

PROKUREURSEKSAMEN

DEEL 2
BOEDELS

18 AUGUSTUS 2015

14:00-16:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 2 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
3. Waar nodig, moet kandidate hulle eie feite versin.
4. Skryf asseblief slegs in pen op die regterkantse bladsye.
5. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% of meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druip.

ATTORNEYS' EXAMINATION

PART 2
ESTATES

18 AUGUST 2015

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 answerbook 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 in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1 [65]

Koos en Martie was met mekaar buite gemeenskap van goedgetroud, metaanwas. Hulle het 'n dogter Dinah gehad wat op 5 Junie 2011 oorlede is. Hulle het in die huis saam met Gert, Martie se seun uit 'n vorige huwelik, gewoon.

Koos is op 16 Julie 2014 intestaat oorlede. Sy nagelate eggenote is as eksekutrise aangestel, en sy boedel bestaan uit die volgende:

1. Die woonhuis met 'n munisipale waarde van R740 000.00. 'n Eiendomsagent waardeer die billike markwaarde van die huis op R1 100 000.00, maar slaag daarin om dit vir R1 300 000.00 te verkoop. Die agentekommissie bedra 10%, BTW ingesluit.
2. Daar is 'n rentevrye verband oor die huis ten gunste van Gert geregistreer met 'n uitstaande bedrag van R70 000.00.
3. Meubels ter waarde van R160 000.00.
4. 'n Motorvoertuig met 'n waarde van R270 000.00. 'n Bedrag van R55 000.00 is steeds aan Worstbank verskuldig vir die finansiering van die voertuig.
5. 350 gewone aandele in Mogodu (Edms) Bpk deur die ouditeur teen R6 475.00 gewaardeer, welke waardasie deur die Hoof Inkomste-inspekteur goedgekeur is. Die aandele word in die loop van beredding vir R11 475.00 verkoop.
6. Die opbrengs ten bedrae van R560 000.00 van 'n Liberty Life versekeringspolis op Koos se lewe. Hierdie polis is in 1999 deur Koos uitgeneem. Hy het al die premies betaal. Die premies tesame met 6% rente het R25 000.00 soos op sterfdatum beloop. Die opbrengs van die polis word deur die eksekutrise gevorder.

QUESTION 1 [65]

Koos and Martie were married to each other out of community of property with accrual. They had a daughter Dinah who died on 5 June 2011. They have been staying in the house with Gert, Martie's son from a previous marriage.

Koos died intestate on 16 July 2014. His surviving spouse was appointed as the executrix and his estate consists of the following:

1. The house in which they reside, with a Municipal value of R740 000.00. An estate agent has valued the fair market value of the house at R1 100 000.00, but manages to sell it for R1 300 000.00. The agents' commission is 10% including VAT.
2. There is an interest-free mortgage bond registered over the house in favour of Gert with an outstanding balance owing of R70 000.00.
3. Furniture valued at R160 000.00.
4. A motor vehicle valued at R270 000.00. The amount of R55 000.00 is still owing to Worstbank for the financing of the motor vehicle.
5. 350 ordinary shares in Mogodu (Pty) Ltd valued by the auditor at R6 475.00 (approved by Chief Revenue Inspector) and sold during the course of liquidation for R11 475.00
6. The proceeds of Liberty Life Insurance policy on Koos's life in the amount of R560 000.00. This policy was taken out in 1999 by Koos. He paid all the premiums. The premiums together with 6% interest amounted to R25 000.00 at the date of death. The proceeds of the policy were collected by the executrix.

7. Die opbrengs ten bedrae van R170 000.00 van 'n versekeringspolis by Sanlam Lewens op Koos se lewe. Hierdie polis is in 2002 deur Gert uitgeneem. Die premies is deur Gert betaal, en die premies plus 6% rente het R20 000.00 ten tye van Gert se dood bedra. Die opbrengs is aan Gert betaal.

8. 'n Ou Mutual Life versekeringspolis op Martie se lewe, met 'n afkoopwaarde van R589 125.00 en 'n vervalwaarde van R990 000.00.

9. SureBank vaste deposito gevorder in die bedrag van R230 000.00. Ingesluit in hierdie bedrag was rente van R30 000.00 tot 16 Julie 2014 asook rente van R10 000.00 vir die tydperk 17 Julie 2014 to 30 September 2014 synde die datum waarop die deposito verval het.

10. Die boedel het 'n aanwaseis teen die nagelate eggenote ten bedrae van R59 400.00.

Die totale laste (insluitende begrafniskoste, inkomstebelasting, ander eise teen die boedel en administrasiekoste) bedra R420 000.00. Die eksekutrise is vir BTW geregistreer.

