

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

16 AUGUST / 16 AUGUSTUS 2016

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

[66]

The First and Final Liquidation and Distribution Account in the estate of the late Jack Lee (Identity Number 640315 5638 08 3) [1] who died on 1 July 2015 [1] and who was unmarried at the time of his death [1].

Master's reference number : 1369/2015 [1]

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| <u>Liquidation account</u> | | | |
|---|-----|--|-----------------------|
| <u>Assets:</u> | | | |
| <u>Immovable property</u> | | | |
| 1. Undivided half share in the farm NARTJIES 501, Registration Division, JR, Gauteng Province; Measuring 360 hectares; Held by Deed of Transfer T1206/2009. | [1] | | |
| At Valuation R4 600 000.00 | | | 2 300 000.00[1] |
| 2. Erf 168 Doornkop Township Registration Division JR, Province of Gauteng Measuring 900m ² . | [1] | | |
| Held by Deed of Transfer No. T1786/99 | | | 450 000.00[1] |
| At Valuation (Items 1&2 to be transferred to Simon, the father of the deceased, i.t.o. clause 4 of the Will of the deceased) | [1] | | |
| <u>Movable property</u> | | | 190 000.00[1] |
| 3. Undivided half share of farm implements At valuation R380 000.00 | | | 146 000.00[1] |
| 4. 1200 shares in LEBS Ltd Valued by Stockbrokers at (Items 3&4 to be awarded to Simon, the father of the deceased, i.t.o. clause 4 of the Will of the deceased) | [1] | | 280 000.00[1] |
| | | | 250 000.00[1] |
| 5. Loan collected (The Lee Family Trust) | | | |
| 6. Toyota Corolla, Reg No. BYP 805 GP Sold for | | | 169 000.00[1] |
| 7. Proceeds of Life Insurance Policy A at surrender value | | | 225 000.00[1] |
| 8. Proceeds of Life Insurance Policy C | | | 270 000.00[1] |
| 9. Shares in LSG (Pty) Ltd Sold for | | | 200 000.00[1] |
| | | | 25 000.00[1] |
| 10. Investment account No. 4050635667 Capital Accrued interest to date of death Total Assets | | | <u>4505 000.00[1]</u> |

| | | |
|--|--|----------------------------|
| <u>Liabilities:</u> | | |
| <u>Administration Costs</u> | | |
| 1. <u>Advertising for Debtors and Creditor</u> | | |
| Government Gazette | | 40.60 [½] |
| Pretoria News | | 359.40[1] |
| 2. <u>Advertising Account for inspection</u> | | |
| Government Gazette | | 40.60 [½] |
| Pretoria News | | 359.40[1] |
| 3. Master's fees (maximum) | | 600.00[1] |
| 4. Executor's fees at 3.5% on R4 505 000.00 | | 157675.00[1] |
| 5. 14% VAT ON R157 675.00 | | 22 074.50[1] |
| 6. Bank charges | | 1 000.50[1] |
| 7. Postage and petties | | 150.00[1] |
| 8. Brokers fees for valuation of JSE shares | | 17 000.00[1] |
| 9. Valuation costs | | 12 000.00[1] |
| 10. Transfer costs | | 48 700.00[1] |
| 11. Sleep – funeral expenses | | 40 000.00[1] |
| <u>Claims against the estate</u> | | |
| 12. Final income tax assessment | | 100 000.00[1] |
| Total Liabilities | | 400 000.00[1] |
| Estate Duty | | 34 962.06[1] |
| Balance for distribution | | <u>4 070 037.94</u> |

Recapitulation Statement

| | | |
|---|----------------------|---------------------|
| Cash and assets reduced to cash | | 1419 000.00[1] |
| <u>Less:</u> | | |
| Liabilities | 400 000.00[1] | |
| Cash Legacies | NIL | |
| Estate Duty | 34 962.06[1] | |
| Cash surplus to be paid to Simon as sole heir | <u>984 037.94[1]</u> | |
| | <u>1 419 000.00</u> | <u>1 419 000.00</u> |

Distribution Account

Balance for distribution 4070 037.94[1]

Awarded to:

Simon Lee, major father of the deceased i.t.o. clause
4 of the Will of the deceased [1] 4 070 037.94

Award Consists of :

| | | | | |
|--------------------|---------------------|-----|---------------------|---------------------|
| Immovable Property | R2 750 000.00 | [1] | | |
| Movable Property | R 336 000.00 | [1] | | |
| Cash | <u>R 984 037.94</u> | | | |
| | R4 070 037.94 | | <u>4 070 037.94</u> | <u>4 070 037.94</u> |

