxes that easily could have been avoided."

Low-cost products and will kits place too much emphasis on wills being the only focal point of an estate plan, she notes.

"What are frequently neglected by these cheap will services are RRSPs, RRIFs, TFSAs, pension plans, insurance policies, and property held in joint tenancy or tenancy in common, and how these assets are treated — how they're transferred and taxed — differently at death," Kvick says.

"Many Canadians own the majority of their wealth in these vehicles yet do not have all of them coordinated into one focused estate plan, which includes a properly drafted will." Another reason to go the pro route is that the law of wills varies from province to province. Complex subtleties can render some parts of a will invalid.

“Even if a low-cost will is technically perfect, there are laws in Canada that allow outsiders to attack the validity of a will and allow judges to vary the terms of a will,” Kwick says. “Those in the estate-planning community can alert a will maker to these possibilities and can structure the estate plan in a way that minimizes these risks.

“By paying a little more for a will and proper estate planning advice upfront, will makers can rest assured that their family will not be burdened by unnecessary taxes or be tied up in emotional court battles long after they’re gone,” she adds.