



ANDERSONS
S O L I C I T O R S

LawTalk Blog



Will my assets outside South Australia be covered by my Will?

Date: Tuesday February 23, 2016

When we are taking instructions for a Will, we will ask clients about their assets like property, bank accounts, shares or superannuation.

Often, being the multi-cultural and well-traveled society we are, clients have assets not only spread around Australia but also overseas.

In relation to your assets that are in Australia (but outside of South Australia) these will be covered by a validly made Will here in South Australia.

Your superannuation may not necessarily form part of your assets though even if your Superannuation fund is located in South Australia. You can read more information about this in our blog ['Does my superannuation form part of my Will?'](#)

You cannot assume that any overseas assets you have will be protected by a Will that you have made here in South Australia.

This is because every country has their own rules about what law should apply to your assets when you die and the country where you have assets outside of Australia may not be a signatory to the Hague Convention which allows mutual recognition of legal instruments.

Your lawyer will need to establish the international private law that would apply in each respective country where you hold assets and the nature of the assets.

There is usually a distinction made as to whether the assets are 'moveable' like bank accounts or shares or 'immoveable' like property and that affects the succession laws of the country in which the assets are held.

Some countries do not divide assets into moveable or immoveable assets and simply the deceased's citizenship at the date of their death determines the applicable law for the whole of the estate.

You may need to seek assistance from a lawyer in the country where the assets are held.

It is important for you to consider whether or not the country where you hold assets (outside Australia) has inheritance tax. You will need to seek your own independent financial advice about implications of inheritance tax, if any. This is why, if time and planning is applied, many assets are dealt with before death.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.