

**ADMISSION EXAMINATION / TOELATINGSEKSAMEN
ESTATES / BOEDELS
PART 2 / DEEL 2**

10 FEBRUARY / FEBRUARIE 2015

ANSWERS / ANTWOORDE

**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

[48]

LIQUIDATION ACCOUNT:

ASSETS

IMMOVABLE PROPERTY AWARDED:

ERF 332 GREYTOWN, REGISTRATION

DIVISION FT, PROVINCE OF KWAZULU

NATAL (1), IN EXTENT 1025 SQUARE METRES (1)

Held in terms of Deed of Transfer No. T4317/2004 (1) (1)

Per municipal valuation

1 650 000,00

DIVESTMENT NOTE:

The above asset will be transferred to the
intestate heirs (1)

MOVABLE PROPERTY AWARDED:

Household contents at valuation	(½)	(2)	325 000,00
3000 Sanlam shares	(½)	(3)	41 000,00
4 Head of cattle at valuation	(½)	(4)	8 000,00

DIVESTMENT NOTE:

The above assets will be awarded to the
intestate heirs

ASSETS REDUCED TO CASH

40% shareholding in Nordic (Pty) Ltd realised	(1)	(5)	1 250 000,00
2000 Sasol shares realised	(½)	(6)	100 000,00
Absa Bank: Fixed Deposit Account			
No. 0231478	240 000.00	(½)	
Interest as at date of death	1 000.00	(1) (7)	241 000,00
Old Mutual Policy No. OLM621943	(½)	(8)	950 000,00
Metropolitan Policy No. X07311624	(½)	(9)	300 000,00

TOTAL ASSETS			R4 865 000,00
			=====

LIABILITIES:

1. Masters fees (maximum)	(1)	600,00
2. Executors fees (3.5% of R4 865 000.00)	(1)	170 275,00
3. Other Administration Expenses		2 700,00
4. Funeral Expenses: Siza Funerals	(½)	12 000,00
5. ADT Attorneys: Provision for transfer fees	(½)	27 500,00
Provision for bond cancellation costs	(½)	2 500,00
6. Dr Good: Medical Expenses	(½)	11 700,00
7. J Adams: valuation costs in respect of movables	(½)	2 400,00
8. Absa Bank, settlement of bond over		
Erf 332 Greytown	(½)	670 000,00
9. Final income tax assessment from SARS	(½)	16 300,00
10. Loan against Old Mutual Policy	(1)	40 000,00

Total Liabilities	955 975,00
Estate Duty	NIL
Balance available for Distribution	3 909 025,00

	4 865 000,00
	=====

RECAPITULATION STATEMENT:-

Assets reduced to cash		2 841 000,00(2)
Liabilities	955 975,00 (1)	
Estate Duty	NIL	
Cash surplus available for distribution	1 885 025,00 (2)	

	2 841 000,00	2 841 000,00
	=====	=====

DISTRIBUTION ACCOUNT

Balance available for distribution	(1)	3 909 025,00
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Awarded to:-

- 1) Thule Dube, surviving spouse (1)
in terms of Section
1(1)(c)(i) of the Intestate
Succession Act No. 81 of 1987 (1) 977 256,25

The above award consists of a ¼
share in

Immovable property awarded	412 500,00 (1)
Movable property awarded	93 500,00 (1)
Cash	471 256,25 (1)

- 2) Alex Dube, major son (1)
in terms of Section
1(1)(c)(ii) of the Intestate
Succession Act No. 81 of 1987 (1) 977 256,25

The above award consists of a $\frac{1}{4}$
share in

Immovable property awarded	412 500,00
Movable property awarded	93 500,00
Cash	471 256,25

- 3) Nomsa Dube, minor daughter
born on 20 June 1998 (1), identity
no. 980620 5135 08 3 (1) in terms
of Section 1(1)(c)(ii) of the Intestate
Succession Act No. 81 of 1987 977 256,25

The above award consists of a $\frac{1}{4}$
share in

Immovable property awarded	412 500,00
Movable property awarded	93 500,00
Cash to be deposited in the Guardians Fund	471 256,25 (1)

- 4) Thando Dube, major son (1)
in terms of Section
1(1)(c)(ii) of the Intestate
Succession Act No. 81 of 1987 (1) 977 256,25

The above award consists of a ¼
share in

Immovable property awarded	412 500,00	
Movable property awarded	93 500,00	
Cash	471 256,25	

	3 909 025,00	3 909 025,00
	=====	

ESTATE DUTY ADDENDUM:

Property of the deceased
in terms of Section 3(2)

Assets as per Liquidation
and Distribution Account 4 865 000,00 (1)

LESS: Old Mutual policy paid to Estate (½) 950 000,00
Metropolitan policy paid to estate (½) 300 000,00 1 250 000,00

3 615 000,00

LESS: Adjustment on shares in Nordic
(Pty) Ltd 400 000,00 (2)

3 215 000,00

PLUS : Property deemed to be property in
terms of Section 3(3)

Sanlam policy	(1)	2 000 000,00	
Old Mutual policy	(½)	950 000,00	
Momentum policy	(1)	600 000,00	
Metropolitan policy	(½)	300 000,00	3 850 000,00

Gross Value of estate			7 065 000,00
LESS : Allowable deductions in terms of Section 4			
Liabilities	(1)	955 975,00	
Bequest to surviving spouse Section 4(q)			
[R977256.25+R2000000.00]	(2)	2 977 256,25	3 933 231,25
			<hr/>
Net Value	(1)		3 131 768,75
LESS primary rebate in terms of Section 4 (A)			
Dutiable amount		(1)	<u>3 500 000,00</u>
			NIL
			=====
Therefore no estate duty payable.	(1)		

