



Estate planning for Australian and overseas assets

Institute members with assets in Australia and abroad should consider having a will for their Australian assets and a separate will in the overseas jurisdiction for the overseas assets for the following reasons:

- Where there is a will in Australia and in the overseas jurisdiction, the executors may obtain probate in each jurisdiction independently of the other. Therefore, they may simultaneously apply for probate and reduce delay in the administration and cost to the estate
- The gift of an Australian “capital gains tax” (CGT) asset to a non-resident may result in the estate paying CGT which may otherwise have been avoided had the testator/testatrix nominated a resident beneficiary
- The Australian common law traditions are quite different to the civil law systems of most of Western Europe. Civil law countries have forced heirship which provides for the automatic passage of assets at death, you do not have testamentary freedom to give away assets. Some countries do not recognise trust as an entity for use in estate planning.

As such, we recommend having an Australian will solely for the Australian assets and a foreign will for foreign assets. This ensures that local laws are complied with and the beneficiaries get their entitlements quicker.

To read more on this topic view the TressCox International Estate Planning newsletter article or subscribe and receive regular legal updates.

For further information on international estate planning please contact Raymond Lim at TressCox Lawyers or alternatively visit the TressCox's Member Benefits webpage.

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