

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

6 MARCH / MAART 2019

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

[60]

LIQUIDATION ACCOUNT

ASSETS:

IMMOVABLE PROPERTY

Erf 221 Randburg Registration Division ET,
Province of Gauteng Measuring One Thousand
Two Hundred (1200) square metres
Held under Deed of Transfer No. T21760/2000 (1)

At Valuation

1 3 800 000,00 (1)

MOVABLE PROPERTY

Toyota Hilux XVT 21 GP 2 280 000,00 (1)

Household Furniture and Personal Effects 3 260 000,00 (1)

CASH AND ASSETS REDUCED TO CASH

200 Old Mutual Shares : Realised 4 48 000,00 (1)

1000 shares in Bold Investments (Pty) Limited:
Realised 5 68 000,00 (1)

Proceeds of Liberty Life Policy No. 62134 6 800 000,00 (1)

Absa Fixed Deposit Account No. X12714 7 624 000,00 (1)

Standard Bank Savings Account No. 0512714 8 54 000,00 (1)

TOTAL ASSETS

5 934 000,00
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DIVESTMENT NOTE:-

Asset items 1,2 & 3 are awarded to the

Intestate heirs in terms of Act No. 81 of 1987 as will more fully appear in the distribution account (2)

LIABILITIES :-

Administration Expenses;

Masters Fees (maximum)	9	7 000,00	(2)
Executor's fees @ 3.5% of R5 934 000,00)	10	207 690,00	(2)
Other administration expenses	11	204 010,00	(1)
Claim's against the Estate :			
SARS final assessment	12	72 000,00	(1)
Standard Bank Credit Card Account No. 400127163	13	16 700,00	(1)
Absa Mortgage Bond	14	825 000,00	(1)

Total liabilities	1 332 400,00
Estate Duty	NIL
Balance available for Distribution	4 601 600,00 (1)
	5 934 000,00

RECAPITULATION STATEMENT:-

Cash and assets reduced to cash		
(Items 4,5,6,7 and 8 of the Liquidation Account)		1 594 000,00 (2)
Liabilities	1 332 400,00 (1)	
Surplus	261 600,00 (1)	
	1 594 000,00	1 594 000,00

DISTRIBUTION ACCOUNT:-

Balance available for distribution 4 601 600,00(1)

1. Awarded to Leah Zama, surviving spouse, unmarried
1.1 one half of the estate by virtue of her
marriage in Community of Property 2 300 800,00(1)

1.2 in terms of Section 1(1)(c)(i) of the
Intestate Succession Act No. 81 of
1987 575 200,00 (1) 2 876 000,00

NOTE: The surviving spouse receives $\frac{1}{2}$ (50%) plus $\frac{1}{8}$ (12.5%) of the net estate. Each child inherits $\frac{1}{8}$ (12.5%) of the net estate.

The above award consists of:-

Immovable property :	R	2 375 000,00	(1)
Movables :	R	337 500,00	(1)
Cash :	R	163 500,00	(1)

2. Awarded to Ray Zama, major son in terms of
Section 1(1) (c)(ii) of the Intestate Succession
Act No. 81 of 1987 575 200,00 (1)

The above award consists of:-

Immovable property :	R	475 000,00	(1)
Movables :	R	67 500,00	(1)
Cash :	R	32 700,00	(1)

3. Awarded to Rita Zama, minor daughter
born on 17 December 2002,
Identity No. 021217 5135 08 7,(1)
in terms of Section 1 (c) (ii) of the Intestate
Succession Act No. 81 of 1987 575 200,00 (1)

The above award consists of:-

Immovable property :	R	475 000,00	($\frac{1}{2}$)
Movables :	R	67 500,00	($\frac{1}{2}$)
Cash :	R	32 700,00	($\frac{1}{2}$)

4. Awarded to Roy Zama, major son
in terms of Section 1 (c) (ii) of the Intestate
Succession Act No. 81 of 1987 575 200,00 (1)

The above award consists of:-

Immovable property:	R	475 000,00	(½)
Movables	: R	67 500,00	(½)
Cash	: R	32 700,00	(½)

4 601 600,00
=====

INCOME AND EXPENDITURE ACCOUNT :-

Interest on fixed deposit with Absa Bank	1			12 000,00	(1)
Executors fees 6%	2	720,00	(1)		
Standard Bank Credit Card : Interest	3	1 170,00	(1)		
Balance available for distribution to the intestate heirs in the same proportions as in the distribution account				10 110,00	(1)