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| | | | |
|--|--|----------------------|------------------------|
| <u>Income & Expenditure Account</u> | | | |
| Interest paid on investment account | | | 15 000.00[1] |
| Dividend paid on LEBS Ltd shares | | | 54 000.00[1] |
| Executor's remuneration @ 6% on R 69 000.00 | | 4 140.00[1] | |
| VAT @ 14% on R4 140.00 | | 579.60[1] | |
| Balance awarded to Simon as sole heir | | <u>64 280.40 [1]</u> | |
| | | <u>69 000.00</u> | <u>69 000.00</u> |
| <u>Fiduciary Assets Account</u> | | | |
| None | | | Nil [1] |
| <u>Estate Duty Addendum</u> | | | |
| <u>Property of the deceased</u> | | | |
| Assets as per liquidation account | | | 4 505 000.00[1] |
| <u>Less</u> : Life Insurance Policy C | | 225 000.00[1] | <u>4 280 000.00</u> |
| <u>Less</u> : Difference in value of private shares | | 20 000.00[1] | <u>4 260 000.00</u> |
| <u>Less</u> : 30% on Farming property | | 690 000.00[1] | <u>3 570 000.00</u> |
| <u>Property Deemed to be Property</u> | | | |
| <u>Add</u> : Proceeds of Life Insurance Policy C | | | 225 000.00[1] |
| Proceeds of Life Insurance Policy B payable to Simon | | | 295 000.00[1] |
| Gross value of the estate | | | <u>4 090 000.00[1]</u> |

| | | |
|--|---------------|-------------------------------|
| <u>Deductions – Sect 4</u> | | |
| Costs of Administration and claims | 400 000.00 | <u>400 000.00</u> [1] |
| Net value of the estate | | 3690 000.00[1] |
| <u>Less: Primary Rebate – Sect 4A</u> | | <u>3500 000.00</u> [1] |
| Dutiable Amount | | 190 000.00[1] |
| Estate Duty at 20% on R190 000.00 | | 38 000.00[1] |
| Apportionment of estate duty payable | | |
| Simon for Insurance Policy B | | |
| R295 000.00/ R3 690 000.00 X R38 000.00 | R3 037.94 [1] | |
| Estate duty payable by the estate | | R 34 962.06 [1] |

Certificate

I the undersigned, Angela Ma, executrix in the estate of the late Jack Lee No.1369/2015, hereby declare that the estate account is to the best of my knowledge and believe a true and proper account of the liquidation and distribution account of the estate [1], and that to the best of my knowledge and belief all the assets and income collected to date of this account has been disclosed herein. [1].

Signed at Pretoria on this 10th day of December 2015 [1].

Angela Ma
Executrix

QUESTION 2**[13]**

The estate will be distributed as follows:

Dudu will firstly get her half share of the joint estate in the amount of R450 000.00 because of their marriage in community of property; [1] and the other half share of Zwane's estate will devolve as follows:

If Dudu's unborn child is born alive [1] then Dudu, Joshua, and the unborn child (nasciturus fiction) are the intestate heirs. [1]

Dudu inherits either a child's share or R250 000.00, whichever is the greater (Section 1(1)(c)) of the Intestate Succession Act, as amended. [1]

A child's share is $R450\ 000.00 \div 3 = R150\ 000.00$ [1]

Dudu therefore inherits R250 000.00 [1]

Joshua and the unborn child inherit the remainder thereof in the amount of R100 000.00 each [2] because they are descendants in terms of Section 1(1)(c) of the Intestate Succession Act.

Joshua cannot renounce his rights to inherit as he is a minor, (Section 1(6)) [1]

However, if the unborn child is not born alive [1], then Dudu will inherit R250 000.00 [1] and Joshua will inherit the remainder thereof in the amount of R200 000.00 [1]

Solly and Rose will inherit nothing. [1]

QUESTION 3**[7]**

3.1 The letter that Robert left behind is not a valid Will as it was not signed by witnesses [1].

3.2 In terms of Section 2(3) the Court is empowered to order the Master to accept a document as a valid Will [1] if the Court is satisfied that it was drafted or executed [1] by a person, who has since died [1], and who intended that document to be his or her Will [1], although it does not comply with all the formalities for the execution of Wills [1]. Therefore Steve and Doris will inherit if the court is satisfied that Robert intended the letter to be his Will [1].

QUESTION 4

[10]

CODICIL [1]

I, the undersigned,

PHILLIP NEL,

of Bloemfontein, make the following codicil to my last will and testament dated 5 October 2014.
[1]

1.

I revoke paragraph 3.5 of my said will and substitute for it the following: **[2]**

I bequeath R700 000. 00 (seven hundred thousand rand) in cash to my girlfriend Goodness.
[1]

2.

My said will remains unaltered in all other respects. **[2]**

Thus done and signed at Bloemfontein on 17 May 2015 by the testator and the undersigned witnesses, all being present at the same time. **[1]**

AS WITNESSES:

1. _____ **[½]**

2. _____ **[½]**

TESTATOR **[1]**

QUESTION 5

[4]

5.1 In terms of Section 2 B of the Wills Act No. 7 of 1953, because A died within three months of his divorce without executing another valid Will, his ex-wife will not inherit unless the contrary appears from his Will. **(3)**

5.2 If A did not execute another valid Will and more than 3 months have elapsed since his divorce, his ex-wife will inherit unless the contrary appears from his Will. **(1)**

TOTAL: [100]