

How to deal with your international assets in your Will



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By MELISA SLOAN

IT IS BECOMING increasingly common for people to own assets overseas in addition to their Australian assets.

This has led to the emergence of how you deal with assets owned in another international jurisdiction and whether you can make provisions for these assets in your Australian Will.

Let's explore how best to make provision for these assets.

International Wills

Depending on which jurisdiction your international assets are held, you may be able to put in place an International Will that allows you to make provision for both your Australian assets and those held in an overseas jurisdiction.

Australia, together with Bosnia-Herzegovina, Belgium, Canada, Cyprus, Ecuador, France, Italy, Libya, Niger, Portugal, Slovenia and the following USA states — Alaska,

California, Colorado, Connecticut, Illinois, Minnesota, Montana, New Hampshire, New Mexico, North Dakota, Oregon, Virginia and Washington DC — are signatories to the UNIDROIT Convention.

Essentially, this means that if you hold assets in any of these countries, you may put in place an International Will.

The International Will process

An International Will is different from an Australian Will, and there are processes that need to be adhered to for it to be a valid Will.

Most importantly, it must be executed in a manner that complies with the UNIDROIT Convention and the jurisdiction in which the Will is made.

It is important that you seek the appropriate advice from an estate planning lawyer to assist you in putting an International Will in place that meets all relevant requirements.

Is an International Will right for you?

Although you may own assets in a country that enables you to put an

International Will in place, you must carefully consider whether putting an International Will in place is the right option for you.

For someone who owns substantial assets in Australia and a bank account in Canada, it may seem logical to put in place an international Will in Australia for both their Australian and Canadian assets.

However, if you have substantial personal, business and trust assets in Australia, California and France, you need to carefully consider the viability of an international Will.

In this instance, it would be important for you to understand the probate and estate administration processes in Australia, California, and France.

In addition, you would need to familiarise yourself with the tax implications of the assets of a deceased estate, including any inheritance tax that may apply in these countries.

It is imperative that you obtain the relevant advice of estate planning lawyers, as well as the appropriate tax and accounting advice in Australia, California, and France, to enable you to make informed decisions

regarding all of your assets held in these jurisdictions, to determine if an International Will is the best option for you.

It may be cumbersome to have separate Wills in all three jurisdictions.

However, Australia, California, and France have substantially different legal systems, and it may be prudent to have separate Wills in each jurisdiction rather than having one International Will that encompasses all of your assets.

Holding assets in countries that are not signatories to the UNIDROIT Convention

If you hold assets in a country that is not a signatory to the UNIDROIT Convention, you will need to put a Will in place in the country where your overseas assets are held.

Frequently, older family members who have migrated to Australia from their birth country retain assets in their original homeland.

Such assets can include bank accounts or property which may be owned with other family members.

Often, it is not until such family members have passed that their

children are aware of these assets and spend considerable amounts of time navigating foreign jurisdictions and the probate and administrative process to ascertain how to deal with them, which can be a timely and costly process.

If you have parents who have migrated to Australia, ask them if they still retain assets in their motherland.

If they do, actively encourage them to put a Will in place in the country where they are held.

Likewise, if you hold assets in overseas jurisdictions that are not signatories to the UNIDROIT Convention, make sure that you put a Will in place for these assets in the country in which they are held.

With more people than ever owning global assets, it is important that you take the time to make provision for these assets and seek the appropriate estate planning, tax and accounting advice to make adequate provision for all of your assets upon your death.

In doing so, you will make it easier for those left behind.

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