LAW SOCIETY
OF SOUTH AFRICA

JOINT WILL

We, the undersigned,

HECTOR DAWOOD

Identity Number: 570812 5016 08 8

and

DORCAS DAWOOD

Identity Number: 601019 0017 08 8 [1]

spouses married in community of property and presently residing in Boksburg, Gauteng Province, hereby make our Will as follows:

1. REVOCATION OF PREVIOUS WILLS

We revoke all our previous Wills, codicils and testamentary writings made either jointly or individually, and declare this to be our last Will. [2]

2. APPOINTMENT OF EXECUTOR

2.1 We appoint the survivor of us as the executor of our estate, with the power of assumption [1]. If we die simultaneously or should the survivor for any reason be unable or refuse to accept the appointment, we appoint Snow Fall, a director of the legal firm Snowing Incorporated of Boksburg as the executor of our estate, with the power of assumption. [1]

2.2 Any executor appointed in terms of our Will shall be exempt from furnishing security to the Master of the High Court. [1]

TESTATRIX [1]

Johanna Kgopa

Jack Frost [1]

_____ [1]

C of Oaths

on behalf of and by the direction of the testator Hector [1]

3. MASSING OF ESTATES AND BENEFICIARIES

- 3.1 We direct that on the death of the first dying of us, our separate estates shall be massed and consolidated into a single estate [1], which we bequeath to our aforesaid son Steve [1] subject to a usufruct for life in favour of the survivor of us [1].
- 3.2 If the aforesaid bequest to our son should fail for any reason, our massed estate shall devolve upon his children per stirpes. [1]

4. EXCLUSION OF COMMUNITY OF PROPERTY AND ACCRUAL

No inheritance or benefit accruing to any beneficiary in terms of this Will shall form part of any existing or future community estate of such beneficiary [1]. We further direct that the right of accrual as contemplated in the Matrimonial Property Act, 88 of 1984 shall be excluded from any such inheritance or benefits. [1]

SIGNED AT BOKSBURG ON 15TH JUNE 2014 by Snow Fall on behalf of and by the direction of the Testator, the Testatrix and the attesting witnesses all being present and signing simultaneously in the presence of one another. [1]

WITNESSES:

1. H Muller [1]

TESTATRIX [½]

2. R Symes [1]

Jack Frost

on behalf of and by the direction
of the testator Hector [½]

Certificate in terms of Sec 2(1)(a)(v) [1]

I, Johanna Kgopa of 190 Pretorius Street Boksburg, in my capacity as Commissioner of Oaths [1], certify that I have satisfied myself as to the identity of the testator Hector Dawood [1], and that the accompanying Will is the Will of the testator [1].

J Kgopa

_____[1]

Commissioner of Oaths

Capacity:

Boksburg 15th June 2014

QUESTION 3

[15]

Lucky's estate will devolve as follows:

Betty inherits either a child's share or R125 000.00, whichever is the greater (Section 1(1)(c)) of the Intestate Succession Act, as amended. [1]

A child's share is $R762\ 000.00 \div 6 = R127\ 000.00$ [2]

Betty therefore inherits R127 000.00 [1]

Cindi inherits either a child's share or R125 000.00, whichever is the greater (Section 1(1)(c)) of the Intestate Succession Act, as amended.

A child's share is $R762\ 000.00 \div 6 = R127\ 000.00$

Cindi therefore inherits R127 000.00 [1]

Danny cannot renounce his rights to inherit as he is a minor (Section 1(6)) [2]
He therefore inherits R127 000.00.

Since Jan has caused his father's death, Jan does not inherit (die bloedige hand erf niet) [2]

In terms of section 1(7) of the Intestate Succession Act, Karel will inherit Jan's share in the amount of R127 000.00 [2]

His major daughter Iris inherits R127 000.00 because she is the descendant in terms of Section 1(1)(c) of the Intestate Succession Act. [1]

As Susan has renounced her inheritance, the surviving spouses Betty and Cindi will receive her (Susan's) portion in terms of section 1(6) of the Intestate Succession Act in the amount of R63 500.00 each [2]

Therefore Betty and Cindi inherit a total amount of R190 500.00 each. [1]

QUESTION 4

[12]

B, as a witness, is disqualified from receiving any benefit under the will – section 4A(1) of the Wills Act. (1)

However, in terms of section 4A(2) –

- (a) A court may declare **B** to be competent to receive his benefit if the court is satisfied that **B** did not defraud or unduly influence **A** in the execution of the will. (2)
- (b) If **B** would have inherited if **A** had died intestate, **B** may inherit under the will as much as what he would have inherited as an intestate heir (but no more). (3)

To the extent that **B** does not receive his benefit in whole or in part, his divorced wife **D** will inherit as his substitute. Only if **D** had been married to **B** at the time of execution of the will would she have been disqualified. (2)

E is disqualified because he murdered **A**. "*De bloedige hand erf niet*". (1)

Section 2C(2) of the Wills Act provides that if a descendant of the testator is disqualified from inheriting, the descendants of that descendant shall be entitled to the benefit. **E**'s daughter **F** therefore inherits what **E** would have inherited, had he not murdered his Father **A**. (2)

F inherits whatever has been left directly to her in **A**'s will. (1)

TOTAL: [100]

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