

PROKUREURSEKSAMEN

DEEL 2 BOEDELS

15 OKTOBER 2018

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 drup.

ATTORNEYS' EXAMINATION

PART 2 ESTATES

15 OCTOBER 2018

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 [63]

Anthony Naidoo en Vanessa was met mekaar buite gemeenskap van goed getroud, onderhewig aan die aanwasbedeling. Anthony is op 9 Augustus 2018 intestaat oorlede en word oorleef deur sy vrou en sy broer Thillay. Sy vrou word as eksekutrise aangestel en sy is nie vir BTW geregistreer nie. Anthony se boedel bestaan uit die volgende:

1. 'n Plaaswaarophy en sy vrou gewoon het, gewaardeer teen R1 500 000.00. Geen boerdery-onderneming is op die plaas bedryf nie.
2. Meubels deur die oorledene aangekoop, gewaardeer teen R213 000.00.
3. 'n 9mm Parabellum pistool met 'n waarde van R4 050.00.
4. Opbrengs van 'n Ou Mutual lewenspolis op die oorledene se lewe ten bedrae van R780 000.00. Die polis is deur die oorledene se broer Thillay uitgeneem. Die premies is deur die broer betaal, en die premies plus 6% rente het op sterfdatum R80 000.00 bedra. Die opbrengs is aan Thillay uitbetaal.
5. Oortrokke bankrekening by Absa Bank ten bedrae van R200 000.00 wat gedek was deur 'n versekeringspolis uitgereik deur Liberty Life, welke polis aan die bank as sekuriteit gesedeer is. Hierdie polis het lewensdekking van R200 000.00 op Anthony se lewe gehad.
6. Ornamente en juweliersware verkoop vir R165 000.00.
7. 'n Toyota Run X op die oorledene se naam, verkoop vir R120 000.00.
8. 700 aandele in A.R.L. (Edms) Bpk op naam van die oorledene, gewaardeer deur die ouditeurs soos op sterfdatum teen R210.00 per aandeel (soos deur 'n Hoof Inkomste Inspekteur goedgekeur) en in die loop van die beredderingproses vir R142 000.00 verkoop.

QUESTION 1 [63]

Anthony Naidoo and Vanessa were married to each other out of community of property with accrual. Anthony died intestate on 9 August 2018 and was survived by his wife and his brother Thillay. His wife was appointed as the Executrix and she is not registered for VAT. Anthony's estate comprises the following:

1. A farm on which he was residing with his wife and on which there was no farming undertaking taking place, valued at R1 500 000.00.
2. Furniture purchased by the deceased valued at R 213 000.00.
3. A 9mm Parabellum pistol valued at R4 050.00.
4. Proceeds of Old Mutual Life Insurance Policy on the deceased's life in the amount of R780 000.00. The policy was taken out by the deceased's brother, Thillay. The premiums were paid by the brother and the premiums plus 6% interest amounted to R80 000.00 at deceased's death. The proceeds were paid to Thillay.
5. Bank overdraft with Absa Bank in the amount of R200 000.00 which was covered by an insurance policy issued by Liberty Life company which was ceded to the bank as security. This policy had life cover on the life of Anthony for R200 000.00.
6. Ornaments and Jewellery sold for R 165 000.00.
7. A Toyota Run X in the deceased's name sold for R120 000.00.
8. 700 shares in A.R.L. (Pty) Ltd in the deceased's name, valued by the Auditors as at the date of death at R210.00 per share (as approved by a Chief Revenue Inspector) and were sold in the course of liquidation for R142 000.00.

9. Die oorledene het 'n belegging van R800 000.00 by VB-Bank gehad. Die eksekutrisemaak hierdie belegging tegelde vir R816 000.00 waarvan R9 950.00 opgehoopte rente tot sterfdatum verteenwoordig.
10. Die oorledene se 900 aandele in EBS Bpk, 'n maatskappy wat op die JSE genoteer is, welke aandele deur 'n aandelemakelaar gewaardeer word teen R146 000.00 soos op sterfdatum. 'n Dividend van R15.50 per aandeel word op 1 September 2018 verklaar en betaal, en is deur die eksekutris ingevorder.
11. Die langslewende eggenote het 'n aanwaseis ten bedrae van R105 000.00 teen die bestorwe boedel.
12. Begrafniskoste beloop R18 400.00.

Boedellaste, eise en administrasiekoste, bedra R500 000.00 in totaal.

Stel die volledige likwidasië- en distribusierekening op in die boedel van wyle Anthony Naidoo vir indiening by die Meester van die Hoë Hof. Spesifiseer die nodige kostes en uitgawes. Gebruik denkbeeldige inligting waar nodig.

