



# Australian Administration – Still A Complicated Business

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Some readers may already be aware of the complications in Australian administration, however, as it has been nearly three years since I last wrote on this issue, I have updated the various requirements to administer assets in Australia. Dealing with assets in Australia is complex, there is no set statutory limit for Probate, rather it is up to the company, bank or titles offices as to their individual requirements. The following is a basic synopsis of the requirements. I must stress that these are the normal requirements and are subject to constant change at the whim of the entities involved.

## Shares

Generally shares can be dealt with without Probate in Australia when the value of a particular holding is under A\$15,000 (although one registrar has amended their limit to AU\$25,000). Some companies will accept a Bond for the value of the holding in lieu of a Grant up to about A\$100,000. The premium on a Bond is a percentage of the value required and therefore becomes uneconomical compared to Probate when the value exceeds A\$40,000.

## Bank Accounts

Again, generally there is a limit of A\$10,000. Most banks will negotiate on this but it depends on the actual bank and branch involved. Some of the banks have established Deceased Estate Departments, which are centralised in one or two cities and deal with all branches. Some requirements will be different at the same bank in different States. Some banks insist on Probate being obtained in the State in which the account is held and others insist on Probate but are not concerned with where it is obtained in Australia.

## Real Property

Most dealings with real property, except where held as joint tenants, require Probate

to be obtained in the same State as the property is held. In Queensland it is possible to deal with property with the production of a foreign Exemplification. In New South Wales time-share interests can be dealt with without a Reseal, provided the value thereof is not 'excessive'!

## Managed Funds

There are no steadfast rules with any of the Fund Managers in Australia. However, a good guide to use is the same as for shareholdings, although we are able to negotiate on the limits with most managers in most cases.

## Superannuation

Superannuation in Australia is compulsory, and with these schemes most employees also have a death benefit insurance cover. To claim these where the value exceeds AU\$50,000 (which would apply to most cases) an Australian Grant is required. It generally does not matter in which State the Grant is obtained. However, there are various taxation complications associated with this type of asset and local guidance is highly recommended.

## Where to obtain a Grant?

Real Property is the only asset that requires Probate to be obtained or Resealed in the State where the property is located. Some banks will insist on the Probate being obtained in the State in which the account is held. When dealing with shares or managed funds a Grant or Reseal can be obtained in any State, provided a separate declaration is lodged with the company, signed by the executor confirming Probate is not being obtained elsewhere. This declaration complies with a section of the National Corporations Act, however, interestingly, it does not provide any indemnity or protection

for the company or institution concerned!

To further confuse this issue, some States require you to have an asset in that State before obtaining a Grant, others don't. Each State has a different fee structure, often scaled to the asset value. Further, some require details of all worldwide assets and liabilities and details of all beneficiary names, addresses and birth dates. These rules are often based upon outdated legislation which has been superseded, but typical of the departments involved, their internal rules have not kept up with the legislative amendments. A good example is the asset detail requirement which was useful when death duty was existent but would be generally irrelevant to the registrars now.

## What should you do when assets are discovered in Australia?

Naturally I suggest you contact me for assistance. However, my first advice is to ensure you have all details of all assets held. Secondly, don't take it as read that you have to do what the company or issuer has advised you to do. If you think the value of the asset is borderline, make a special request to the company to waive their Probate requirements in that instance. Finally, contact me for assistance!

Regards from Australia,  
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