Stel die volledige likwidasië- en distribusierekening op vir indiening by die Meester. (spesifiseer die nodige koste).

VRAAG 2

[16]

U kliënt, Ronald Eagle, raadpleeg u oor die opstel van sy testament. Hysê dat hy aanstaande week met sy verloofde gaan trou en dat hy haar in sy testament wil bevoordeel. Hysê verder dat hy ook sy twee gunsteling neefs wil bevoordeel. Sy boedel se waarde is effens meer as R9 miljoen en hy wil hê dat sy testament op so 'n wyse opgestel word dat die betaling van boedelbelasting in sy boedel en ook sy toekomstige eggenote se boedel tot 'n minimum beperk word. U of u vennoot moet die eksekuteur wees. Stel die testament op vir ondertekening.

7. The proceeds of Sanlam Life Insurance policy on Koos's life in the amount of R170 000.00. The policy was taken out in 2002 by Gert. The premiums were paid by Gert and the premiums and 6% interest amounted to R20 000.00 at the date of Koos's death. The proceeds were paid to Gert.

8. An Old Mutual Life Insurance Policy on Martie's life with a surrender value of R589 125.00 and a maturity value of R990 000.00.

9. SureBank fixed deposit recovered in the amount of R230 000.00. Included in the amount of R230 000.00 was interest in the amount of R30 000.00 up to 16 July 2014 as well as interest in the amount of R10 000.00 for the period 17 July 2014 to date of maturity on 30 September 2014.

10. The deceased's estate has an accrual claim against the surviving spouse in the amount of R59 400.00.

His total liabilities (including funeral expenses, income tax, other liabilities and administration expenses) amount to R420 000.00. The executrix is registered for VAT.

Draft the entire Liquidation and Distribution Account to be lodged with the Master of the High Court. (Specify the necessary expenses).

QUESTION 2

[16]

Your client, Ronald Eagle consults you with a view to preparing his Will. He tells you that he is marrying his fiancée next week and that he would like to benefit her in his will. He also tells you that he would like to benefit his two favourite nephews. His estate is worth a little over R9 million and he would like the will to be drafted in such a way as to minimise the payment of estate duty in his estate and also the estate of his future wife. You or your partner are to be the executor. Prepare his will for signature.

VRAAG 3 [4]

H en W is buite gemeenskap van goed getroud, met die aanwasbedeling. Ten tye van huweliksluiting het hulle geen bates gehad nie; slegs studenteleninge. Die aanwas van die huwelik is R3 000 000.00. H sterf intestaat en na betaling van sy skulde en administrasiekoste, maar voor die vereffening van aanwaseise het sy boedel 'n waarde van R1 750 000.00. W se netto boedel bedra R1 250 000.00.

Bereken W se aanwaseis, indien enige.

VRAAG 4 [6]

A sterf intestaat. Die waarde van haar boedel is R1 500 000.00. Sy het geen nagelate eggenoot, geen afstammeling, geen ouers, broers of susters wat haar oorleef nie. Haar naaste oorlewende familie is haar vooroorlede broer P se vrou en hulle drie meerderjarige dogters D, E en F, nie een van wie enige afstammeling het nie.

Hoe sal A se boedel vererf?

Sou dit enige verskil aan u antwoord maak indien F die dood van A veroorsaak het?

VRAAG 5 [9]

A wat geskei is, kan nie skryf nie en vra sy enigste kind B om 'n testament vir A te skryf. Die testament bevat sekere spesiale bemakings, en laat die restant van die boedel aan B na.

Verduidelik of B sy erfenis mag ontvang, al dan nie.

QUESTION 3 [4]

H and W are married out of community of property with accrual. At the time of their marriage, they had no assets and only student loans. The marriage has accrued R3 000 000.00. H dies intestate and after the payment of his liabilities and administration expenses, but before the settlement of any accrual claims, his estate is valued at R1 750 000.00. W's net estate amounts to R1 250 000.00.

Calculate W's accrual claim, if any.

QUESTION 4 [6]

A dies intestate. The value of her estate is R1 500 000.00. She has no surviving spouse, no descendants, no parents, brothers or sisters. Her closest surviving family is her predeceased brother's wife P and their three major daughters D, E and F, none of whom have any descendants.

How will her estate be divided?

Would it have made any difference to your answer if F had caused A's death?

QUESTION 5 [9]

A, who is a divorcé, cannot write and asks his only child B to write a will for A. The will makes provision for a few special bequests, and leaves the residue of the estate to B.

Explain whether or not B may receive his/her inheritance.

- DIE EINDE -

- THE END -