12 000,00 12 000,00
=====

ESTATE DUTY ADDENDUM:-

Assets of the Deceased as per the Liquidation Account				5 934 000,00	(1)
LESS adjustment in valuation of shares In Bold Investments (Pty) Ltd				5 000,00	(1)

5 929 000,00
800 000,00 (1)

LESS proceeds of Liberty Life Policy

LESS surviving spouse's half share

5 129 000,00
2 564 500,00 (1)

2 564 500,00

ADD Deemed Property

Liberty Life Policy
Sanlam Policy

R800 000,00 (1)
R1 500 000,00(1)

2 300 000,00

Gross Value of Estate

4 864 500,00 (1)

LESS liabilities ½ share

R666 200,00 (1)

LESS Section 4(q):

Inheritance
Sanlam Policy

R575 200,0 (1)
R1 500 000,00(1)

2 741 400,00

Net Value of Estate

2 123 100,00 (1)

LESS Section 4A Rebate

3 500 000,00 (1)

NIL
=====

Therefore no Estate Duty payable(1)

EXECUTOR'S CERTIFICATE

I, the undersigned hereby certify that to the best of my knowledge and belief this account is a true and proper account of the liquidation and distribution of the estate (1) and that all assets and income collected subsequent to the death of the deceased to the date of this account (1) have been disclosed herein (1)

DATED AT RANDBURG ON _____ DAY OF _____ 2018

EXECUTOR

QUESTION 2

[11]

- 2.1 In view thereof that Jason died within 3 months after he was divorced (1), Section 2(B) of the Wills Act will be applicable (1). Sarah is considered to have died before Jason (1) and Sarah will therefore not benefit in terms of the Will (1). As Jason has died without leaving issue, his new wife Emily will be the sole beneficiary in terms of the Intestate Succession Act 81 of 1987, as amended (1).
- 2.1 Yes (1). Because the Will was not altered after the divorce (1), and because more than 3 months has lapsed since divorce (1), Sarah regains her status as a beneficiary (1). Sarah will therefore inherit in terms of Jason's Will (1). His new wife will only have a claim against the estate for maintenance (1) in terms of the Maintenance of Surviving Spouses Act No. 27 of 1990, as amended.

QUESTION 3

[10]

The Will is invalid because it was not witnessed. His estate therefore devolves in accordance with the law of intestate succession. (2)

His estate devolves as follows:

- i. His ex wife, Nel - nil; (1)
- ii. His brother, Kurt – R 250 000.00; (1)
- iii. Kurt's wife Mona – nil; (1)
- iv. His sister Eileen's estate – R 250 000.00; (1)
- v. Eileen's daughter Clarice – nil; (1)
- vi. His sister, Tanya – R 250 000.00; (1)
- vii. His companion, Prudence, with whom he spends every day – nil because she is not married according to the Marriage Act or Civil Unions Act. (2)

CODICIL (1)

I, the undersigned,

GIBSON REDDY,

of Durban, make the following codicil to my last will and testament dated 5 October 2017.(1)

1.

I revoke paragraph 4 of my said Will and substitute for it the following: (2)

I bequeath R700 000. 00 (seven hundred thousand rand) in cash to my sister Joyce.(1)

2.

My said Will remains unaltered in all other respects. (2)

Thus done and signed at Durban on 31 August 2018 by the testator and the undersigned witnesses, all being present at the same time. (1)

AS WITNESSES: (1)

1. _____

2. _____

TESTATOR (1)

- 1) The document does not comply with Section 2(1) (a) (ii) of the Wills Act [1] in that the second page must be signed by two witnesses in the presence of the testator and present at the same time (1).
- 2) Where a Will does not comply with the formal requirements of the Wills Act any person who has an interest may in terms of Section 2(3) of the Wills Act apply to the High Court for an order directing the Master to accept the document signed by the deceased, as his Will (1) if the Court is satisfied that the document was intended to be his Will. (1) I would advise the family to make such an application to the High Court (1).
- 3) In terms of Section 4A (1) of the Wills Act, a person who writes out the Will shall be disqualified from receiving any benefit from the Will (2).
- 4) The appointment of the surviving spouse as Executor is regarded as a benefit (1).

- 5) However the Court may in terms of Section 4A.(2)(a) declare the spouse who hand wrote the Will competent to benefit from the Will (1), if the Court is satisfied that the spouse did not defraud or unduly influence the deceased in the execution of the Will (1).

- THE END -

TOTAL: [100]



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