

ATTORNEYS' EXAMINATION

PART 2 ESTATES

23 AUGUST 2023

14:00 -16:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answer book during this period. The examination of 2 hours then follows.

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages.
5. Except if a special reason exists, a candidate will not be required to do an oral if 50% or more is attained. If a candidate achieves a score from 40% and below 50% he/she will be required to do an oral. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

Fraser Watson died intestate on 30 June 2022. He is survived by his mother Rose, his illegitimate daughter Angela who was born on 13 December 2001, and Angela's mother Theresa Bam. You are appointed as the Executor to attend to the administration of the Estate, and you are not registered for VAT.

Fraser's Estate comprises of the following:

1. A Farm ORANGE (on which he farmed with citrus fruits) which has been valued by an appraiser at R1 430 000.00.
2. Farm implements with a total valuation of R350 000.00.
3. A Holard Life Insurance Policy taken out and effected by Fraser's employer on Fraser's life, with a maturity value of R3 500 000.00. The proceeds were paid to the employer.
4. Proceeds of Liberty Life Insurance Policy on his life payable to his father Allan Watson, who has predeceased him, in the amount of R125 000.00.
5. Proceeds of Sanlam Life Insurance Policy on his life payable to Angela as the nominated beneficiary in the amount of R50 000.00.
6. An Old Mutual Life Insurance Policy on Theresa's life with a maturity value of R500 000.00 and a surrender value of R160 500.00.
7. Furniture valued at R170 000.00.
8. A Toyota Land Cruiser valued at R300 000.00. The Executor sold this vehicle for R280 000.00 during the course of liquidation and the proceeds were paid into the Estate bank account. An outstanding amount of R49 800.00 is due and payable to Nesbank in respect of the settlement of the credit agreement.
9. Standard Bank current account with the balance at date of death in the amount of R19 000.00. The Executor closed the account and the amount collected was R18 700.00.
10. ABSA investment account with the capital amount of R612 000.00 and accrued interest of R22 000.00 at date of death. The Executor closed the account and the amount collected was R636 000.00.
11. Shares in Powerhouse (Pty) Ltd, whose market value (as per the auditor's valuation and accepted by SARS) as at the date of death was R250 000.00 and were sold in the course of liquidation for R275 000.00.
12. JSE listed shares in Sakhile Ltd sold during the course of liquidation in the amount of R350 500.00.

13. There is an outstanding balance due to FNB in respect of a credit card. The deceased took out Credit Life Insurance on his life with Rest Assure Insurance Company and the outstanding credit card debt at date of death, in the amount of R36 000.00, was settled by them.
14. There is a mortgage bond registered over the Farm in favour of JM-bank with an outstanding balance owing to the bank as at the date of death in the total amount of R88 280.00.

Other liabilities, claims and costs of administration are as follows:

1. Advertising for Debtors and Creditor and for inspection of the account – R800.00.
2. Valuation costs i.r.o. the Farm – R5 200.00.
3. Valuation costs i.r.o. movable properties – R4 060.00.
4. Bond cancellation costs i.r.o. the Farm – R3 800.00.
5. Transfer costs i.r.o. the Farm – R14 200.00.
6. Bank charges – R6 000.00.
7. Provision for bank charges – R4 400.00.
8. Broker's fees – R15 000.00.
9. Postage and petties – R260.00.
10. Funeral expenses – R21 150.00.
11. Executor's remuneration and Master's fees according to tariffs.

REQUIRED:

Draft the entire Liquidation and Distribution Account in the Estate of the late Fraser Watson to be submitted to the Master of the High Court.

Specify the necessary expenses and claims against the Estate. Use imaginary information where necessary.

QUESTION 2

[14]

2.1 What determines which Master of the High Court has jurisdiction to administer a Deceased Estate? (1)

- 2.2 Under what circumstances can an Executor dative be appointed? (2)
- 2.3 If a Corporation is nominated in a Will as an Executor, to whom must the Master issue an appointment letter? Motivate. (3)
- 2.4 By what date must the Liquidation and Distribution Account be lodged with the Master of the High Court? (2)
- 2.5 What is the period within which an Executor according to the Estates Act No. 66 of 1965 must pay creditors and/or heirs? (2)
- 2.6 If Estate Duty is payable, when must it be paid? (2)
- 2.7 Which of the following statements is incorrect? (1)

The Court will declare that a Testator intended to revoke his Will if it is satisfied that the Testator:

- a) made a written indication on his Will to that effect.
 - b) made a subsequent valid Will.
 - c) tore up the original Will.
 - d) the Testator told his Attorney that he wished to change his Will but did not do so.
- 2.8 Anusha Naidoo died intestate, her husband Peggie to whom she was married out of community of property, pre-deceased her. She is survived by her three major sons. Her two daughters predeceased her. One daughter was survived by a descendant and the other daughter left no descendants. Her Estate is worth R1 200 000.00.

Which of the following is correct? (1)

In calculating a child's portion of her Estate, you will divide R1 200 000.00 by:

- a) 5
- b) 3
- c) 4
- d) None of the above.

QUESTION 3**[13]**

Justin dies intestate and is survived by his wife Khosi to whom he was married according to customary law in 2021. Khosi is seven months pregnant with Justin's child. Justin is also survived by the following people:

- (i) his minor son Joshua who renounced his rights to inherit.
- (ii) his father Solly who has paid for all the funeral expenses.
- (iii) his younger sister Martha who was financially depended on Justin.

The whole Estate is worth R900 000.00 (nine hundred thousand rand) consisting of cash only.

Advise Justin's family as to how will the Estate be distributed and what amount will each heir inherit. (Make explanatory remarks where necessary)

QUESTION 4**[7]**

Dickson executed a Will in which he bequeathed a cash legacy of R600 000.00 to his girlfriend Nelisa. A year later they had a serious disagreement and Dickson drew a line through the name of Nelisa in his Will and wrote his new girlfriend, Gloria's name above Nelisa's deleted name. He signed next to it.

Dickson died two years later and Nelisa, who knew about the bequest to her, now approaches you with the question as to whether she or Gloria is entitled to the legacy.

Advise your client fully.

- THE END -
