

PROKUREURSEKSAMEN

DEEL 2 BOEDELS

14 FEBRUARIE 2017

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% en 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

14 FEBRUARY 2017

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 [59]

Tom en Joyce Daniel is binne gemeenskap van goed met mekaar getroud. Op 13 Januarie 2016 teken hulle 'n gesamentlike testament. Die toepaslike klousules lees soos volg:

KLOUSULE 3:

Ons benoem die langsewende van ons tot eksekuteur/eksekutrise van ons testament.

KLOUSULE 4:

Ons smelt ons onderskeie boedels saam en laat ons hele saamgesmelte boedel aan ons drie kinders in gelyke dele na, onderhewig aan 'n lewenslange vruggebruik oor die woonhuis ten gunste van die langsewende van ons.

Joyce sterf op 12 April 2016. Sy word oorleef deur Tom en hulle drie kinders David (22 jaar), Raymond (20 jaar) en Iris (18 jaar). Iris is liggaamlik gestrem, maar is bevoeg om haare sake te behartig. Die Meester aanvaar die testament as geldig. Tom adieer en, nadat hy as eksekuteur aangestel is, naderhy u om hom met die beredding van die boedel behulpsaam te wees.

U vind die volgende bates en laste:

1. Hulle woonhuis geleë te Longstraat 121, Richardsbaai, waardasie R1 500 000,00.
2. 'n 2009 Toyota Corolla geregistreer in Tom se naam, waardasie R60 000,00.
3. Meubels en huisraad gewaardeer teen R210 000,00.
4. Joyce se posseëlversameling gewaardeer teen R96 000,00.
5. 'n Sanlam polis op Joyce se lewe, met Tom as die genomineerde begunstigde. Die uitkeerwaarde is R950 000,00. Sanlam betaal R925 000,00 uit, na aftrekking van 'n lening ten bedrae van R25 000,00.

QUESTION 1 [59]

Tom and Joyce Daniel were married in community of property to each other. On 13 January 2016 they signed a joint Will. The relevant clauses of the Will read as follows:

CLAUSE 3:

We appoint the surviving spouse executor/ executrix of our Will.

CLAUSE 4:

We mass and consolidate our respective estates and bequeath our entire massed estate to our three children, in equal shares, subject to a life usufruct over the dwelling in favour of the survivor of us.

Joyce died on 12 April 2016. She was survived by Tom and their three children David (aged 22 years), Raymond (aged 20 years) and Iris (aged 18 years). Iris is physically handicapped but is capable of managing her affairs. The Master accepts the Will as valid. Tom adiates and after he is appointed Executor he approaches you to assist him to administer the estate.

You find the following assets and liabilities.

1. Their dwelling situated at 121 Long Street, Richards Bay, valued at R1 500 000,00
2. A 2009 Toyota Corolla registered in Tom's name, valued at R60 000,00
3. Furniture and household effects valued at R210 000,00
4. Joyce's stamp collection valued at R96 000,00
5. A Sanlam policy on Joyce's life, with Tom as the nominated beneficiary. The maturity value is R950 000,00. Sanlam paid out R925 000,00 after deducting a loan of R25 000,00.

- | | |
|---|---|
| 6. 'n Verband vir R1 200 000,00 ten gunste van Absa Bank oor die woonhuis te Richardsbaai. | 6. A mortgage bond in favour of Absa over the dwelling at Richards Bay, in the sum of R1 200 000,00. |
| 7. Ou Mutual polis op Tom se lewe met 'n uitkeerwaarde van R750 000,00 en 'n afkoopwaarde van R175 000,00. Tom het die maandelikse premies betaal en Joyce was die genomineerde begunstigde. Die eksekuteur besluit om nie met hierdie polis voort te gaan nie. | 7. Old Mutual policy on Tom's life with a maturity value of R750 000,00 and a surrender value of R175 000,00. Tom paid the monthly premiums and Joyce was the nominated beneficiary. The executor decided not to continue with this policy. |
| 8. 1 000 aandele in Bella Coola (Edms) Bpk wat deur die ouditeure teen R60 000,00 waardeur is en wat die eksekuteur in die loop van die beredderingsproses vir R85 000,00 verkoop. | 8. 1000 shares in Bella Coola (Pty) Ltd valued by the Auditors at R60 000,00 and sold by the Executor in the course of liquidation for R85 000,00. |
| 9. 600 aandele in Tom se naam in Cargo Bpk [wat op die Beurs genoteer is], waardasie R30 000,00 en deur die eksekuteur in die loop van die beredderingsproses vir R45 000,00 verkoop. | 9. 600 shares in Tom's name in Cargo Limited (listed on the JSE), valued at R30 000,00 and sold by the executor in the course of liquidation for R45 000,00. |
| 10. SARS se finale belastingaanslag vir R36 799,00. | 10. SARS final tax assessment of R36 799,00. |
| 11. Administrasiekoste en ander laste (uitgesonder Meestersgelde, eksekuteursloon en die laste hierbo genoem) ten bedrae van R36 000,00. | 11. Administration expenses and other liabilities (excluding Master's fees, Executors remuneration and the liabilities listed above) of R36 000,00. |
| 12. 'n Belegging in Joyce se naam by Absa Bank word uitbetaal en die eksekuteur ontvang R64 000,00. Hierdie bedrag sluit rente van R4 000,00 in vir die tydperk na afsterwe. | 12. An investment in Joyce's name with Absa, is paid out and the executor receives R64 000,00. This amount includes interest of R4 000,00 for the period after death. |

