Kandidate kry 15 minute om die vraestel deur te lees vir 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 ele 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 ingeroop as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalificeer vir 'n mondeling nie en sal hierdie deel druip.

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

Jackson Tshabalala, wat getroud was buite gemeenskap van goed met uitsluiting van die aanwasbedeling, is op 30 Junie 2011 oorlede. Hy was 'n suksesvolle sakeman wat, toe hy aftree, sy besighede verkoop het en die grootste deel van die opbrengs aan familielede geskenk het. Uit die oorlywende kontant het hy 'n deeltitelenheid in 50:50 vennootskap met sy seun Thabo aangekoop. Die oorledene het in hierdie eenheid gewoon.

Sy eksekuteur stel vas en doen die volgende:

1. Die oorledene het die titelakte van die deeltitelenheid in sy besit gehad. Die eksekuteur gee opdrag aan 'n takseuteur om die eiendom te waardeer. Die hele eenheid word vir R1 500 000.00 gewaardeer.

2. Die oorledene het 'n polis op sy lewe by XYZ Insurers uitgeneem wat hy aan FBN Bank as sekuriteit vir sy oortrokke rekening gesedeer het. Die polis het R500 000.00 uitbetaal, en die eksekuteur het R90 000.00 van FBN Bank ontvang. Die bank het rente na sterfdatum kwytgeskuld.

3. Die oorledene het 'n verdere polis op sy lewe uitgeneem ten opsigte waarvan hy sy vrou as begunstigde benoem het. Die polisopbrengs van R500 000.00 word aan sy vrou Thandi uitbetaal.

4. Die oorledene het ook 'n polis op sy vrou se lewe by MNO Insurers uitgeneem, die afkoopwaarde waarvan R300 000.00 is.

5. Die oorledene het 'n belegging van R4 000 000.00 by Investec Bank gehad. Die eksekuteur maak hierdie belegging te gelde vir R4 100 000.00 waarvan R40 000.00 ten opsigte van na-doodse rente is.

QUESTION 1

Jackson Tshabalala, who was married out of community of property with exclusion of the accrual system, died on 30 June 2011. He had been a successful businessman who, upon his retirement, had sold his businesses and donated most of the proceeds to his family members. From the remaining cash, he bought a sectional title unit in 50:50 partnership with his son Thabo. The deceased lived in this unit.

His executor establishes and does the following:

1. The deceased had in his possession the title deed of the sectional title unit. The executor instructs an appraiser to value this property. The whole unit is valued at R1 500 000.00.

2. The deceased took out a policy on his life with XYZ Insurers which he ceded to FBN Bank as security for his overdraft. The policy paid out R500 000.00, and the executor received R90 000.00 from FBN Bank. The bank waived interest from date of death.

3. The deceased took out a further policy on his life in respect of which he nominated his wife as beneficiary. The policy proceeds of R500 000.00 were paid to his wife, Thandi.

4. The deceased also took out a policy on his wife's life with MNO Insurers, the surrender value of which was R300 000.00.

5. The deceased had an investment of R4 000 000.00 with Investec Bank. The executor realises this investment for R4 100 000.00, of which R40 000.00 is in respect of interest accrued after date of death.
6. Die enigste ander bate van die oorledene was sy helikopter ter waarde van R450 000.00.

7. Die oorledene het 'n totale bedrag van R800 000.00 gedurende sy leefyd aan familielede geskenk.

8. Die enigste laste is begrafniskoste van R50 000.00, SARS se finale inkomstbelastingaanslag vir R50 000.00 en administrasiekoste ten bedrae van R240 000.00.

In sy testament bemaak die oorledene sy belang in die deeltitteleenheid aan sy seun Thabo, en laat hy die restant van sy boedel aan sy vrou Thandi na. Sy is ook die eksekutrice.

Stel die likwidasie- en distribusierekening op met weglating van die opskrif en die fidusieire baterenking. Specifiseer die administrasiekoste wat sover moontlik akkuraat getoon moet word. Ignoreer BTW.

**VRAAG 2**

Sam Xaba sterf intestaat en word oorleef deur sy twee vrouens Thulisile en Sophie met wie hy volgens gewoontereg getrou was, buite gemeenskap van goed met uitsluiting van die aanwasbedeling. Sophie is 7 maande swanger met Sam se kind. Sam word ook deur die volgende persone oorleef:

(i) sy minderjarige dogter Pulane gebore uit sy huwelik met Thulisile. Pulane onderteken 'n sertifikaat waarin sy van haar erfenis afstand doen,

(ii) sy vader Joseph,

(iii) sy broer Nelson,

(iv) Maria, die weduwe van sy vooroorlede seun Dennis.

6. The deceased had no other assets apart from a helicopter valued at R450 000.00.

7. The amount donated to his family members during his lifetime amounted to R800 000.00.

8. The only other liabilities are funeral expenses of R50 000.00, the final income tax assessment by SARS of R50 000.00 and administration expenses of R240 000.00.

The deceased in his will bequeathed his interest in the sectional title unit to his son Thabo, and left the residue of his estate to his wife Thandi who is also the executrix.

Draw the liquidation and distribution account, omitting the heading and the fiduciary assets account. Specify the administration expenses and reflect them accurately as far as it is possible to do so. Do not include VAT.

**QUESTION 2**

Sam Xaba dies intestate and is survived by his two wives Thulisile and Sophie to whom he was married according to customary law, out of community of property excluding the accrual system. Sophie is 7 months pregnant with Sam’s child. Sam is also survived by the following people:

(i) his minor daughter Pulane by his marriage to Thulisile. Pulane signs a certificate renouncing her inheritance,

(ii) his father Joseph,

(iii) his brother Nelson,

(iv) Maria, the widow of his predeceased son Dennis.
Sy netto boedel bedra R450 000.00 bestaande slegs uit kontant.

Adviseer die Xaba-familie oor wie Sam se erfgenaam is en welke bedrag elkeen sal erf. (Verskaf verduidelikende opmerkings waar nodig.)

VRAAG 3

Pierre Nel se testament gedateer 25 Julie 2011 bepaal in paragraaf 3 daarvan dat by sy afsterverne sy boedel aan A en B in gelyke dele nagelaat word. Hy wil nou vir A onterf, en een-derde van sy boedel aan B nalaat en twee-derdes aan C.

