

PROKUREURSEKSAMEN

DEEL 2 BOEDELS

16 AUGUSTUS 2016

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 assebliefslegs 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

16 AUGUST 2016

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 [66]

Jack Lee is op 1 Julie 2015 oorlede. Hy word oorleef deur sy meerderjarige niggie, Angela wat 'n geoktrooieerde rekenmeester is, en deur sy vader Simon. In Jack se testament word sy hele boedel aan sy vader nagelaat. Angela, wat vir BTW geregistreer is, word in Jack se testament tot eksekutrisse benoem. Die boedel bestaan uit die volgende:

1. 'n Plaas NARTJIES waarop 'n bona fide boerderyonderneming bedryf word, welke plaas in beide die oorledene en sy vader se name in gelyke dele geregistreer is. Die plaas word deur 'n taksateur vir R4 600 000.00 gewaardeer.
2. Die boerderyimplemente wat aan die oorledene en sy vader in gelyke dele behoort, het 'n totale waarde van R380 000.00.
3. Die oorledene is die eienaar van die woonhuis waarin hy, sy vader en Angela woon, welke woonhuis vir R450 000.00 gewaardeer word.
4. Die meubels and huishoudelike toebehore, wat Angela beweer dat sy in die huis ingebring het, word vir R173 000.00 gewaardeer.
5. 'n Lening aan die Lee Familie Trust. Jack het hierdie trust in 2009 opgerig, en besittings aan die trust verkoop vir R2 miljoen (op leningsrekening). Die trust het jaarliks deel van die lening terugbetaal, en die uitstaande balans by Jack se afsterwe was R280 000.00.
6. 'n Toyota Corolla op die oorledene se naam wat deur die taksateur vir R265 000.00 gewaardeer word. Die eksekutrisse verkoop hierdie voertuig uit die hand op 1 Oktober 2015 vir R250 000.00, en die opbrengs word op dieselfde dag in die boedelbankrekening inbetaal.

QUESTION 1 [66]

Jack Lee died on 1 July 2015. He was survived by his major cousin Angela who is a chartered accountant and his father Simon. Jack made a Will leaving his entire estate to his father. Angela, who is registered for VAT, was nominated by Jack in his Will as the executrix and the estate consists of the following:

1. A farm NARTJIES on which a *bona fide* farming undertaking is carried on, which is registered in both the deceased's name and his father's name in equal shares and which has been valued by an appraiser at R4 600 000.00.
2. The farm implements belonging to both the deceased and his father in equal shares with a total value of R380 000.00.
3. The deceased is the owner of the house in which he, his father and Angela reside which is valued at R450 000.00.
4. The furniture and household effects, which Angela says she brought into the house, are valued at R173 000.00.
5. A loan to the Lee Family Trust. Jack formed this trust in 2009 and sold some of his possessions to the trust for R2 million (on loan account). The trust repaid part of the loan every year and the outstanding balance at Jack's death was R280 000.00.
6. A Toyota Corolla in the deceased's name valued by the appraiser at R 265 000.00. The executor sold this vehicle out of hand for R250 000.00 on 1 October 2015 and the proceeds were paid into the estate banking account on the same day.

