

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

22 AUGUST / 22 AUGUSTUS 2017

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

[64]

The first and final liquidation and distribution account in the Estate of the late Jafta Tsuma ID 490425 5499 088, [1] who died on 1 March 2017 [1] and who was married according to customary law, out of community of property without the accrual system. [1]

Master's Reference No. 854/2017

[1]

(Please note the answer to question 1 continues on next page, kindly turn page.)

<u>Liquidation account</u>		
<u>Assets</u>		
<u>Immovable property</u>		
Farm 188 Marikos Registration Division JR, Province of Gauteng Measuring 1600ha. Held by Deed of Transfer No. T1346/1998 [1] Valued at (to be awarded to Sarah Tsuma, as sole heir i.t.o. the deceased's Will dated 10 June 2015) [1]	1	1 100 000.00 [1]
<u>Movable property</u>		
Furniture and household effects Valued at (to be awarded to Sarah Tsuma, as sole heir i.t.o. the deceased's Will dated 10 June 2015)[1]	2	80 000.00 [1]
A BMW Registration FXJ 515 GP Sold for	3	130 000.00 [1]
Sanlam Life Insurance Policy No. 137345x8 Proceeds of Policy	4	500 000.00 [1]
Old Mutual Life Insurance Policy No. OM345Y At surrender value	5	145 000.00 [1]
Shares in PPC (Pty) Ltd Sold at	6	270 000.00 [1]
JSE quoted shares Sold at	7	350 000.00 [1]
Investment at Trust bank		
Capital amount	8	100 000.00 [1]
Interest as @ date of death	9	<u>25 000.00 [1]</u>
Total Assets		<u>2 700 000.00 [1]</u>

<u>Liabilities</u>		
<u>Administration costs</u>		
<u>Advertising for Debtors and Creditors</u>	10	
Government Gazette		37.50[1]
The Star		312.50
<u>Advertising Account for inspection</u>	11	
Government Gazette		37.50 [1]
The Star		312.50
Master's fees (Maximum)	12	600 [1]
Executor's fees at 3.5% on R2 700 000.00	13	94 500.00 [1]
JP Baritos Valuation costs: farm and movable properties	14	10 000.00 [1]
D Daniels Attorneys – Conveyancer's fees	15	17 000.00 [1]
Bank charges	16	12 000.00 [1]
Provision on Bank charges	17	8 000.00 [1]
Postages and Petties	18	260.00 [1]
<u>Claims against the estate</u>		
RESTING SOUL – funeral expenses	19	34 440.00[1]
Loan against Liberty Life Policy	20	25 000.00[1]
Stockbroker's fees	21	17 500.00[1]
Total Liabilities		<u>220 000.00</u>
Estate Duty		0.00
Balance for distribution		<u>2 480 000.00</u> <u>2 700 000.00</u>
<u>Recapitulation Statement</u>		
Cash and assets reduced to cash (Items 3 to 9 in the Liquidation Account)		1 520 000.00[2]
<u>Less:</u>		
Liabilities		220 000.00[1]
Cash Legacies		NIL

Estate Duty	NIL	
Cash surplus	<u>1 300 000.00</u> ^[1]	<u>1 520 000.00</u>
	<u>1 520 000.00</u>	<u>1 520 000.00</u>
<u>Distribution Account</u>		
Balance for distribution		2 480 000.00 ^[1]
Awarded to:		
Sarah Tsuma, major surviving mother of the deceased, as sole heir i.t.o. clause 5 of the Will dated 10 June 2015 ^[1]	2 480 000.00 ^[1]	
<u>Award consists of:</u>		
Immovable property		
R1 100 000.00 ^[1]		
Movable property R 80 000.00		
^[1]		
Cash		
R1 300 000.00 ^[1]		
	<u>2 480 000.00</u>	<u>2 480 000.00</u>
<u>Income & Expenditure Account</u>		
<u>Income</u>		
Interest received on Trust bank account		6 000.00 ^[1]
<u>Expenditure</u>		
Executor's remuneration @ 6% on R6 000.00	360.00 ^[1]	
Balance awarded to Sarah Tsuma as the sole heir ^[1]	<u>5 640.00</u> ^[1]	
	<u>6 000.00</u>	<u>6 000.00</u>
<u>Fiduciary Assets Account</u>		
ASSETS:		
ERF 243 Ethekwini		
Registration Division FU, Province of Kwazulu Natal:		
Measuring: 800 m ²		
Held under Deed of Transfer No 764/69 ^[1]		
And Registered on 1 May 1969		
Valued at	22	600 000.00 ^[1]