Mnr. Nel is blind en versoek Andre Venter om dié kodisil namens hom te onderteken.

Stel op en verly die kodisil om gevolg aan mnr. Nel se jongste wense te gee.

VRAAG 4

Aanvaar dat u as eksekuteur in ‘n boedel aangestel is, maar dat u nie in staat is om die likwidasie- en distribuierekening binne die voorgeskreve tydperk van ses maande (wat op 29 Februarie 2012 verstryk) by die Meester in te dien nie.

Stel ‘n brief op aan die Meester waarin u uitstel versoek vir indiening van dié rekening. U mag u eie redes vir die uitstel verskaf asook alle ander inligting wat deur die Meester vereis word, maar u antwoord moet voldoen aan Regulasie 6 van die Boedelwet, 66 van 1965.

His net estate is worth R450 000.00 (four hundred and fifty thousand rand) consisting of cash only.

Advise the Xaba family as to who are Sam’s heirs and what amount each will inherit. (Make explanatory remarks where necessary).

QUESTION 3

Pierre Nel's will dated 25 July 2011 provides in paragraph 3 thereof that upon his death his estate is left to A and B in equal shares. He now wants to disinherit A, and to leave one-third of his estate to B and two-thirds to C.

Mr Nel is blind and directs Andre Venter to sign a codicil on his behalf.

Draw and execute a codicil to give effect to Mr Nel's latest wishes.

QUESTION 4

Assume that you have been appointed as executor in an estate but you are unable to lodge the liquidation and distribution account with the Master of the High Court within the prescribed six month period which expires on 29 February 2012.

Draft a letter to the Master in which you request an extension of time for lodging the account. You may give your own reasons for the extension as well as all other information required by the Master, but your answer must comply with the provisions of Regulation 6 of the Administration of Estates Act, 66 of 1965.
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

Please note the answer to question 1 commences on next page, kindly turn page.
## QUESTION 1

**LIQUIDATION ACCOUNT [31]**

### A. IMMOVABLE PROPERTY AWARDED

½ (one half) share of unit 5 in the sectional title scheme known as LEKKERBLY;
Measuring 200 m²;
Held by the deceased under Deed of Transfer ST2071/2001 (2)

Value as determined by appraiser 750 000.00(1)

Awarded to THABO TSHABALALA, son of the deceased, in terms of the will (2)

### B. MOVABLE ASSETS AWARDED

1. Surrender Value of policy no. 123456 with MNO Insurers 300 000.00 (2)

2. Helicopter valued at 450 000.00(1)

Items 1 and 2 awarded to the surviving spouse, THANDI TSHABALALA, as part of the residue of the estate in terms of the will. (2)

### C. ASSETS REDUCED TO CASH

1. Proceeds of policy no. 78910 with XYZ Insurers 500 000.00(2)

2. Proceeds of investment with Investec Bank:
   - Capital
   - Accrued interest to date of death 60 000.00(2)

TOTAL ASSETS 6 060 000.00

### D. ADMINISTRATION EXPENSES

[Figures marked with * are accurate. The other figures are estimates]

1. Notice to creditors:
   - Government Gazette 32.55 (1)
   - Pretoria Prattler 348.03 (1)
   - 380.58
2. Advertisement of this account:  
   Government Gazette *32.55 (1)  
   Pretoria Pratiller 348.03 (1)  
3. Master's fees *600.00 (1)  
4. Executor's remuneration @ 3.5% on  
   R6 060 000.00 *212 100.00 (2)  
5. Provision for bank charges 550.00 (1)  
6. Peter Price for valuation of sectional title  
   unit and helicopter 12 838.84 (2)  
7. Attorneys Law and De Wet for the  
   transfer of the sectional unit 13 000.00 (1)  
8. Postages and petties *150.00 (1)  

   **E. CLAIMS AGAINST THE ESTATE**  
   1. Omega Funeral Parlour 50 000.00 (1)  
   2. FBN Bank for overdraft 410 000.00 (2)  
   3. SARS for final income tax assessment 50 000.00 (1)  

   **TOTAL LIABILITIES**  
   750 000.00  
   **BALANCE FOR DISTRIBUTION**  
   5 310 000.00  
   **6 060 000.00**  

   **RECAPITULATION STATEMENT [3]**  
   1. Assets reduced to cash 4 560 000.00 (1)  
   2. Total liabilities 750 000.00 (1)  
   3. Cash available for distribution 3 810 000.00 (1)  

   **4 560 000.00**  
   **4 560 000.00**  

   **DISTRIBUTION ACCOUNT [9]**  
   1. Balance for distribution 5 310 000.00 (1)  
   2. Awarded to THABO TSHABALALA, major  
      son of the deceased, as a special bequest  
      in terms of the will  
      The award comprises a half share of unit  
      5 LEKKERBLY. (2)  

   **750 000.00**  
   **5 310 000.00**
3. Awarded to the surviving spouse, THANDI TSHABALALA, the residue of the estate in terms of the will

The award comprises:
- Policy with MNO Insurers (at surrender value) 300 000.00 (1)
- Helicopter 450 000.00 (1)
- Cash 3 810 000.00 (1)

\[ 4 560 000.00 \]

\[ 5 310 000.00 \] (1)

\[ 5 310 000.00 \] (1)

**INCOME AND EXPENDITURE ACCOUNT [4]**

1. Post-death interest earned on the investment with Infestec Bank 40 000.00(1)
2. Executor's remuneration @ 6 % on R40 000.00 2 400.00 (1)
3. Balance awarded to THANDI TSHABALALA as residuary heir in terms of the will (1) 37 600.00 (1)

\[ 40 000.00 \] (1)

\[ 40 000.00 \]

**ESTATE DUTY [12]**

Property of the deceased:
- Total assets per liquidation account 6 060 000.00 (1)
- LESS Policy with XYZ Insurers 500 000.00 (1) 5 560 000.00

\[ ADD \text{ property deemed to be property:} \]
- Proceeds of policy with XYZ Insurers 500 000.00 (1)
- Proceeds of policy paid to wife 500 000.00 (2) 1 000 000.00

\[ 6 560 000.00 \]