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| <p>7. Die oorledene se 1 200 aandele in LEBS Beperk, 'n maatskappy wat op die JSE genoteer is, wat deur 'n aandelermakelaar soos op sterfdatum vir R146 000.00 gewaardeer word. 'n Dividend van R45 per aandeel word op 1 November 2015 verklaar en betaal.</p> <p>8. 800 aandele in LSG (Edms) Bpk in die oorledene se naam wat deur die Ouditeur vir R312.50 per aandeel op sterfdatum gewaardeer word, (deur 'n Hoof Inkomste-Inspekteur goedgekeur). Hierdie aandele word in die loop van die likwidasiëproses vir R270 000.00 verkoop.</p> <p>9. Die oorledene het 'n belegging van R200 000.00 by ABC Bank. Die eksekutrice maak hierdie belegging te gelde vir R240 000.00 waarvan R15 000 ten opsigte van opgehoopte rente na sterfdatum is.</p> <p>10. Versekeringpolis A uitgeneem deur Jack op die lewe van Angela met 'n lewensdekking van R300 000.00. Jack het die premies op hierdie polis betaal. Die eksekutrice besluit om die polis af te koop, en die bedrag van R169 000.00 word in die boedelbankrekening inbetaal.</p> <p>11. Die opbrengs van versekeringspolis B op Jack se lewe ten bedrae van R295 000.00. Hierdie polis is deur Jack se vader Simon in 2004 uitgeneem. Die opbrengs van die polis is aan Simon uitbetaal.</p> <p>12. Die opbrengs van versekeringspolis C op Jack se lewe ten bedrae van R225 000.00. Die polis is in 2010 deur Jack uitgeneem en hy het al die premies betaal. Die premies, tesame met 6% rente, beloop R15 000.00. Die opbrengs van hierdie polis word deur die eksekutrice ingevorder.</p> <p>13. Die opbrengs van versekeringspolis D op Jack se lewe ten bedrae van R700 000.00. Hierdie polis is in 2000 uitgeneem deur Jack se werkgewer, Lesh Finance House</p> | <p>7. The deceased's 1200 shares in LEBS Ltd, a company listed on the JSE, which are valued by a stockbroker as at the date of death at R146 000.00. A dividend of R45 per share is declared and paid on 1 November 2015.</p> <p>8. 800 shares in LSG (Pty) Ltd in the deceased's name, valued by the Auditor as at the date of death at R312.50 per share (as approved by a Chief Revenue Inspector) and were sold in the course of liquidation for R270 000.00.</p> <p>9. The deceased had an investment of R200 000.00 at ABC Bank. The executrix realizes this investment for R240 000.00, of which R15 000.00 is in respect of interest accrued after date of death.</p> <p>10. An insurance policy A taken out by Jack on the life of Angela with a life cover of R300,000.00. Jack paid the premiums on this policy. The executrix chooses to surrender this policy and the amount of R169,000.00 is paid into the estate bank account.</p> <p>11. Proceeds of Insurance policy B on Jack's life in the amount of R295 000.00. The policy was taken out in 2004 by Jack's father, Simon. The proceeds were paid to Simon.</p> <p>12. Proceeds of insurance policy C on Jack's life in the amount of R225 000.00. This policy was taken out in 2010 by Jack. He paid all the premiums. The Premiums together with 6% interest amounted to R15 000.00. The proceeds of the policy were collected by the executrix.</p> <p>13. Proceeds of insurance policy D on Jack's life in the amount of R700 000.00. This policy was taken out in 2000 by Jack's employer, Lesh Finance House Ltd, who</p> |
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Bpk, wat ook die premies betaal het. Die premies, tesame met 6% rente, beloop R75 000.00. Die opbrengs van die polis is aan die werkgewer betaal.

also paid the premiums. Premiums together with 6% interest amounted to R75 000.00. The proceeds were paid to the employer.

14. Die finale inkomstebelastingaanslag bedra R100 000.00. Totale laste (insluitende begrafniskoste, normale laste en administrasiekoste) beloop R400 000.00.

14. Final income tax assessment due by the deceased in the amount of R100 000.00. The total liabilities (including funeral expenses, normal liabilities and administration expenses) amount to R400 000.00.

VERLANG:

Stel die volledige likwdasie- en distribusierekening in die boedel van wyle Jack Lee op vir indiening by die Meester van die Hoë Hof. Spesifiseer die nodige uitgawes. Gebruik denkbeeldige inligting waar nodig.

REQUIRED:

Draft the entire Liquidation and Distribution Account in the estate of the late Jack Lee to be submitted to the Master of the High Court. Specify the necessary expenses. Use imaginary information where necessary.