LET OP DIE VOLGENDE:

- Begrafniskoste is deur 'n familielid betaal wat nie terugbetaling van die boedel eis nie.
- Die kontanttekort, indien enige, sal deur die erfgename in gelyke dele betaal word.
- Aanvaar dat die waarde van die langlewende eggenoot se vruggebruik R300 000,00 is.

NOTE:

- Funeral expenses were paid by a family member who does not want reimbursement from the estate.
- The cash shortfall, if any, will be paid by the heirs equally.
- Assume the value of the surviving spouse's usufruct to be R300 000,00.

VERLANG:

Deur bogemelde inligting te gebruik, stel die likwidasië- en distribusierekening op ooreenkomstig die toepaslike wetgewing. Laat weg die fidusiëre bate-rekening en die inkomste- en uitgawerekening. U hoef nie die administrasiekoste te spesifiseer nie, behalwe sodanige koste waarna in die vraag verwys word. Ignoreer BTW en kapitaalwinst implikasies. U moet egter u verbeelding gebruik om ontbrekende detail aan te vul.

VRAAG 2

[27]

Henry Amis gee opdrag aan u as sy prokureur om sy testament op te stel. Hy is buite gemeenskap vangoed met Jane getroud en het een minderjarige kind. Henry wil hê dat sy kind sy hele boedel moet erf. Sou sy kind by die verdeling van sy boedel steeds minderjarig wees, moet sy hele boedel te gelde gemaak word, maar sy kind se erfenis moet nie in die Voogdyfonds inbetaal word nie. Hy wil egter nie 'n trust vir die voordeel van sy kind oprig nie. Henry wil graag hê dat sy broer die eksekuteur van sy boedel moet wees.

Stel 'n geldige testament van minstens 2 bladsye op vir Henry wat nie kan skryf nie. Hy teken sy naam deur 'n "X" te maak.

VRAAG 3

[8]

A en B was binne gemeenskap van goed met mekaar getroud. A sterf interstaat op 26 November 2015. Hy word oorleef deur –

Sy vrou B
Sy minderjarige seun P wat afstand doen
Sy getroude dogter Q wat binne gemeenskap van goed getroud is
R, sy meerderjarige seun uit 'n vorige huwelik
Sy vader S

Die gesamentlike boedel het 'n waarde van R1 800 000,00

Hoe sal A se boedel vererf?

REQUIRED:

Using the information above draft the Liquidation and Distribution Account according to the applicable legislation. Leave out the fiduciary asset account and the income and expenditure account. You need not specify the administration expenses other than those referred to in the question. Ignore VAT and CGT implications. However, use your imagination to fill in any detail that is lacking.

QUESTION 2

[27]

Henry Amis instructs you as his attorney to draw his will. He is married out of community of property to Jane and has one minor child. Henry wants his child to inherit his whole estate. If the child is still a minor at the time of distribution of Henry's estate, his whole estate must be reduced to cash, but the inheritance must not be paid into the Guardian's Fund. However, he does not want to create a trust for the benefit of the minor child. Henry wants his brother Kevin to be the executor of his will.

Draw a valid will of at least two pages for Henry who cannot write. He signs his name by making an "X".

QUESTION 3

[8]

A and B were married in Community of Property. A died intestate on 26 November 2015. He is survived by:

B, his wife
P, his minor son, who renounces
Q, his major daughter, who is married in community of property
R, his major son from a previous marriage
S, his father

The joint estate is worth R1 800 000,00.

How will A's estate devolve.

VRAAG 4 [6]

B, 'n weduwee, sterf in 2016 en laat 'n boedel met 'n netto waarde van R9 000 000.00. Sy laat haar boedel na aan haar twee kinders in gelyke dele.

B se man A is in 2014 oorlede. Hy het 'n boedel van R6 000 000.00 gehad wat hy in sy testament aan B nagelaat het.

Bereken die boedelbelasting (indien enige) wat in B se boedel betaalbaar is.

QUESTION 4 [6]

B, a widow, dies in 2016 leaving an estate with a net value of R 9 000 000.00. She leaves her estate to her 2 children in equal shares.

B's husband A died in 2014 leaving an estate of R 6 000 000.00, which he left to B in his will.

Calculate the estate duty (if any) payable in B's estate.

- DIE EINDE -

- THE END -

LAW SOCIETY
OF SOUTH AFRICA