Introduction

Many people (local or foreigners) possess various kinds of properties in Hong Kong. When they pass away, the Executor or Administrator of the Deceased’s estate will have to handle the Deceased’s assets (e.g. shares, real properties and bank accounts) in Hong Kong in accordance with the laws of Hong Kong.

Executor or Administrator of the Estate

An individual may make a Will and appoint his spouse, child or relative to be the Executor under the Will.

If no valid Will was made by the individual during his lifetime or even if a Will was made but without an appointment of an executor, the Deceased’s spouse, child or sibling may apply to Court to be appointed as the administrator of the Deceased’s estate before he/she can deal with the Deceased's Hong Kong assets. It should be noted that different formalities and procedures are applicable to different kinds of properties. In such circumstances, the Executor or Administrator may require assistance from lawyers in Hong Kong to make the necessary application to the Court so that they can lawfully deal with such Hong Kong assets.

Deceased Who Were Residents of Foreign Countries

The way in which the foreign Executor or Administrator can establish his rights in respect of the Deceased's assets in Hong Kong depends on the domicile of the Deceased and whether the Deceased had made a valid Will. For instance, if the Deceased died domicile in New Zealand, Singapore, Sri Lanka, United Kingdom or certain states in Australia whereby a grant (equivalent to the Grant of Probate or Letters of Administration issued by the Hong Kong Court) was obtained from the foreign Court, an application may be made to the Court of Hong Kong to reseal the foreign Grant. For people who died domiciled in other countries, a fresh application for grant to the Court of Hong Kong will be necessary.

Foreign Legal Opinion?

If the Deceased died domiciled in a foreign country without making a Will, a foreign legal opinion on the succession law of the place of domicile of the Deceased may be required by the Court of Hong Kong in support of the application of the Administrator.
Sureties?
Sureties or guarantees (which can be in various forms) may be required by the Court of Hong Kong if the applicant for the grant of Administration of the Deceased’s estate is a resident of a foreign country or if there is a beneficiary under the age of 18. In some special circumstances, the applicant may apply to the Court of Hong Kong to waive the sureties.

Conclusion
The handling of Hong Kong assets by Executor or Administrator is not an easy task as it depends on various factors such as the place of domicile of the Deceased, whether the Deceased had made a valid Will and the nature of the properties involved. Therefore, it is always advisable for the intended Executor or Administrator to seek advice and assistance from lawyers in Hong Kong so that the Deceased’s Hong Kong assets can be handled properly.

For enquiries, please contact our Private Clients Department:

E: probate@onc.hk T: (852) 2810 1212
W: www.onc.hk F: (852) 2804 6311
19th Floor, Three Exchange Square, 8 Connaught Place, Central, Hong Kong

Important: The law and procedure on this subject are very specialised and complicated. This article is just a very general outline for reference and cannot be relied upon as legal advice in any individual case. If any advice or assistance is needed, please contact our solicitors.

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