LESS deductions:
- Total liabilities 750 000.00 (1)
- Section 4 (q) deduction (R4 560 000.00 Plus R500 000.00) 5 060 000.00 (3) 5 810 000.00

\[ 750 000.00 \]

LESS section 4A abatement
- DUTIABLE AMOUNT 3 500 000.00(2)

\[ \text{NIL}(1) \]

Therefore no estate duty is payable
CERTIFICATE [6]

I hereby certify that, to the best of my knowledge and belief, (1)

- the above account is a true and proper account of the liquidation and
distribution of the estate (1)

- all the assets (1) and income collected subsequent to the death of
the deceased to date hereof (1) have been disclosed herein. (1)

Signed at Pretoria on 23 December 2011 (1)

THANDI TSHABALALA
EXECUTRIX
QUESTION 2

Sam's estate will devolve as follows:

If Sophie's unborn child is born alive (1) then Thulisile, Pulane, Sophie and the unborn child (nasciturus fiction) are the intestate heirs (1).

Thulisile inherits either a child's share or R125 000.00, whichever is the greater (Section 1(1)(c) of the Intestate Succession Act, as amended (1).

A child's share is \( \frac{R450\,000.00}{4} = R112\,500.00 \) (1)

Thulisile therefore inherits \( R125\,000.00 \) (1)

Sophie inherits either a child's share or R125 000.00, whichever is the greater (Section 1(1)(c) of the Intestate Succession Act, as amended.

A child's share is \( \frac{R450\,000.00}{4} = R112\,500.00 \)

Sophie therefore inherits \( R125\,000.00 \) (1)

Pulane and the unborn child inherit the remainder thereof in the amount of R100 000.00 each (1) because they are descendants in terms of Section 1(1)(c) of the Intestate Succession Act (1)

Pulane cannot herself renounce her rights to inherit as she is a minor (2)

However, if the unborn child is not born alive (1), then Pulane, Thulisile and Sophie will each receive R150 000.00 (1)

Joseph, Nelson and Maria will inherit nothing (1)

QUESTION 3

CODICIL

I, PIERRE NEL, make the following codicil to my will dated 25 July 2011. (1)

1.

I hereby revoke paragraph 3 of my said will (2) and provide the following in its stead:

a) I leave 1/3 (one-third) of my estate to B. (1)

b) I leave the remaining 2/3 (two-thirds) of my estate to C. (1)

2.

My said will remains unaltered in all other respects.
Signed at Pretoria on 27 July 2011 by ANDRE VENTER in the presence of the testator and by his direction, and in the presence of the undersigned witnesses and commissioner of oaths, all being present at the same time. (1)

As witnesses:

1. "A. JANSEN" (1) ANDRE VENTER ON BEHALF OF PIERRE NEL (2)
2. "B. BOUWER" (1)

I, Jan de Wet, of 12 Charles Street, Pretoria, in my capacity as commissioner of oaths, certify (1) that I have satisfied myself as to the identity of PIERRE NEL (1) and that the accompanying codicil is the codicil of the testator. (1)

"JAN DE WET" COMMISSIONER OF OATHS (2)

QUESTION 4

THE MASTER OF THE HIGH COURT
PRIVATE BAG X9010
PIETERMARITZBURG
3200

REQUEST FOR AN EXTENSION TO LODGE THE LIQUIDATION AND DISTRIBUTION ACCOUNT: ESTATE LATE LENNY NAICKER:
ESTATE NO. 1234/2011/PMB

We hereby request an extension to lodge the Liquidation and Distribution Account for a further period of three months to 31 May 2012 (1) and advise as follows:-

a) The estate account cannot be lodged in time because an adopted child of the deceased cannot be located and the deceased’s tax returns with SARS cannot be finalised in time. (1)

b) We have instructed tracing agents to locate the adopted child. An accountant has been appointed to assist in bringing the deceased’s tax affairs in order. (1)

c) All assets have been liquidated and deposited into the estate bank account. (1)

d) Bank statements of the estate late bank account opened in terms of Section 28 are attached hereto as proof that all monies have been deposited therein. (1)
e) An interim account cannot be lodged as we cannot calculate the balance available unless we know what claim SARS has against the estate and unless we can verify that the adopted child of the deceased is still alive. (1)

f) The estate is to the best of our knowledge solvent. (1)

Yours faithfully

XYZ ATTORNEYS

TOTAL: [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 sleks 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% en meer behaal is nie. Indien ’n kandidaat minder as 40% behaal sal hy/haar kwalifiseer vir ’n mondeling nie en sal hierdie deel druip.

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

Silas Mokoena sterf op sy plaas op 1 Julie 2010. Hy word oorleef deur sy vrou Mavis met wie hy buite gemeenskap van goed getrou was, onderhewig aan die aanwasbedeling, en hulle twee seuns Sipho (22 jaar) en Innocent (18 jaar). Innocent is deur Silas en Mavis aangeneem toe hy 1 jaar oud was.

- Sy boedel bestaan uit die volgende:-
  
  (a) 'n Deeltitleleenheid te Durban, gewaardeer vir R1 800 000.00, wat hy as 'n vakansie-woning gebruik het.
  
  (b) 'n Aanwas-eis teen Mavis wat deur ooreenkoms op R700 000.00 bepaal is. Mavis betaal hierdie bedrag op 31 Oktober 2010.
  
  (c) 'n Belegging by Nedbank wat op 31 Desember 2010 te gelde gemaak is. Die opbrengs is R1 025 000.00. Die kapitaal wat belê was, is R1 000 000.00 en rente teen 10% per jaar is op 31 Maart en 30 September van elke jaar betaal.
  
  (d) 'n Plas in Pietermaritzburg waar hy groente vir die mark gekweek het, met 'n waarde van R860 000.00.
  
  (e) Aandele in Genuine Investments (Edms) Bpk wat deur die ouditeure teen R17 000.00 gewaardeer word.
  
  (f) 'n Sanlam-polis op sy lewe wat aan Mavis as begunstigde betaalbaar is. Die afkoopwaarde is R150 000.00 en die doodsdekkingswaarde is R500 000.00.
  
- Die boedellastige bestaan uit administrasie koste van R188 200.96 en die finale inkomstbelastingaanslag van R20 000.00. Die verband oor die deeltitleleenheid is etlike jare gelede afgegaan, maar die verband is nog nie gekanselleer nie.

