Memorandum of Wishes

Introduction

A memorandum of wishes is sometimes prepared in conjunction with the preparation of an estate plan. The memorandum of wishes is not a legally binding document but is a document that is intended to provide you with the ability to give guidance to your executor or trustee of your estate.

What matters should I address in a memorandum of wishes?

The memorandum of wishes can deal with many issues that you do not wish to place in you will including:

- Funeral arrangements;
- Wishes regarding burial or disposal of ashes;
- Directions about the control of non-estate assets (i.e. control of family trusts, self managed superannuation funds and companies);
- Contact details for your trusted advisors (i.e. your accountant, stockbroker, real estate agents);
- Details about care arrangements for infant children (i.e. education, locality in which children are to be raised and family members that children are to have contact with);
- How you would like beneficiaries to apply any part of their inheritance (i.e. directions to use part of the estate as a deposit towards the purchase of a home or overseas travel to broaden the mind).

What else do I need to know?

The memorandum of wishes is a private document and does not form part of your will. The memorandum of wishes is often addressed to your trustee on a confidential basis and beneficiaries are not entitled to obtain a copy of it.

The memorandum of wishes should not dispose of any part of your estate but rather be used as a tool to provide information about your intentions behind the creation of your estate plan to your executors and trustees of your will.

The memorandum of wishes is not compulsory with the preparation of an estate plan and does not oblige your executors and trustees to follow the guidance of it.

Conclusion

The creation of memorandum of wishes as part of an estate plan may provide useful guidance to executors, trustees and guardians expressed outside of the terms of the will and may be a useful addition to the overall estate plan.

More Information

If you would like to discuss your estate planning, please contact us to make an appointment with Jarrad Mobbs.