

ATTORNEYS' EXAMINATION

PART 2 ESTATES

19 OCTOBER 2021

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 if 50% or more is attained. If a candidate achieves a score from 40% and below 50% he/she will be required to do an oral. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this examination.

Owen Mabuza died intestate on 1 January 2021 and is survived by his wife Amanda to whom he was married out of community of property without the accrual system. He is also survived by his major son John and his major daughter Shirley. Shirley is seven (7) months pregnant.

His son John, who is not registered for VAT, was appointed as the executor and he establishes the following:

1. A farm Dinku on which a *bona fide* farming undertaking is carried, which has been valued by an appraiser at R1 500 000.00.
2. A payment on the Life Insurance Policy A in the amount of R920 000.00 is made to the executor after deduction by the insurance company of a loan against the policy in the amount of R35 000.00.
3. An Insurance Policy B on the life of Amanda. Owen was paying the premiums and the premiums plus 6% interest amounted to R16 000.00 at his death. The executor has decided not to cede this policy and it has a surrender value of R230 000.00 and the value of the life cover on Amanda's life is R600 000.00.
4. Proceeds of Life Insurance Policy C on the deceased's life in the amount of R320 000.00. The policy was taken out by the deceased's daughter, Shirley. The premiums were paid by the daughter and the premiums plus 6% interest amounted to R20 000.00 at deceased's death. The proceeds were paid to Shirley.
5. Proceeds of Life Insurance Policy D on the deceased's life in the amount of R690 000.00. The policy was taken out by the deceased. He paid all the premiums. The premiums plus 6% interest amounted to R29 000.00 at his death. The proceeds were collected by the executor.
6. A motor vehicle sold for R258 000.00.
7. There is a fixed deposit at P-Bank recovered in the amount of R600 000.00. Included in the amount of R600 000.00 was interest in the amount of R40 000.00 up to 1 January 2021 as well as interest in the amount of R10 000.00 for the period 2 January 2021 to date of this account.
8. 1 900 nominal shares in Sheep Ltd, a company listed on the JSE. These shares are sold by a stockbroker during the course of liquidation at R30.00 per share. The stockbroker's commission is 5% on the selling price.
9. Owen was a member of his employer's Pension Fund which provides for a lump sum of R750 000.00 payable to Amanda upon Owen's death.
10. 300 shares of R2.50 each in Meat (Pty) Ltd, valued by the auditor at R1500.00 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 R30 000.00.

11. Bank overdraft with N-Bank in the amount of R40 000.00 which was covered by an insurance policy issued by Sanlam which was ceded to the bank by way of a security cession. This policy had life cover on the life of Owen for R40 000.00.

The total liabilities i.e. administration expenses and claims against the estate, amount to R300 000.00.

A Redistribution Agreement is entered into in terms of which the farm Dinku is to be awarded to the deceased's wife, Amanda Mabuza.

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

QUESTION 2

[11]

Jairos Mnisi dies intestate and is survived by his three wives Selina, Mpho and Olga to whom he was married according to customary law, out of community of property and without the accrual system. Jairos is also survived by the following people:

- 2.1 his son Jacob, by his marriage to Selina, who insists that as the eldest son of the deceased he is entitled according to traditional law to the entire estate of his father;
- 2.2 Ronald and Adam, the major sons of his predeceased daughter Fikile;
- 2.3 his unemployed daughter Susan, who died one month after her father. Susan was married out of community of property without the accrual system and is survived by her husband Peter and their two minor children Rose and Mary;
- 2.4 his 15-year-old son Elliot by his marriage to Olga, who wishes to renounce his rights to inherit in favour of his mother;
- 2.5 his parents Thomas and Sophie, who have paid for all the funeral expenses and who also insist that they are entitled to the estate of their son Jairos.

His net estate is worth R1 743 000.00 (One Million Seven Hundred and Forty-Three Thousand Rand) consisting of cash only.

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

QUESTION 3

[8]

Susan committed suicide on 2 February 2021. She left a one-page letter in which she wrote that she revokes all previous Wills and leaves all her possessions to her two children from her first marriage, Steven and Mathilda. This letter is only signed by Susan at the end thereof. It appears that she executed a valid Will in 2019 in which she left all her possessions to her ex-husband and nothing to her children.

- 3.1 Advise Steven and Mathilda if the letter that Susan left behind is a valid Will. (1)
- 3.2 Steven and Mathilda also wants to know if they can inherit from their mother's estate and what action, if any, is available to them. (7)

QUESTION 4 **[8]**

- 4.1 What determines which Master of the High Court has jurisdiction to administer a deceased estate? (2)
- 4.2 Under what circumstance can jurisdiction not be transferred or assumed by another Master of the High Court? (1)
- 4.3 If a Corporation is nominated in a Will as an executor, to whom must the Master issue an appointment letter? Motivate. (3)
- 4.4 Under what circumstance can an Estate Representative in terms of section 18(3) be appointed by the Master? (1)
- 4.5 Under what circumstance must the executor open an estate bank account? (1)

QUESTION 5 **[6]**

Joseph made a Will in 2018 when he was fifty-six (56) years old and left his entire estate to his two (2) daughters, Dolly who was fifteen (15) years old and Betty who was seventeen (17) years old. He appointed his son James, who was eighteen (18) years old, as the executor of his estate. Dolly and James signed the Will as witnesses. Joseph died on 17 July 2021.

Advise on the capacity of Joseph's children to inherit or benefit in terms of this Will.

- THE END -