QUESTION 1

Silas Mokoena died on his farm on 1 July 2010. He is survived by his wife Mavis to whom he was married out of community of property, subject to the accrual system, and their two sons Sipho (aged 22 years) and Innocent (aged 18 years). Innocent was adopted by Silas and Mavis when he was 1 year old.

- His estate comprises the following:-
  
  a) A sectional title unit at Durban, valued at R1 800 000.00 that he used as a holiday home.
  
  b) An accrual claim against Mavis which has been agreed in the sum of R700 000.00. Mavis paid this amount on 31 October 2010.
  
  c) An investment with Nedbank that was redeemed on 31 December 2010. The proceeds were R1 025 000.00. The capital invested was R1 000 000.00 and interest at 10% per annum is paid on 31 March and 30 September each year.
  
  d) A farm in Pietermaritzburg where he planted a variety of market vegetables, valued at R860 000.00.
  
  e) Shares in Genuine Investments (Pty) Ltd valued at R17 000.00 by the Auditors.
  
  f) A Sanlam insurance policy on his life payable to Mavis as the beneficiary. The surrender value was R150 000.00 and the maturity value was R500 000.00.
  
- The liabilities of the estate comprise administration expenses of R188 200.96 and a final income tax assessment of R20 000.00. The mortgage bond over the sectional title unit was repaid several years ago but the bond has not yet been cancelled.
Die oorledene het 5 jaar voor sy dood R100 000.00 aan kankernavorsing in Suid-Afrika geskenk.

In die testament word die plaas aan Mavis bemaak, en die restant van die boedel word aan hulle twee seuns nagelaat.

Die seuns kom ooreen dat Sipho die deelliteleenheid as deel van sy erfenis sal ontvang, en dat Innocent die oorblywende bates sal kry. Enige ongelykheid tussen die broers sal 'n gelykmakende betaling deur die een broer aan die ander toegeflig het. Na-dodse inkomste, indien enige, moet in terme van die testament verdeel word.

Die senior vennoot van u firma word as eksekuteur benoem en vygestel van die verpligting om sekerheid te stel. U firma is vir BTW geregistreer.

Die begrafniskoste word deur 'n familielid van die oorledene geskenk.

Stel die gehele likwidasi- en distribusierekkening op soos op 30 November 2010, met weglating van die eksekuteur se sertifikaat. Spesifiseer die administrasiekoste wat sover moontlik akkuraat getoon moet word.

The deceased donated R100 000.00 to cancer research in South Africa five years before his death.

The will provides for a bequest of the farm to Mavis, and the residue of the estate to be left to their two sons.

The sons agree that Sipho will receive the sectional title unit as part of his inheritance, and Innocent will inherit the remaining assets. Any inequality between the brothers will result in an equalizing cash payment by the one brother to the other. Post-death income, if any, is to be distributed in terms of the will.

The senior partner at your firm is appointed as the Executor and exempted from furnishing security. Your firm is a registered VAT vendor.

The funeral expenses were donated by a relative of the deceased.

Draft the entire Liquidation and Distribution Account as at 30 November 2010, omitting the Executor's certificate. Specify the administration expenses and reflect them accurately as far as it is possible to do so.

Jacob Zungu sterf intestaat en word oorleef deur sy drie vrouens, Buhle, Nomsa en Phindile met wie hy kragteens gewoontereg buite gemeenskap van goed met uitsluiting van aanwas getroud was. Jacob word ook deur die volgende persone oorleef:

(i) sy dogters Bongi en Sarah uit sy huwelik met Nomsa. Sarah isagtmaande swanger met haar eerste kind;

(i) his daughters Bongi and Sarah by his marriage to Nomsa. Sarah is eight months pregnant with her first child;
(ii) His son Sthembiso by his marriage to Buhle, who insists that as the elder son of the deceased he is entitled to the entire estate of his father;

(iii) his father Steve, who has paid for all the funeral expenses and insists therefore that he is entitled to the entire estate of his son Jacob.

His net estate is worth R375 450.00 (three hundred and seventy five thousand four hundred and fifty rand) consisting of cash only.

Advise the Zungu family as to who Jacob’s heirs are and what amount each will inherit. (Make explanatory remarks where necessary.)

QUESTION 3

A, who was married in community of property to B, died on 1 August 2011. The assets of the joint estate have all been reduced to cash and amount to R990 000.00.

The administration expenses and liabilities of the estate amount to R120 000.00, including funeral expenses of R15 000.00.

A in his will leaves his entire estate to his brother C.

Draw the distribution account.

QUESTION 4

Jacques de Villiers, a widower, dies on 1 August 2011. In his will dated 2 August 2001.

- he bequeaths his motor vehicle to his son A.
- he bequeaths his postage stamp collection to A’s only child B.
- he bequeaths his thoroughbred bulldog to his daughter C.
- he leaves the residue of his estate to his friend D.
A died in 2010. The bulldog died two days before Jacques died, and D died two days after Jacques died.

a) To whom would you award executor:
- the motor vehicle
- the residue of the estate?

b) What would you award to C?

QUESTION 5
A in his will leaves his estate to his children. He is survived by three children and two grandchildren. The grandchildren are the children of a predeceased child. The balance for distribution is R1 000 000.00.

5.1 How will the estate devolve?

5.2 Will your answer be different if A’s will had left his estate to his children in equal shares?

QUESTION 6
Is it a requirement of the Wills Act, No. 7 of 1953, for a Will to be dated?
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

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT (1) IN THE ESTATE OF THE LATE SILAS MOKOENA (IDENTITY NUMBER 560227 5135 08 7) (1) WHO WAS MARRIED OUT OF COMMUNITY OF PROPERTY TO MAVIS MOKOENA, SUBJECT TO THE ACCRUAL SYSTEM (1)

DATE OF DEATH: 1 JULY 2010 (1)
MASTERS REFERENCE NO. 2377/2010 (1)

LIQUIDATION ACCOUNT [32]

IMMOVABLE PROPERTY

1. Section 22 in the sectional title scheme known as The Marine; (1)
   250 square metres in extent; (1)
   Held under Deed of Transfer No. ST 6171/1997 (1)

   Appraised Value R 1 800 000.00 (1)

