

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

18 AUGUST / AUGUSTUS 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

[65]

The First and Final Liquidation and Distribution Account in the estate of the late Koos Swart (Identity Number 500915 5638 08 3) [1] who died on 16 July 2014 [1] and who was married out of community of property with the inclusion of the accrual system.

[1]

Master's reference number : 369/2014 [1]

(Note: The liquidation and distribution account commences on page 2)

Liquidation account		
Assets:		
Immovable property		
Erf 615 Naledi Township		
Registration Division JR, Province of Gauteng		
Measuring 1800m ² .		
Held by Deed of Transfer No. T234/90 [1]		
Sold for	1	1 300 000.00[1]
(to be transferred to the purchaser Sam Jones)		
Movable property		
Household Furniture and effects (½)		
Valued at	2	160 000.00[½]
Audi A3 motor vehicle with registration number CA4526 (½)		
Valued at	3	270 000.00[1]
(the above assets to be transferred to the surviving spouse as sole heir i.t.o. section 1(1)(a) of the Intestate Succession Act) [1]		
Liberty Life Insurance Policy No.137345X8		
Proceeds of Policy	4	560 000.00[2]
Old Mutual Life Insurance Policy No.OM345Y		
At surrender value	5	589 125.00[2]

Shares in Mogodu (Pty) Ltd			
Sold for	6		11 475.00[1]
Surebank – Fixed deposit account No. 34268	7		
Capital			190 000.00[1]
Interest to date of death			30 000.00[1]
Accrual claim against surviving spouse	8		<u>59 400.00 [1]</u>
Total Assets			3 170 000.00
			=====
Liabilities:			
Administration Costs			
Advertising for Debtors and Creditor			
Government Gazette			
The Star newspaper	9	38.70 (¼)	
		311.30 (¼)	
Advertising Account for inspection			
Government Gazette			
The Star newspaper	10	38.70 (¼)	
		311.30 (¼)	
Master's fees (maximum)	11	600.00[1]	
Executor's fees at 3.5% on R3 170 000.00	12	110 950.00[1]	
VAT@ 14% on (R110 950.00)	13	15 533.00[1]	
P Mbambala – Bond cancellation –house [1]	14	5 200.00	

J Ridge –Valuation costs of movable assets [1]	15	3 000.00	
Bank charges [1]	16	2 500.00	
Postages and petties	17	150.00[1]	
REST – funeral expenses [1]	18	8 500.00	
Claims against the estate			
Final income tax assessment [1]	19	17 867.00	
Worstbank – loan for financing motor vehicle	20	55 000.00[1]	
Gert – bond over house	21	70 000.00[1]	
Agent's commission	22	<u>130 000.00[1]</u>	
Total Liabilities		420 000.00	
Estate Duty		NIL	
Balance for distribution		<u>2750000.00</u> =====	

<u>Recapitulation Statement</u>			
Cash and assets reduced to cash			2 740 000.00[2]
Less:			
Liabilities		420 000.00[1]	
Cash Legacies		NIL	
Estate Duty		NIL	
Cash surplus		<u>2 320 000.00[1]</u>	
(to be awarded to the surviving spouse as sole heir)		2 740 000.00	2 740 000.00
		=====	=====
<u>Distribution Account</u>			
Balance for distribution			2 750 000.00[1]
Awarded to:			
Martie Swart, surviving spouse [1], as sole heir i.t.o. section 1(1)(a) of the Intestate Succession Act of 1987 [1]		2 750 000.00	
Award Consists of:			
Movable assets	R 430 000.00[1]		
Cash	<u>R2 320 000.00[1]</u>		
		<u>2 750 000.00</u>	<u>2 750 000.00</u>
		=====	=====

<u>Income & Expenditure Account</u>		
<u>INCOME</u>		
Interest paid on fixed deposit with Surebank		10 000.00[1]
<u>Expenditure</u>		
Executor's remuneration @ 6% on R10 000.00	600.00 [1]	
VAT @ 14% on R600.00	84.00 [1]	
Balance to be paid to the surviving spouse as sole heir [1]	9 316.00 [1]	
	10 000.00	10 000.00
	=====	=====
<u>Fiduciary Assets Account</u>		
None		Nil [1]
<u>Estate Duty Addendum</u>		
<u>Property of the deceased</u> [½]		
Assets as per liquidation account		3 170 000.00[1]
Less : Liberty Life Policy payable to estate	560 000.00[½]	
		2 610 000.00
Less: Difference in value of private shares	5 000.00[1]	
		2 605 000.00
Less: Accrual Claim	59 400.00[½]	
		2 545 600.00

