

PROKUREURSEKSAMEN

DEEL 2 BOEDELS

22 AUGUSTUS 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 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

22 AUGUST 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 [64]

Jafta Tsuma sterf op 1 Maart 2017 en word oorleefdeur sy twee eggenotes, Thulien Zodwa, met wie hy kragtens gewoontereg getroud was (buite gemeenskap van goed sonder aanwas). Hy word ook oorleef deur sy moeder Sarah en sy dogter Tinny wat op 16 Januarie 1985 gebore is. Jafta laat in sy testament sy hele boedel aan sy moeder na. Sy tweede vrou Zodwa word as eksekutrise van sy boedel aangestel en sy is nie vir BTW geregistreer nie.

A. Die ondergemelde bates word in sy boedel gevind:

1. 'n Plaas wat hy van sy oorlede vader Nelson geërf het waarop hy met sy gesin gewoon het. Daar is nie op die plaas geboer nie. Die plaas word teen R1 100 000.00 gewaardeer.
2. Meubels en huishoudelike goedere ter waarde van R 80 000.00.
3. Die opbrengs van 'n Sanlam lewenspolis ten bedrae van R475 000.00 word aan die eksekutrise uitbetaal na aftrekking deur Sanlam van 'n lening teen die polis van R25 000.00.
4. Die opbrengs van 'n Liberty Life ver-sekeringspolis op die oorledene se lewe ten bedrae van R150 000.00 wat aan Tinny as die benoemde begunstigde betaal word.
5. 'n Vaste bedrag Ou Mutual lewenspolis wat deur Jafta op sy moeder Sarah se lewe uitgeneem is. Hierdie polis word nie deur die eksekutrise oorgedra nie en het 'n afkoopwaarde van R145 000.00. Die waarde van die lewensdekking op Sarah se lewe is R400 000.00.
6. 'n BMW op die oorledene se naam teen R140 000.00 deur 'n taksateur gewaardeer. Die eksekutrise verkoop hierdie voertuig op 4 Mei 2017 uit die hand vir

QUESTION 1 [64]

Jafta Tsuma died on 1 March 2017 and is survived by his two wives Thuli and Zodwa to whom he was married according to customary law, out of community of property without the accrual system. He is also survived by his mother Sarah and his daughter Tinny, who was born on 16 January 1985. Jafta made a will leaving his entire estate to his mother. His 2nd wife Zodwa is appointed as the executrix to attend to the administration of the estate and she is not registered for VAT.

A. The undermentioned assets were found in his estate:

1. A Farm, which he inherited from his late father Nelson and on which he was residing with his family and where there was no farming undertaking taking place, valued at R1 100 000.00.
2. Furniture and household effects valued at R 80 000.00.
3. Policy proceeds of Sanlam Life Insurance in the amount of R475 000.00 are paid to the executrix after deduction by the insurance company of a loan against the policy in the amount of R25 000.00.
4. The proceeds of a Liberty Life Insurance Policy on the deceased's life payable to Tinny as the nominated beneficiary in the amount of R150 000.00.
5. A fixed value Old Mutual Life Insurance Policy taken out by Jafta on the life of his mother Sarah. This policy has not been transferred and has a surrender value of R145 000.00 and the value of the life cover on Sarah's life is R400 000.00.
6. A BMW in the deceased's name valued by the appraiser at R140 000.00. The executrix sold this vehicle out of hand for R130 000.00 on 4 May 2017 and the pro-

R130 000.00 en die opbrengs word op dieselfde dag in die boedelbankrekening inbetaal.

7. 200 aandele van R200 elk in PPC (EDMS) BPK wat deur die ouditeur teen R1300.00 per aandeel soos op sterfdatum gewaardeer word (deur die Hoof Inkomste-inspekteur goedgekeur) en wat in die loop van bereddering vir R270 000.00 verkoop word.
8. Genoteerde aandele word vir R350 000.00 verkoop. Kommissie van 5% op die verkoopprijs word aan die aandelermakelaar betaal.
9. Die oorledene het 'n belegging van R100 000.00 by Trust Bank. Die eksekutrisse realiseer hierdie belegging vir R131 000.00 waarvan R6000.00 ten opsigte van na-doodse rente is.
- B. Die vader van die oorledene, Nelson Tsuma, wat op 3 Mei 2007 oorlede is, het in sy testament sy vakansiehuis in Durban aan die oorledene bemaak onderhewig aan die voorwaarde dat dit na Jafta Tsuma se oorlye op Nelson Tsuma se kleindogter Tinny Tsuma moet oorgaan. Die vakansiehuis is op 1 Maart 2017 teen R600 000.00 gewaardeer. Die ooreengekome waardasiekoste beloop R1 700.00 en die oordragkoste R6 300.00. Die waarde van die stakende fidusiële reg bedra R594 871.20 vir boedelbelastingdoeleindes.

Stel die gehele likwidasië- en distribusierekening in die boedel van wyle Jafta Tsuma op vir indiening by die Meester. Spesifiseer die nodige uitgawes. Die begrafniskoste, administrasiekoste en ander laste bedra R220 000.00 in totaal. Gebruik denkbeeldige inligting waar nodig.

ceeds were paid into the estate banking account on the same day.