   Awarded to Sipho Mokoena in terms of the Redistribution Agreement entered into between the residuary heirs (2)

2. Portion 18 of the Farm Pilgrim No. 11391, Registration Division ET, Province of KwaZulu-Natal;
   in extent TWELVE (12) Hectares;

   Held under Deed of Transfer No. T7384/1990 860 000.00 (2)

   Awarded to Mavis Mokoena, surviving spouse, in terms of Clause 4 of the Will (2)
MOVABLE ASSET AWARDED:
Shares in Genuine Investments (Pty) Ltd as per Auditors valuation 17 000.00 (1)
Awarded to Innocent Mokoena in terms of the redistribution agreement (2)

ASSETS REDUCED TO CASH:
1. Accrual claim against Mavis Mokoena 700 000.00 (1)
2. Proceeds of Investment with Nedbank Account No. 800 329 146 A:
   Capital 1 000 000.00 (1)
   Interest accrued to date of death 25 000.00 (2) 1 025 000.00

TOTAL ASSETS 4 402 000.00

LIABILITIES:

ADMINISTRATION EXPENSES:
1. Notice to Creditors
   Government Gazette 32.55 (1)
   The Times 298.03 (1)
2. Advertisement of Accounts
   Government Gazette 32.55 (1)
   The Times 298.03 (1)
3. Provision for bank charges 300.00 (1)
4. Masters Fees (maximum) 600.00 (1)
5. Executors Remuneration
   @ 3.5% of R 4 402 000.00 154 070.00 (2)
   VAT at 14% on R154 070.00 21 569.80 (1)
6. AA Valuers for appraisement of sectional unit and farm 1 500.00 (2)
7. Hook & Crook Attorneys for transfer costs of sectional unit and farm 7 000.00 (1)
8. B.B.M. Attorneys for bond cancellation costs 1 500.00 (1)
9. Ace Auditors for valuation of company shares 1 000.00 (1) 188 200.96
CLAIMS AGAINST THE ESTATE:
SARS for final income tax assessment 20 000.00 (1)

TOTAL LIABILITIES 208 200.96

BALANCE AVAILABLE FOR DISTRIBUTION 4 193 799.04

-------------------------------
4 402 000.00

RECAPITULATION STATEMENT [3]

Assets realized 1 725 000.00 (1)

Total Liabilities 208 200.96 (1)
Surplus available for distribution among residuary heirs 1 516 799.04 (1)

-------------------------------
1 725 000.00 1 725 000.00

DISTRIBUTION ACCOUNT [13]

1. Balance available for Distribution 4 193 799.04 (1)

2. Awarded to MAVIS MOKOENA, major surviving spouse, Portion 18 of Farm Pilgrim No. 11391, as a special bequest in terms of the Will 860 000.00 (2)

3. Awarded to Sipho Mokoena, major son, one half of the residue of the estate in terms of the Will, as qualified by the redistribution agreement. 1 666 899.52 (2)

This award comprises:

Section 22 The Marine 1 800 000.00 (1)
LESS cash paid in to equalize the distribution with Innocent 133 100.48 (2)
1 666 899.52

Legal Education and Development [L.E.A.D]™
4. Awarded to Innocent Mokoena, major son, one half of the residue of the estate in terms of the Will as qualified by the redistribution account. 1 666 899.52 (1)

This award comprises:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>1 516 799.04</td>
<td>(1)</td>
</tr>
<tr>
<td>Shares in Genuine Investments</td>
<td>17 000.00</td>
<td>(1)</td>
</tr>
<tr>
<td>Cash paid in by Sipho</td>
<td>133 100.48</td>
<td>(2)</td>
</tr>
<tr>
<td></td>
<td>1 666 899.52</td>
<td></td>
</tr>
</tbody>
</table>

Total: 4 193 799.04

INCOME AND EXPENDITURE ACCOUNT [6]

1. Interest received from Nedbank on investment of R1 000 000.00 on 30 September 2010
   LESS accrued to date of death
   50 000.00
   25 000.00
   25 000.00 (2)

2. Executor's remuneration
   6% on R25 000.00
   1 500.00 (1)
   VAT @ 14% on R25 000.00
   210.00 (1)

3. Awarded to Sipho Mokoena a one half share
   11 645.00 (1)

4. Awarded to Innocent Mokoena a one half share
   11 645.00 (1)

Total: 25 000.00

FIDUCIARY ASSET ACCOUNT [1]

NIL (1)

LEGAL EDUCATION AND DEVELOPMENT [L.E.A.D]™
ESTATE DUTY ADDENDUM [10]

Assets as per the Liquidation Account 4 402 000.00 (1)
LESS accrual claim 700 000.00 (1)
3 702 000.00
LESS adjustment on valuation of farm property (30% of valuation) 258 000.00 (1)

---------------------
3 444 000.00

ADD Deemed Property:
Sanlam insurance policy paid to Mavis 500 000.00 (2)
Accrual claim 700 000.00
---------------------
4 644 000.00

4 644 000.00

LESS Deductions

Liabilities as per Liquidation Account 208 200.96 (1)
Section 4 (q) deduction: Inheritance Sanlam insurance policy 860 000.00 (1)
500 000.00 (1) 1 568 200.96

3 075 799.04

Less Section 4 A Rebate 3 500 000.00 (1)

Dutiable Amount NIL (1)

Therefore no estate duty is payable.

QUESTION 2 [9]

Jacob's estate will devolve as follows:

Buhle inherits either a child's share or R125 000.00, whichever is the greater (Section 1(1)(c)) of the Intestate Succession Act (1)

A child's share is R375 450.00 + 6 = R62 575.00 (1)

Buhle therefore inherits R125 000.00 (1)
Nomsa inherits either a child's share or R125 000.00, whichever is the greater (Section 1(1)(c) of the Intestate Succession Act (1)

A child's share is R375 450.00 ÷ 6 = R62 576.00

Nomsa therefore inherits R125 000.00 (1)

Phindile inherits either a child's share or R125 000.00, whichever is the greater (Section 1(1)(c) of the Intestate Succession Act (1)

A child's share is R375 450.00 ÷ 6 = R62 576.00

Phindile therefore inherits R125 000.00 (1)

Bongi, Sarah and Sthembiso will inherit the remainder and they will inherit R150.00 each (1) because they are the descendants in terms of Section 1(1)(c) of the Intestate Succession Act (1).