VRAAG 2

[13]

QUESTION 2

[13]

Zwane sterf intestaat op 26 November 2014 en word oorleef deur sy vrou Dudu met wie hy ooreenkomstig inheemse reg in 2011 getroud was. Geen huweliksvoorwaardekontrak is deur hulle aangegaan nie. Dudu is 7 maande swanger met Zwane se kind. Zwane word ook deur die volgende persone oorleef:

Zwane dies intestate on 26 November 2014 and is survived by his wife Dudu to whom he was married according to customary law in 2011. No antenuptial contract was entered into. Dudu is 7 months pregnant with Zwane's child. Zwane is also survived by the following people:

- (i) Sy minderjarige seun Joshua wat afstand van sy erfenis doen.
- (ii) Sy vader Solly wat al die begrafniskoste betaal het en geen terugbetaling verlang nie.
- (iii) Sy jonger suster Rose wat van Zwane finansiëel afhanklik was.

- (i) His minor son Joshua who renounced his rights to inherit.
- (ii) His father Solly who has paid for all the funeral expenses and does not require to be reimbursed.
- (iii) His younger sister Rose who was financially dependent on Zwane.

Die netto boedel het 'n waarde van R900 000.00 wat slegs uit kontant bestaan.

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

Adviseer Zwane se familie oor hoe die boedel verdeel moet word en welke bedrag iedere erfgenaam sal erf of nie erf nie. (Maak verduidelikende opmerkings waar nodig).

Advise Zwane's family as to how will the estate be distributed and what amount will each heir inherit or not inherit. (Make explanatory remarks where necessary).

VRAAG 3 [7]

Robert pleeg selfmoord op 21 Maart 2015. Hy laat na 'n eenbladsy lange brief waarin hy geskryf het dat hy al sy besittings nalaat aan sy twee kinders uit sy eerste huwelik, naamlik Steve en Doris. Hierdie brief is slegs deur Robert onderteken. Dit blyk dat hy in 2013 'n geldige testament verly het waarin hy al sy besittings aan sy tweede vrou nagelaat het, en niks aan sy kinders nie.

- 3.1 Adviseer Steve en Doris of Robert se brief 'n geldige testament is.
- 3.2 Steve en Doris wil ook weet of hulle uit hulle vader se boedel kan erf en welke aksie, indien enige, aan hulle beskikbaar is.

VRAAG 4 [10]

In paragraaf 3.5 van sy testament gedateer 5 Oktober 2014 bemaak Phillip R700 000.00 in kontant aan sy vriendin Betty. Ses maande later val hulle uit, en Phillip wil nou die bemaking kanselleer en in plaas daarvan gemelde bedrag aan sy nuwe vriendin Goodness bemaak. Stel die toepaslike dokument op om aan Phillip se wense gevolg te gee.

VRAAG 5 [4]

A skei van sy vrou op 30 Junie 2015. Voor sy egskeiding het hy sy voormalige vrou en sy twee minderjarige kinders as efgename van sy boedel in sy testament aangewys. A sterf op 20 September 2015 sonder om 'n verdere testament te verly.

- 5.1 Sal A se voormalige vrou uit sy boedel in terme van sy testament kan erf? (3)
- 5.2 Sou dit enige verskil aan u antwoord maak indien A op 20 Oktober 2015 gesterf het? (1)

QUESTION 3 [7]

Robert committed suicide on 21 March 2015. He left a one page letter in which he wrote that he revokes all previous Wills and leaves all his possessions to his two children from his first marriage, Steve and Doris. This letter is only signed by Robert. It appears that he executed a valid Will in 2013 in which he left all his possessions to his second wife and nothing to his children.

- 3.1 Advise Steve and Doris if the letter that Robert left behind is a valid Will.
- 3.2 Steve and Doris also want to know if they can inherit from their father's estate and what action, if any, is available to them.

QUESTION 4 [10]

In paragraph 3.5 of his will dated 5 October 2014, Phillip bequeathed a cash legacy of R700 000.00 to his girlfriend Betty. Six months later they had a serious disagreement and Phillip now wishes to cancel this bequest and instead bequeath this cash legacy to his new girlfriend, Goodness. Draft the appropriate document to give effect to Phillip's wishes.

QUESTION 5 [4]

A divorced his wife on 30 June 2015. Prior to his divorce he appointed his ex-wife and his two minor children as beneficiaries of his entire estate. A died on 20 September 2015 without executing another Will.

- 5.1 Will A's ex-wife inherit from his estate, in terms of his Will? (3)
- 5.2 Would it make any difference to your answer if A died on 20 October 2015? (1)