<u>Property Deemed to be Property</u>	[½]	560 000.00[½]	
Add: Liberty Life Policy payable to estate		170 000.00[1]	
		20 000.00[1]	
Proceeds of Sanlam Life Insurance Policy			
Less: Premiums and 6% Interest		59 400.00[½]	769 400.00
Add: Accrual Claim			<u>3 315 000.00</u>
Gross value of the estate			
<u>Deductions – Sect 4</u>	[½]		
Costs of Administration and claims		420 000.00[1]	
Benefits to Surviving spouse – Sect 4(q)		2750000.00[1]	<u>3 170 000.00</u>
Net value of the estate			145 000.00[1]
Less: Primary Rebate – Sect 4A			<u>3 500 000.00[1]</u>
Dutiable Amount			0.00[1]
			=====
Therefore no estate duty is payable (1)			

Certificate

I the undersigned, Martie Swart, executrix in the estate of the late Koos Swart, (1) hereby declare that the estate account is to the best of my knowledge and belief a true and proper account of the liquidation and distribution of the estate, (1) and that to the best of my knowledge and belief all the assets (1) and income collected subsequent to date of death of the deceased to the date of this account have been disclosed. (1)

Signed at Tshwane on this 10th day of November 2014. (1)

MARTIE SWART

EXECUTRIX

QUESTION 2

[16]

LAST WILL AND TESTAMENT

This is the Last Will and Testament of me, RONALD EAGLE (Identity Number: 3201135025086), unmarried, presently of 17 The Gorge, Muizenberg, Cape Town. (1)

1. I revoke all Wills, Codicils or other testamentary acts previously made by me. (2)

2. I bequeath the following legacy:-

To my nephews, PHILIP EAGLE and ANTHONY EAGLE (1) (and failing either or both of them to his respective children by representation) (1), a cash legacy of R1 750 000.00 each (1). (3)

3. I bequeath the residue of my Estate to Dolly Hare (1) or, failing her, my descendants or, failing descendants, my said two nephews. (1) (2)

4. I appoint, ROBERT HARRIS and, failing him, NEIL HARRIS (1), to be the Executor of this my Will giving to my said Executor all powers as are allowed in law and especially the power of assumption (1). I especially direct that my Executor shall not be called upon to furnish security for acting in such capacity (1). (3)

5. I direct that the inheritance devolving upon any beneficiary under my Will as well as the proceeds, the reinvestment of such proceeds and the income thereon shall be free from the legal effects, including any accrual system, of any present or future marriage of such beneficiary whether in or out of community of property. (2)

IN WITNESS WHEREOF I have hereunto set my hand at CAPE TOWN this the day of JUNE 2014, in the presence of the undersigned witnesses who, in my presence and in the presence of each other have hereto subscribed their names as witnesses. (2)

RONALD EAGLE

Witnessed by:

1) _____ 2) _____ (1)

QUESTION 3 _____ **[4]**

The accrual of the marriage is R1 750 000.00 plus R1 250 000.00 = R3 000 000.00 (1). Each spouse should obtain R1 500 000.00 (1).
The amount of W's accrual claim is R1 500 000.00 less R1 250 000.00 = R250 000.00 (2)

QUESTION 4 _____ **[6]**

- 1) D, E & F each inherit R500 000,00 in terms of Section 1(1) (e)(bb) of Act No. 81 of 1987. (3)
- 2) P would not inherit as she is not a blood relation of A. (1)
- 3) Yes. F would be disqualified from inheriting (1) so D and E would each inherit R750 000,00. (1)

QUESTION 5 _____ **[9]**

Section 4A of the Wills Act (1) disqualifies the person who writes the will of another in his own handwriting from receiving any benefit from that will. (2) However, if the writer would have been an intestate heir of the testator if the testator had died intestate, the writer may receive the benefit, (2) provided he receives no more than he would have as an intestate heir. (2)

If A had died intestate, B would have been the sole intestate heir. (1) B may therefore receive the full testamentary benefit. (1)

TOTAL: [100]