QUESTION 3

DISTRIBUTION ACCOUNT

| 1. Balance for distribution | 870 000.00(2) |
| 2. Awarded to the surviving spouse B by virtue of the marriage in community of property | 435 000.00 (2) |
| Plus one half of the funeral expenses | 7 500.00 (2) |
| The award comprises cash (1) | R442 500.00 |
| 3. Awarded to the deceased's brother C in terms of the will | 427 500.00 (1) |
| The award comprises cash (1) | |

| 870 000.00 | 870 000.00 |

QUESTION 4

a) The motor car should be awarded to B who represents his/her father in terms of section 2 C(2) of the Wills Act. (2)

The residue of the estate should be awarded to (the executor in) the estate of the late D. (2)

b) C inherits nothing because the subject matter of the bequest (the dog) no longer existed at the time of Jacques' death. (2)
QUESTION 5

5.1 In terms of Section 2C(2) of the Wills Act the descendants of predeceased descendant are entitled to the latter’s benefit per stirpes. (2)

The three surviving children each inherit R250 000.00. (1)

The two grandchildren each inherit R125 000.00. (1)

5.2 The addition of the words “in equal shares” does not affect the answer. (1)

QUESTION 6

No. (1)

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

Petros Ngcobo sterven intestaat op 21 Desember 2011. Hy word oorleef deur die volgende gesinslede:

- Lungi, sy eggenote met wie hy binne gemeenskap van goed getrouwd was.
- Samuel, sy meerderjarige seun.
- Cynthia, sy meerderjarige ongetroude dogter.

Sy boedel bestaan uit die volgende bates en laste:

**Bates:**
- Sywoonhuis te Durban, KwaZulu-Natal (waardesie: R500 000,00)
- Woonstel in Pietermaritzburg se sentrale besigheidsdistrikt (waardesie: R250 000,00)
- Kontant: R650 000,00 ('n belegging wat te gelde gemaak is)
- Ou Mutual polis (die boedel word as begunstigde benoem): R150 000,00
- Ou Mutual polis (Lungi word as begunstigde benoem en die opbrengs van die polis word aan haar betaal): R300 000,00
- Sanlam polis wat direk aan Samuel uitbetaal word: R500 000,00
- Sanlam polis wat direk aan Cynthia uitbetaal word: R500 000,00
- Meubels en persoonlike artikels (waardesie: R50 000,00)

**Laste:**
- Uitstaande verband oor die huis te Durban: R30 000,00
- Begrafniskoste: R4 000,00
- Administrasiekoste beloop R72 000,00 in totaal. Spesifieer hierdie koste en gebruik denkbeeldige syfers waar nodig.

VERLANG:

QUESTION 1

Petros Ngcobo died intestate on 21 December 2011 and is survived by the following family members:

- Lungi, his wife to whom he was married in community of property.
- Samuel, his major son.
- Cynthia, his major unmarried daughter.

His estate consists of the following assets and liabilities:

**Assets:**
- His home in Durban, KwaZulu-Natal (valuation: R500 000,00)
- Flat in the Pietermaritzburg central business district (valuation: R250 000,00)
- Cash: R650 000,00 (investment reduced to cash)
- Old Mutual policy (estate has been named as the beneficiary): R150 000,00
- Old Mutual Policy (Lungi has been nominated as the beneficiary and the proceeds of the policy were paid to her): R300 000,00
- Sanlam policy paid directly to Samuel: R500 000,00
- Sanlam policy paid directly to Cynthia: R500 000,00
- Furniture and personal effects (valuation: R50 000,00)

**Liabilities:**
- Outstanding mortgage bond over the house in Durban: R30 000,00
- Funeral expenses: R4000,00;
- The administration expenses total R72000,00. Specify these and use imaginary figures where necessary.

REQUARED:
Gebruik bogemelde inligting om slegs die volgende afdelings van die likwidasi- en distribuierekening op te stel:

1. Die opskrif
2. Die likwidasierekening
3. Die rekapitulasiere-opgawe
4. Die distribuierekening
5. Die boedelbelasting-addendum.

Belangrike inligting:
- U rekening moet in alle opsigte aan die bepalings van regulasie 5(1) voldoen.
- Ignoreer BTW vir doeleindes van hierdie vraag.
- Gebruik u verbeelding om enige ontbrekende detail aan te vul.
- In gevalle waar die waardasie van spesifieke eiendom verskaf word, beteken dit dat die eiendom nie verkoop is nie. Sodanige eiendom moet in die rekening teen waardasie getoon word.

VRAAG 2

X sterf intestaat. Hy was binne gemeenskap van goed met mev. X getroud. Hy word oorleef deur mev. X en hulle twee meerderjarige kinders, A en B, wat beide ongetroud is. Die netto gesamentlike boedel het 'n waarde van R610 000,00. B doen afstand van sy erfenis. Hoe sal die oorledene se boedel vererf?

VRAAG 3

H en W is buite gemeenskap van goed getrou en het twee minderjarige kinders. Indien H (die man) die eerstenwende is, is dit hulle wens dat hulle aparte boedels saamgesmelte moet word en in 'n testamentêre trust geplaas word vir die voordeel van W en hulle kinders.

Stel die klousule op wat gevolg gee aan die samesmelting en die bemaking aan die trust. U hoef nie die testamentêre trustakte as sodanig

Use the information furnished above in order to draft only the following parts of the liquidation and distribution account:

1. The heading
2. The liquidation account
3. The recapitulation statement
4. The distribution account
5. The estate duty addendum

Important information:
- Your account must comply with the relevant provisions of regulation 5 (1) in all respects.
- Ignore VAT for the purposes of this question.
- You must use your imagination to fill in any detail that is lacking.
- In cases where the valuation of specific property has been provided, it means that the property has not been sold. Such property must be included in the account at the valuation provided.

QUESTION 2

X dies intestate. He was married in community of property to Mrs X. He is survived by Mrs X and their two major children, A and B, who are both unmarried. The net joint estate has a value of R610 000,00. Renounces his inheritance. How will the estate of the deceased devolve?