7. 200 shares of R200 each in PPC(Pty) Ltd, valued by the auditor at R1300.00 per share (as approved by Chief Revenue Inspector) as at the date of death and sold in the course of liquidation for R270 000.00.
8. JSE quoted shares sold for a total amount of R350 000.00. The Stockbrokers' commission of 5% on the selling price is payable to stockbrokers on this deal.
9. The deceased had an investment of R100 000.00 with Trust Bank. The executrix realizes this investment for R131 000.00 of which R6 000.00 is in respect of interest accrued after date of death.
- B. The father of the deceased, Nelson Tsuma, who died on the 3rd of May 2007, bequeathed in his will his holiday house in Durban to the deceased subject to the provision that it should after Jafta Tsuma's death go to Nelson Tsuma's granddaughter Tinny Tsuma. The holiday house was valued on 1 March 2017 for R600 000.00. The agreed valuation costs amounted to R1 700.00 and the negotiated transfer costs amounted to R6 300.00. The value of the ceasing fiduciary right for estate duty purposes amounts to R594 871.20.

Draft the entire Liquidation and Distribution Account in the estate of the late Jafta Tsuma to be submitted to the Master of the High Court. Specify the necessary expenses. The funeral expenses, administration costs and other liabilities total R220 000.00. Use imaginary information where necessary.

VRAAG 2 [11]

U klient Raymond was die aangenome seun van Dickson wat buite gemeenskap van goedsonder aanwas met Raymond se moeder Maggie getroud was. Raymond sterf intestaat en word deur die volgende persone oorleef:

- a) Sy voormalige vrou Julia
- b) Sy biologiese vader Freddy
- c) Jane, die vorige vrou van Dickson
- d) David en George, die kinders van Jane en Dickson
- e) Simon en Hilda, die kinders van Maria synde die vooroorlede dogter van Dickson uit sy eerste huwelik met Dorcas
- f) Sy moeder Maggie
- g) Sy suster Sarah synde die kind van Dickson en Maggie
- h) Dickson se vader Paul wat vir Dickson vanaf ouderdom 16 grootgemaak het.

2.1. Sy netto boedel bedra R800 000.00 bestaande slegs uit kontant. Wie is Raymond se erfgename en hoe sal sy boedel verdeel word? (6)

2.2. Wie, indien enige, van bogenoemde persone sal nie erf nie, en waarom nie? (5)

VRAAG 3 [7]

Jessica verly 'n testament waarin sy kontant van R500 000.00 aan haar kêrel Surprise bemaak. Nege maande later, na 'n ernstige argument, trek Jessica 'n streep deur Surprise se naam in haar testament en skryf haar broer Steve se naam bokant Surprise se deurgehaalde naam. Sy teken langsaan. Jessica sterf 'n jaar later en Surprise, wat kennis gedra het van die bemaking aan hom, nader u met die vraag of hy, of Steve, op die bemaking geregtig is.

Adviseer u klient volledig.

QUESTION 2 [11]

Your client Raymond was an adopted son of Dickson who was married out of community of property without accrual to his mother Maggie. Raymond died intestate and is survived by the following people:

- a) His ex-wife Julia
- b) His biological father Freddy
- c) Jane, the ex-wife of Dickson
- d) David and George, the children of Jane and Dickson
- e) Simon and Hilda, the children of Maria, the pre-deceased daughter of Dickson from his first marriage to Dorcas
- f) His mother Maggie
- g) His sister Sarah, who is the child of Dickson and Maggie
- h) Dickson's father Paul, who raised him since the age of 16 years.

2.1. His net estate is worth R800 000.00 consisting of cash only. Who are Raymond's heirs and how will his estate be distributed? (6)

2.2. Who, if any, of the above mentioned persons will not inherit, and explain why not? (5)

QUESTION 3 [7]

Jessica executed a will in which she bequeathed a cash legacy of R500 000.00 to her boyfriend Surprise. Nine months later they had a serious disagreement and Jessica drew a line through the name of Surprise in her will and wrote her brother, Steve's name above Surprise's deleted name. She signed next to it. Jessica died a year later and Surprise, who knew about the bequest to him, now approaches you with the question as to whether he or Steve is entitled to the legacy.

Advise your client fully.

VRAAG 4 [18]

- 4.1 Verduidelik die volgende met betrekking tot die eksekuteur se plig om kennisgewings tydens die beredding van 'n boedel te plaas:
- a) Watter kennisgewings moet geplaas word? (2)
 - b) Wanneer moet hierdie kennisgewings geplaas word? (2)
 - c) Waar moet die kennisgewings geplaas word? (2)
 - d) Wat is die duur van die onderskeie kennisgewingstydperke? (2)
 - e) Wat is die doel van die kennisgewings? (2)
- 4.2 Onder welke omstandighede kan 'n eksekuteur datief aangestel word? (2)
- 4.3 Onder welke omstandighede kan 'n boedelvertegenwoordiger in terme van artikel 18(3) aangestel word? (1)
- 4.4 Onder welke omstandighede mag die Meester afsien van die vereiste van sekerheidstelling? (4)
- 4.5 Onder welke omstandighede moet 'n eksekuteur 'n bankrekening oopmaak? (1)

QUESTION 4 [18]

- 4.1 With regard to the duty of the executor to place notices when administering the deceased estate, explain the following:
- a) Which notices must be placed? (2)
 - b) When should these notices be placed? (2)
 - c) Where must the notices be placed? (2)
 - d) What is the duration of the respective notices? (2)
 - e) What is the aim of the notices? (2)
- 4.2 Under which circumstances can an executor dative be appointed? (2)
- 4.3 Under which circumstances can an estate representative in terms of section 18(3) be appointed? (1)
- 4.4 Under which circumstances may the Master dispense with the requirement of security by the executor? (4)
- 4.5 Under which circumstances must the executor open a bank account? (1)

- DIE EINDE -

- THE END -