

ATTORNEYS' EXAMINATION

PART 2 ESTATES

19 FEBRUARY 2020

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.

QUESTION 1**[10]**

Mike Mkhize dies intestate and is survived by his three wives Lindi, Monica and Ella to whom he was married according to customary law, out of community of property and without the accrual system. Mike is also survived by the following people:

- (i) his daughters Fikile and Stella by his marriage to Monica;
- (ii) his son Bongani by his marriage to Lindi, who insists that as the only son of the deceased and according to traditional law he is entitled to the entire estate of his father;
- (iii) his parents Xolane and Lizie, who have paid for all the funeral expenses and who also insist that they are entitled to the estate of their son Mike. His net estate is worth R1 470 000.00 (One Million Four Hundred and Seventy Thousand Rand) consisting of cash only.

Advise the Mkhize family as to who are Mike's heirs and what amount will each inherit. (Make explanatory remarks where necessary).

QUESTION 2**[10]**

- 2.1 You act for a client who has a liquidated claim against a deceased estate. You establish that the period for filing of creditors claim against the estate has passed. What advice will you give your client? (3)
- 2.2 After receiving the claim the Executor doubts whether this claim can be allowed. Which steps should the Executor take in order to resolve this matter? (5)
- 2.3 How would you advise your client if the executor rejects the claim? (2)

QUESTION 3**[12]**

Brian executed a Will on 13 January 2018 in terms of which he left his estate to his wife Pretty. Brian and Pretty who were married out of community of property were divorced on 24 May 2019.

Brian married Maria on the 25th June 2019 and died childless on 11th July 2019.

With regard to the execution of the Will by Brian which consists of more than one page, explain the following:

- 3.1 Where on the Will must the witnesses sign? (2)
- 3.2 If Brian signs by means of a mark, then a certificate in terms of Section 2(1)(a)(v) of the Wills Act 7 of 1953 should be appended:
 - (a) by whom? (1)

- (b) where on the will? (2)
- (c) where must the certifying officer sign? (1)
- (d) what must be certified? (2)

6.3 How will Brian's estate be distributed? (5)

QUESTION 4 **[68]**

Samuel Maree, unmarried, died intestate on 15 January 2019. He was survived by his girlfriend Hany and his younger brother Jeff, who was born on 13 March 1982. You are appointed as the attorney to assist with the administration of the estate and you are registered for VAT.

A. The under-mentioned assets were found in his estate:

1. The house in which they reside and registered in both the deceased's name and his girlfriend's name in equal shares is valued by an appraiser at R850 000.00.
2. Proceeds of Liberty Life Insurance Policy on his life payable to his estate in the amount of R225 000.00.
3. Proceeds of Sanlam Life Insurance Policy on the deceased's life in the amount of R240 000.00. The policy was taken out by Jeff. The premiums were paid by Jeff and the premiums plus 6% interest amounted to R15 000.00 at deceased's death. The proceeds were paid to Jeff.
4. An Old Mutual Life Insurance Policy on Jeff's life with a maturity value of R600 000.00 and which is surrendered for R150 000.00.
5. Furniture valued at R160 000.00.
6. A Toyota Corolla in the deceased's name valued by the appraiser at R295 000.00. The executor sold this vehicle out of hand at a loss of R7 500.00 on 5 March 2019 and the proceeds were paid into the estate banking account on the same day.
7. The deceased had an investment of R200 000.00 at TYME Bank. The executor realizes this investment for R224 000.00, of which R8 500.00 is in respect of interest accrued after date of death.
8. The deceased's 700 shares in LRM Ltd, a company listed on the JSE, which are valued by a stockbroker as at the date of death at R175 000.00. A dividend of R15.00 per share is declared and paid on 2 May 2019. The stockbrokers' valuation fees amount to R1 500.00.
9. Loan owing by his girlfriend Hany in the amount of R17 000.00.

10. 255 shares of R2.50 each in TOK (Pty) Ltd, valued by the auditor at R1 000.00 per share (as approved by Chief Revenue Inspector) as at the date of death and sold in the course of liquidation at a profit of R20 000.00.
 11. An amount of R18 257.50 is owing to SARS in terms of the final income tax assessment.
- B.** The father of the deceased, Gabriel Maree, who died on the 3rd of April 1995, bequeathed in his Will the Farm Oranges to the deceased subject to the provision that it should after Samuel's death go to Jeff Maree, his other son. The Farm was valued on 15 January 2019 for R900 000.00. However, in the Estate Duty Addendum the value of the ceasing *Fideicommissum* may be reflected in an amount of R876 482.64. The valuation costs amounted to R3 500.00 and the transfer costs to R20 275.00.

Liabilities, claims and costs of administration total the amount of R150 000.00.

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

- THE END -

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