

**ADMISSION EXAMINATION
ESTATES
PART 2**

19 OCTOBER 2021

MEMORANDUM

**PLEASE NOTE THAT THE GUIDELINE ANSWERS TO PREVIOUS PAPERS MAY
NOT BE A CORRECT REFLECTION OF THE LAW AND/OR PRACTICE AT THE
MOMENT OF READING.**

NOTE TO EXAMINER: *THIS GUIDELINE RECORDS THE VIEWS OF THE DRAFTERS. THERE MAY BE JUSTIFIABLE VARIATIONS IN PRACTICE WHICH ARE BROUGHT OUT IN THE ANSWERS. WHEN THIS HAPPENS THE EXAMINER SHOULD APPLY HIS DISCRETION IN MARKING THE ANSWER.*

QUESTION 1

[67]

The First and Final Liquidation and Distribution Account in the intestate estate of the late Owen Mabuza (Identity Number 520915 5638 08 3) [1] who died on 1 January 2021 [1] and who was married out of community of property without the accrual system [1].
Master's reference number: 136/2021 [1]

<u>Liquidation account</u>			
Assets:			
Immovable property			
The farm DINKU 879, Registration Division, JR, Gauteng Province; Measuring 210 hectares; Held by Deed of Transfer T1417/2001. [1]			
At valuation	1		1500 000.00 [1]
(To be awarded to Amanda Mabuza, major surviving spouse of the deceased, i.t.o. section 1(1)(c) of the Intestate Succession Act of 1987, read together with the Redistribution Agreement) [1]			
<u>Movable property</u>			
Jeep Reg. No. FXJ 795GP Sold for	2		258000.00 [1]
Sanlam Policy (ceded to ABSA bank)	3		40 000.00 [1]
Proceeds of Life Insurance Policy A	4		955 000.00 [1]
Life Insurance Policy B @ surrender value	5		230 000.00 [1]
Proceeds of Life Insurance Policy D	6		690 000.00 [1]
Shares in MEAT (Pty) Ltd Sold for	7		480 000.00 [1]

Shares in SHEEP Ltd	8		57 000.00[1]
Sold for			
P-bank – Fixed deposit account No. 45268			
Capital	9		550 000.00[1]
Interest as at date of death	10		40 000.00[1]
Total Assets			<u>4800 000.00[1]</u>
<u>Liabilities:</u>			
<u>Administration Costs</u>			
<u>Advertising for Debtors and Creditors</u>			
Government Gazette	11	37.82[1]	
The Star Newspaper	12	362.18	
<u>Advertising Account for inspection</u>			
Government Gazette	13	37.82[1]	
The Star Newspaper	14	362.18	
Master's fees (maximum)	15	7 000.00[1]	
Executor's fees at 3.5% on R4 800 000.00	16	168 000.00[1]	
Bank charges	[1]	17	3 000.00
Provision for Bank charges	[1]	18	2 150.00
Postage and Petties	19	260.00[1]	
Broker's fees for selling shares	20	2 850.00[1]	
Valuation fees for immovable property	[1]	21	4 000.00
Transfer costs on immovable property	[1]	22	14 500.00
<u>Claims against the estate</u>			
FINALREST – funeral expenses	23	22 440.00	
Absa Bank Overdraft	24	40 000.00[1]	
Loan against Policy A	25	35 000.00[1]	
Total Liabilities			<u>300 000.00</u>
Estate Duty			<u>Nil</u>
Balance for distribution			<u>4 500 000.0</u>
			4 800 000.00

<u>Recapitulation Statement</u>			
Cash and assets reduced to cash			3 300 000.00[1]
<u>Less:</u>			
Liabilities		300 000.00[1]	
Cash Legacies		NIL	
Estate Duty		NIL	
Cash surplus to be awarded to John Mabuza and Shirley Mabuza		<u>3 000 000.00 [1]</u>	<u>3 300 000.00</u>
		<u>3 300 000.00</u>	
<u>Distribution Account</u>			
Balance for distribution			4500 000.00[1]
Awarded to:			
Amanda Mabuza, major surviving spouse i.t.o. section 1(1)(c)(i) of the Intestate Succession Act of 1987 [1] read together with the Redistribution Agreement [1]		1 500 000.00	
Award Consists of :			
Immovable Property R1 500 000.00 [1]			
John Mabuza, major surviving son i.t.o. section 1(1)(c)(ii) of the Intestate Succession Act of 1987 read [1] together with the Redistribution Agreement [1]		1 500 000.00	
Award Consists of Cash R1 500 000.00 [1]			
Shirley Mabuza, major unmarried daughter i.t.o. section 1(1)(c)(ii) of the Intestate Succession Act of 1987 [1] read together with the Redistribution Agreement [1]		1 500 000.00	
Award Consists of Cash R1 500 000.00 [1]			
		<u>4 500 000.00</u>	<u>4 500 000.00</u>
<u>Income & Expenditure Account</u>			
Interest on fixed deposit at P-Bank after date of death	26		10 000.00[1]
Executor's remuneration @ 6% on R10 000.00	27	600.00[1]	
Balance		<u>9 400.00[1]</u>	<u>10 000.00</u>
		<u>10 000.00</u>	
<u>Fiduciary Assets Account</u>			
None			Nil [1]