VRAAG 2

[13]

Bruce Williams sterf intestaat en word oorleef deur sy vrou Rose met wie hy binne gemeenskap van goed getroud was en wat 5 maande swanger met hulle kind is. Hy word ook deur die volgende persone oorleef:

- Sy seun Judas wat hom vermoor het;
- Judas se seun Simon;
- Moses en Joseph, synde die seuns van sy vooroorlede broer Steve;
- Sy seun Daniel uit 'n vorige huwelik;
- Sy meerderjarige dogter Vivian wat van haar erfenis afstand doen;

9. The deceased had an investment of R800 000.00 with VB-Bank. The executrix realises this investment for R816 000.00 of which R9 950.00 is in respect of interest accrued at date of death.
10. The deceased's 900 shares in EBS 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 R15.50 per share is declared and paid on 1 September 2018 and has been collected by the executrix.
11. The surviving spouse has an accrual claim against the deceased's estate in the amount of R105 000.00.
12. The funeral expenses amount to R18 400.00.

All liabilities, claims and costs of administration total the amount of R500 000.00.

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

QUESTION 2

[13]

Bruce Williams died intestate and was survived by his wife Rose to whom he was married in community of property and who is 5 months pregnant with their child. He was also survived by the following people:

- His son Judas, who murdered him;
- Judas's son Simon;
- Moses and Joseph the sons of his late brother Steve;
- His son, Daniel, from a previous marriage;
- His major daughter Vivian who has renounced any inheritance from Bruce's estate;

- f. Vivian se seun David
g. Symeerderjarige aangenome dogter Dolly.

Die gesamentlike boedel bedra R1 200 000.00 en bestaan slegs uit kontant.

Adviseer die Williams-familie oor wie Bruce se erfgename is en welke bedrag elkeen erf. Verskaf redes waar nodig.

VRAAG 3 [17]

'n Man en sy vrou wat buite gemeenskap van goed met mekaar getroud is, wil graag die boedels van beide van hulle aan hulle enigste kind nalaat by die dood van die eerssterwende van hulle, onderhewig aan die lewenslange vruggebruik van die langsliewende.

- 3.1 Stel die klousule in hulle gesamentlike testament op wat gevolg aan hulle wense gee. (5)
- 3.2 Stel 'n adiasiesertifikaat op wat vir die Meester van die Hoë Hof aanvaarbaar sal wees in die feitelike omstandighede hierbo genoem. (12)

VRAAG 4 [7]

Joel Steyn sterf kinderloos op 1 Mei 2018. Hy word oorleef deur sy eggenote Ruth Steyn met wie hy buite gemeenskap van goed getroud was. Ruth word in sy testament tot eksekutrice benoem en sy nader u om as haar agent op te tree wat die bereddering van die boedel betref. Sy deel u mee dat sy nie by haar man se sterfbed teenwoordig was en ook nie sy lyk na sy afsterwe uitgeken het nie. Geen boedelbelasting is betaalbaar nie. Terwyl u die boedel beredder, besef u dat u nie die likwidasië- en distribusierekening betyds by die Meester sal kan indien nie. Die rede hiervoor is dat u nog vir die Ontvanger van Inkomste wag om u van 'n inkomstebelastingaanslag te voorsien (wat nodig is aangesien die oorledene ten tye van sy dood 'n inkomste as werknemer verdien het). Doen aansoek by die Meester van die Hoë Hof om uitstel vir indiening van gemelde rekening.

- DIE EINDE -

- f. Vivian's son David
g. His major adopted daughter Dolly

The joint estate amounted to R1 200 000.00 consisting of cash only.

Advise the Williams family as to who are Bruce's heirs and what amount each will inherit. Give reasons where necessary.

QUESTION 3 [17]

A husband and wife married out of community of property to each other, wish to leave both their estates to their only child upon the death of the first dying of them, subject to the lifelong usufruct of the survivor.

- 3.1 Draft the clause in their joint Will which gives effect to their wishes. (5)
- 3.2 Draft an adiation certificate which will be acceptable to the Master of the High Court in the factual circumstances detailed above. (12)

QUESTION 4 [7]

Joel Steyn died on the 1st of May 2018. He died childless and was survived by his spouse Ruth Steyn to whom he was married out of community of property. Ruth was nominated as the executrix in his Will and she approaches you to act as her agent in the administration of his estate. She informs you that she was not present at his deathbed and she did not identify his body after his death. No estate duty is payable. While administering the estate you realize that you will be unable to lodge the liquidation and distribution account to the Master of the High Court in time as you are waiting on the Receiver of Revenue to provide you with an income tax assessment, which is needed as the deceased was employed at the time of death. Make an application to the Master of the High Court requesting an extension of time within which to lodge the account.

- THE END -