QUESTION 3

H & W are married out of community of property and they have two minor children. Should H (the husband) die first, they want their separate estates to be massed and put into a testamentary trust for the benefit of W and the children.

Draw the clause effecting the massing and the bequest to the trust. You need not draw the testamentary trust deed as such: only the massing
op te stel nie: slegs die samesmelting-klusule en die bemaking aan die trust word verlang.

VRAAG 4 [15]

Gordon Nel kom op 2 Junie 2010 te sterwe. Hy is kinderloos oorlede en word oorleef deur sy eggenote Susan Nel met wie hy buite gemeenskap van goed getroud was. Sy word tot eksekutrise in sy testament benoem, en sy gee vir u opdrag om as haar agent in die beredering van sy boedel op te tree. Sy deel u mee dat sy nie by die sterfbed aanwesig was en het ook nie haar man se lyk na sy dood uitgeken nie. Geen boedelbelasting is betaalbaar nie.

Verduidelik die volgende met betrekking tot die beredering van die boedel:

4.1 Welke dokumente moet by die Meester ingedien word om die boedel aan te meld en om die eksekuteursbrief te bekom? (9)

4.2 Die Meester keur u likwidasie- en distribuierekening goed en gee toestemming om dit te adverteer.
   i)   Waar moet die advertensie geplaas word?
   ii)  Vir welke tydperk moet die rekening ter insae lé?
   iii) Wat is die doel van die advertensie? (6)

VRAAG 5 [3]

U is die eksekuteur in 'n intestate boedel waarin 'n kontantbedrag aan 'n sewentienjarige toegekene word. Aan wie sal u die begunstigde se erfenis betaal?

QUESTION 4 [15]

Gordon Nel died on 2 June 2010. He died childless and was survived by his spouse Susan Nel to whom he was married out of community of property. She 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 death bed and she did not identify his body after his death. No estate duty is payable.

With regard to the administration of his estate, explain the following:-

4.1 Which documents must be lodged with the Master in order to report the estate and obtain letters of executorship? (9)

4.2 The Master approves your liquidation and distribution account and gives permission to advertise it.
   i)  Where should you place the notice?
   ii) For which period must the account lie for inspection?
   iii) What is the purpose of this advertisement? (6)

QUESTION 5 [3]

You are the Executor in an intestate estate in which a cash sum is awarded to a seventeen year old beneficiary. To whom would you pay the beneficiary's inheritance?
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

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE ESTATE LATE PETROS NGCOBO (IDENTITY NO. 450102 5138 08 7)(1) WHO WAS MARRIED IN COMMUNITY OF PROPERTY TO LUNGI NGCOBO(1), BORN CELE (IDENTITY NO. 490501 5053 08 3)(1)

DATE OF DEATH: 21 DECEMBER 2011(1)

MASTER’S REFERENCE NO. 965/2012(1)

LIQUIDATION ACCOUNT

ASSETS

IMMOVABLE PROPERTY

1. ERF 302 DURBAN, REGISTRATION DIVISION FU, PROVINCE OF KWAZULU-NATAL, IN EXTENT 2000 (TWO THOUSAND) SQUARE METRES

HELD UNDER DEED OF TRANSFER NO. T43972/1972

As per sworn appraisement (1) R500 000,00(2)

2. A Unit consisting of:

a) Section No. 114 as shown and more fully described on Sectional Plan No. 195/1984 in the scheme known
as WILLSBOROUGH MANSIONS, in respect of the land and building or buildings situate at DURBAN, CITY OF DURBAN, of which section the floor area, according to the said sectional plan is 75 (seventy five) square metres in extent; and

b) an undivided share in the common property in the scheme apportioned to the said section in accordance with the participation quota as endorsed on the said sectional plan

HELD UNDER DEED OF TRANSFER NO. ST7340/1986

As per sworn appraisement

(2) R250 000,00(2)

MOovable PROPERTY

Furniture and personal effects, at valuation

(3) 50 000,00(1)

One half share of items 1, 2 and 3 are awarded to Lungi Ngcobo by virtue of her marriage in community of property to the deceased (2), and the remaining half share of the said items are awarded to Lungi Ngcobo, Samuel Ngcobo and Cynthia Ngcobo in terms of the law of intestate succession (2)

CLAIMS IN FAVOUR OF THE ESTATE

Proceeds of Old Mutual Policy No. 36912

(4) 150 000,00(1)

Peoples Bank Fixed Deposit Certificate Number 885-980-101

(5) 650 000,00(1) 800 000,00

TOTAL ASSETS

1 600 000,00

==

LIABILITIES

ADMINISTRATION EXPENSES

1. Notice to creditors:
   Government Gazette
   Scottburgh Herald

   (6) R 34,50(1)
   (7) R 190,50(1)

2. Advertisement of this account:
   Government Gazette
   Scottburgh Herald

   R 34,50(1)
   R 190,50(1)
3. Master’s fees (maximum) R 600,00(1)
4. Provision for bank charges R 500,00(1)
5. Executor’s remuneration @3.5% of R1 600 000,00 R56 000,00(2)
6. Peter Smith for valuation of immovable and movable property (8) R 4 500,00(2)
7. Blakes Attorneys for transfer of immovable properties (9) R 8 000,00(2)
8. Goodfellow Attorneys for bond cancellation costs (10) R 1 800,00(2)
9. Postages and petties R 150,00(1) R 72 000,00

CLAIMS AGAINST THE ESTATE
1. Avbob – funeral expenses (11) R 4 000,00(1)
2. Standard Bank Bond Account No. 89272 (12) R30 000,00(1) R 34 000,00

TOTAL LIABILITIES R106 000,00

ESTATE DUTY NIL

BALANCE AVAILABLE FOR DISTRIBUTION R1 494 000,00
R1 600 000,00

RECAPITULATION STATEMENT

Cash and assets reduced to cash (Items (4) and (5) of the liquidation account) R800 000,00(1)

Liabilities as per Liquidation account R106 000,00(1)

Estate Duty NIL

Cash legacies NIL

CASH SURPLUS R694 000,00(1)

R800 000,00 R800 000,00
DISTRIBUTION ACCOUNT

1. Balance available for distribution
   R1 494 000,00(1)

2. Awarded to Lungi Ngcobo, surviving spouse of the deceased, unmarried(1):
   
   2.1 One-half of the estate by virtue of her marriage in Community of Property

   R747 000,00(2)