(Awarded and to be transferred to Tinny Tsuma major granddaughter i.t.o. clause 4 of the Will of Nelson Tsuma whose estate was administered at the Pretoria Master's office No 637/2007) [1]		
LIABILITIES:		
Valuation Costs	23	1 700.00 [1]
D DANIELS Attorneys – transfer costs	24	6 300.00 [1]
Executor's fees at 3.5% on R600 000.00	25	21 000.00 [1]
Balance for distribution		<u>571 000.00</u>
To be awarded to Tinny Tsuma in terms of clause 4 of the valid Will of her late grandfather, Nelson Tsuma who died on 3 May 2007 (Master's ref no 637/2007)		<u>600 000.00</u>
<u>Distribution Account</u>		
Balance for distribution		571 000.00 [1]
Awarded to: Tinny Tsuma, major, as fideicommissary heir in terms of clause 4 of the valid Will of Nelson Tsuma.		
<u>Award consist of:</u>		
Immovable property		600 000.00[1]
Less: Cash shortfall to be paid by the estate of the late Jafta Tsuma		29 000.00 [1]
		<u>600 000.00</u>
		<u>600 000.00</u>
<u>Estate Duty Addendum</u>		
<u>Property of the deceased</u>		
Assets as per liquidation account		2 700 000.00 [1]
<u>Less:</u> Sanlam Life Policy payable to estate	500 000.00 [1]	
		<u>2 200 000.00</u>
<u>Less:</u> Difference in value of private shares	10 000.00 [1]	2 190 000.00
<u>Add</u> Value of Ceasing Fiduciary Right		
(Age of Tinny Tsuma which follows on 1/03/2017=33 years		

Raymond's Estate will devolve as follows:

- 2.1 his mother Maggie inherits half of the estate in terms of Section 1(1)(d) (ii) of the Intestate Succession Act in the amount of R400 000.00 **[1]**

David inherits R100 000.00 in terms of Section 1(1)(d) (ii) of the Intestate Succession Act because he is the descendant of Raymond's adoptive father **[1]**

George inherits R100 000.00 in terms of Section 1(1)(d) (ii) of the Intestate Succession Act because he is the descendant of Raymond's adoptive father **[1]**

Simon, the child of the pre-deceased daughter Maria from Dickson's 1st marriage to Dorcas inherits R50 000.00 in terms of Section 1(4)(a) of the Intestate Succession Act because he represents the descendant of Raymond's adoptive father **[1]**

Hilda, the child of the pre-deceased daughter Maria from Dickson's 1st marriage to Dorcas inherits R50 000.00 in terms of Section 1(4)(a) of the Intestate Succession Act because she represents the descendant of Raymond's adoptive father **[1]**

Sarah, who is the child of Dickson and Maggie inherits R100 000.00 in terms of Section 1(1)(d) (ii) of the Intestate Succession Act because she is the descendant of Raymond's adoptive father **[1]**

- 2.2 His divorced wife Julia cannot inherit because she was not Raymond's wife at the time of his death **[1]**

Jane and Dorcas, the previous spouses of Raymond's adoptive father Dickson, will not inherit because they are not the blood relations of Raymond **[1]**

His biological father Freddy will not inherit anything because Raymond is not deemed to be his descendant in terms of Section 1(4)(e) (ii) of the Intestate Succession Act as he was adopted by Dickson **[2]**

Dickson's father Paul will not inherit anything because he is a more remote relation of the deceased **[1]**

QUESTION 3**[7]**

The Testatrix attempted to amend her Will, and in terms of Section 2(1)(b) of the Wills Act **[1]**, she and two competent witnesses should sign at the amendment **[1]**. Because no witnesses signed, the amendment is invalid **[1]** and Surprise will inherit **[1]**.

Steve can approach the High Court **[1]** and if he can prove to the Court that it was the intention of the Testatrix to effect the amendment **[1]**, the Court can order the amendment to be accepted even if it was not formally correct (Section 2(3)) **[1]**.

4.1

- a) Notice to debtors and creditors **[1]** and that the Liquidation and Distribution account lies open for inspection **[1]**
(Also : Sect 29 –advertisement and Sect 35 – advertisement).
- b) Sect 29 – as soon as possible after receipt of the Letters of Executorship **[1]**
Sect 35 – after the estate account has been approved by the Master **[1]**
- c) Government Gazette and a Local newspaper circulating in the area where the deceased was ordinarily resident and if resided in any other area for a period of 12 months immediately preceding his date of death also in a newspaper circulating in that area. **[2]**
- d) Sect 29 = 30 days and not more than 3 months **[1]**
Sect 35 = 21 days **[1]**
- e) Sect 29 = to request creditors to submit their claims against the estate **[1]**
Sect 35 = to give interested parties the opportunity to lodge an objection against the estate account **[1]**
- 4.2 Where the deceased did not appoint an executor in his will **[1]** or the executor appointed is not prepared or is unable to act or ceases to act or where there is no will **[1]**
- 4.3 Where the value of the estate does not exceed R250 000.00 **[1]**
- 4.4 If the executor is not exempted from furnishing security by the will **[1]**, and he is not a parent **[1]**, child or surviving spouse **[1]** of the deceased or the court directs otherwise **[1]**
- 4.5 As soon as there is money in excess of R1 000,00 in the estate unless the master otherwise directs. **[1]**

TOTAL: [100]