

International estate planning

Where Australian resident clients hold assets outside Australia consideration needs to be given to the legal system of the country in which the other assets are held.

International issues

The challenge where international issues arise is to identify the succession laws and taxation regime on death in the country where the assets are held.

There are many strategies and structures which can be put in place to deal with succession issues in respect of assets held outside Australia. The appropriateness of the strategies will depend upon each client's individual circumstances.

Simple strategy

One of the simplest strategies is for the client to have a Will in each jurisdiction. The client would prepare a valid Will in Australia dealing with the succession of their assets within Australia and have a second valid Will prepared by a solicitor in the other country where the client holds assets.

A valid Australian Will may not necessarily meet the formal requirements of a valid Will in another country. By having a Will prepared in each jurisdiction where the client holds assets you can ensure the formal requirements of each country are met and reduce the need for supplementary evidence on administration of the estate.

The executors of each Will may then administer the estate wholly within one country and independently of any other Will dealing with assets in another country. This will reduce time delays and costs in the administration of the deceased estate.

Where it is possible to dispose of assets to beneficiaries within the same country the costs of transferring assets between jurisdictions will be saved.

Preparing Wills for various jurisdictions

Anyone preparing multiple Wills in different jurisdictions should be careful that the Wills do not inadvertently revoke each other.

The other benefit of preparing a Will for each jurisdiction is that the Will can be tailored so it is tax effective in the particular country in which it is to operate. For example, a Will that is tax effective in Australia may not be tax effective in a foreign jurisdiction. Estate planning for clients with assets in different jurisdictions certainly raises some difficult issues, however it is important to identify the potential issues and it may be a good idea to consult a practitioner in the other jurisdiction.

McMahon Clarke Legal specialises in estate planning and wealth management for private clients.
We work with you to develop an estate plan that takes into account your personal circumstances.

For more information contact a member of our private client team on 07 3831 8999 or info@mcmahonclarke.com