<u>Estate Duty Addendum</u>		
<u>Actual Property of the deceased</u>		
Assets as per liquidation account		4800 000.00[1]
<u>Less:</u> Life Policy A payable to estate	955 000.00[1]	<u>3 845 000.00</u>
<u>Less:</u> Life Policy D payable to estate	690 000.00[1]	<u>3 155 000.00</u>
<u>Less:</u> Sanlam Policy paid to the estate	40 000.00[1]	<u>3 115 000.00</u>
<u>Less:</u> Difference in value of private shares	30 000.00 [1]	<u> </u>
<u>Less:</u> 30% on Farming property	450 000.00[1]	<u>2 635 000.00</u>
<u>Property Deemed to be Property</u>		
<u>Add:</u> Life Policy A payable to estate		955 000.00[1]
<u>Add:</u> Life Policy D payable to estate		690 000.00[1]
<u>Add:</u> Sanlam Policy paid to the estate		40 000.00[1]
Life Insurance Policy C paid to Shirley		320 000.00[1]
<u>Less:</u> Premiums plus 6% interest	20 000.00[1]	<u> </u>
Gross value of the estate		4620000.00[1]
<u>Deductions – Sec 4</u>		
Costs of Administration and Claims - Sec 4 (a-d)	300 000.00[1]	
<u>Sec 4(q) Benefits:</u>		
Surviving spouse Amanda – inheritance	<u>1500 000.00[1]</u>	<u>1 800 000.00</u>
Net value of the estate		2820 000.00[1]
<u>Less:</u> Primary Rebate – Sec 4A		<u>3500 000.00[1]</u>
Dutiable Amount		0.00[1]
Estate Duty at 20% on R0.00		0.00

Executor's Certificate

I, the undersigned, John Mabuza, executor in the estate of the late Owen Mabuza, estate number 136/2021 [1] hereby declare that the estate account is to the best of my knowledge a true and proper account of the administration of the estate [1], and that to the best of my knowledge all income and expenditure after date of death are reflected [1].

Signed at Pretoria on this day of 2021.

 John Mabuza [1]
 Executor

QUESTION 2**[11]**

Jairos's estate will devolve as follows:

Selina, Mpho and Olga will each inherit either a child's share or R250 000.00, whichever is the greater (Section 1(1)(c)(i) of the Intestate Succession Act, as amended). **[1]**

A child's share is $R1\ 743\ 000.00 \div 7 = R249\ 000.00$. **[1]**

Selina, Mpho and Olga will therefore each inherit R250 000.00 as it is greater than the child's share. **[1]**

The remainder in the amount of R993 000.00 will be divided among the descendants of the deceased **[1]** in terms of Section 1(1)(c)(ii) of the Intestate Succession Act, as amended, as follows:

Jacob will inherit R248 250.00. **[1]**

Elliot will inherit R248 250.00 as he is a minor and has no capacity to renounce his rights of inheritance (Section 1(6) of the Intestate Succession Act, as amended). **[1]**

Ronald will inherit R124 125.00 by representation as he is the descendant of the predeceased daughter Fikile (Section 1(4)(a) of the Intestate Succession Act, as amended). **[1]**

Adam will inherit R124 125.00 by representation as he is the descendant of the predeceased daughter Fikile (Section 1(4)(a) of the Intestate Succession Act, as amended). **[1]**

Susan's share of R248 250.00 will be inherited by her husband Peter in terms of Section 1(1)(c)(i) as it is smaller than R250 000.00. **[1]**

Rose and Mary will not inherit anything as Susan's share will be inherited by their father. **[1]**

Thomas and Sophie will not inherit anything as they are ascendants. **[1]**

QUESTION 3**[8]**

3.1 The letter that Susan left behind is not a valid Will as it was not signed by witnesses **[1]**.

3.2 In terms of Section 2(3) the Court is empowered to order the Master to accept a document as a valid Will **[1]** if the Court is satisfied that it was drafted **[1]** or executed **[1]** by a person, who has since died **[1]**, and who intended that document to be his or her Will **[1]**, although it does not comply with all the formalities for the execution of Wills **[1]**. Therefore, Steven and Mathilda will inherit if the court is satisfied that Susan intended the letter to be her Will **[1]**.

QUESTION 4**[8]**

4.1 The ordinary place of residence of the deceased prior to his death **[1]**, irrespective of the duration of his residence there **[1]**.

- 4.2 Once the Master has exercised jurisdiction, e.g. by registering and accepting the Will, he shall continue to have jurisdiction [1].
- 4.3 The appointment letter shall be granted to a person who is an officer / director of the nominated corporation [1] and has been duly authorised by the said corporation to act on their behalf [1] and for whose acts and omissions as executor, the corporation accepts liability [1].
- 4.4 Where the value of the estate does not exceed R250 000.00 [1].
- 4.5 As soon as there are more than R1 000.00 estate funds on hand [1].

QUESTION 5

[6]

Betty has full capacity to inherit as she did not sign as a witness [1]. In terms of the provisions of Section 4A of the Wills Act a person who signs a Will as a witness may not benefit from that Will [1]. James was appointed as the executor which is a benefit in terms of the Will [1] and therefore will not benefit [1]. Dolly, although she had capacity to sign as a witness [1], may also not benefit in terms of the Will [1].

TOTAL: [100]

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