2.2 A child’s portion in terms of Section 1(1) (c) (i) of the Intestate Succession Act No. 81 of 1987, as amended

   The above award consists of:

   A two-thirds share of the immovable properties
   R500 000,00(1)

   A two-thirds share of the movable property
   R 33 333,33(1)

   Cash
   R462 666,67(1)
   R996 000,00

   ==========

   R249 000,00(2)

   R996 000,00

3. Awarded to Samuel Ngcobo, major son of the deceased, a child’s portion in terms of the Intestate Succession Act(1)

   The above award consists of:

   A one-sixth share of the immovable property
   R125 000,00(1)

   A one-sixth share of the movable property
   R 8 333,33(1)

   Cash
   R115 666,67(1)
   R249 000,00

   ==========

   R249 000,00(1)

4. Awarded to Cynthia Ngcobo, major daughter of the deceased, unmarried, a child’s portion in terms of the Intestate Succession Act(1)

   The above award consists of:
A one-sixth share of the immovable property  R125 000,00
A one-sixth share of the movable property  R 8 333,33
Cash  R115 666,67
R249 000,00

R1 494 000,00  R1 494 000,00

ESTATE DUTY

Property in terms of Section 3.2:

Total value of assets as per Liquidation Account  R1 600 000,00(1)
Less: Proceeds of Old Mutual Policy No. 36912  R 150 000,00(1)  R1 450 000,00
Less: Surviving Spouse’s half share  R 725 000,00(2)  R 725 000,00

Add property deemed to be property in terms of Section 3 (3):-

Proceeds of all domestic life insurance policies:
- Old Mutual Policy No. 36912  R150 000,00(1)
- Old Mutual Policy No. 37210  R300 000,00(1)
- Sanlam Policy No. 246810 x 1  R500 000,00(1)
- Sanlam Policy 276710 x 1  R500 000,00(1)  R1 450 000,00

Gross Dutiable Estate  R2 175 000,00

Less: Allowable Deductions in terms of Section 4:

Total Liabilities  R106 000,00(1)
Less: Funeral Expenses  R 4 000,00(1)

R102 000,00

Less: Surviving spouse’s half share  R 51 000,00(1)
R 51 000,00

Add: Funeral Expenses  R 4 000,00(1)
R 55 000,00
Add: Deductions in terms of
   Section 4 (q):
   Inheritance
       R249 000,00(1)
Proceeds of Old Mutual
   Policy No. 36913
       R 300 000,00(1)       R 604 000,00
Net Value
       R1 571 000,00
           R1 571 000,00

Less: Primary Rebate
   R3 500 000,00(1)

Dutiable amount
   NIL(1)

Therefore no Estate Duty is payable.

QUESTION 2

Mrs X is entitled to a half share of the joint estate by virtue of the marriage
in community of property
   R305 000,00  (2)

The deceased's half share devolves as follows:

Mrs X inherits a child's share or
   R125 000,00, whichever is the greater.  (2)

A child's share is R305 000,00 ÷ 3 which is less than
R125 000,00.

Therefore Mrs X inherits
   R125 000,00  (1)

Balance of R180 000,00 is inherited as follows:

A
   R 90 000,00  (1)

Mrs X (because she alone stands to benefit by B's
renunciation – Section 1 (6) of the Intestate Succession Act)
   R 90 000,00  (3)
   R 610 000,00
QUESTION 3

"Should the testator be the first dying of us(1), we hereby mass our separate estates(2) and leave the entire massed estate to our trustee in trust(1) for the benefit of the testatrix and the children born of our marriage(1), subject to the terms and conditions set out hereunder(1)."

QUESTION 4

4.1 Death notice(1)
   Certified copy of the deceased’s I.D.(1)
   Death certificate(1)
   Original Will(1)
   Acceptance of trust as executor in duplicate(2)
   Section 9 (provisional) inventory(1)
   Certified copy of the Executor’s I.D. (1)
   Declaration that the estate has not been reported at any other Master’s office(½)
   Marriage declaration(½)

4.2 i) Government Gazette(1) and one or more newspapers(1) circulating in the district in which the deceased was ordinarily resident at the time of his death(1) and, if at any time within a period of 12 months immediately preceding the date of his death he was so resident in any other district, also in one or more newspapers circulating in that other district.(1)

ii) Not less than 21 days(1)

iii) To allow interested parties to object to the account if they so wish(1).

QUESTION 5

To the Guardians Fund(1) or, alternatively, to the minor’s natural guardian(1) provided he/she provides security to the Master(1).

TOTAL: [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 versien.

4. Skryfassebliefslegs 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% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalificeer vir 'n mondeling nie en sal hierdie deel druip.

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

Mabasa died on 30 June 2012 and is survived by his two wives Bongi and Mpho to whom he was married according to customary law out of community of property without accrual. He is also survived by his major son Daniel by his marriage to Bongi and by his brother George. In his Will he bequeathed his entire estate to his first wife Bongi.

Bongi was appointed as the executrix and establishes the following:

1. The house in which they reside is registered in his name and is valued at R1 200 000,00.
2. Furniture in his name valued at R150 000,00.
3. Mpho is the owner of the farm KIWI which has been valued by an appraiser at R1 100 000,00. This farm has been let to Benson in terms of a 5 year lease which commenced on 1 February 2008. Rental of R30 000,00 per annum is payable 6 monthly in advance.
4. Sanlam Life Insurance Policy on his life payable to his son Daniel as the nominated beneficiary with a maturity value of R90 000,00.
5. A motor vehicle sold by the executrix for R130 000,00.
6. Policy proceeds of Liberty Life Insurance in the amount of R825 000,00 are paid to the executor, after deduction by the insurance company of a loan against the policy in the amount of R15 000,00.
7. The deceased during his lifetime took out an Old Mutual policy on Mpho’s life. He paid the premiums. The maturity value of this policy is R900 000,00 and the surrender value of this policy as at 30 June 2012 is R405 000,00. The executrix surrenders the policy.

8. 600 shares in Rovers (Pty) Ltd, whose market value as at the date of death was R750 000,00 and were sold to his brother George during the process of administering the estate for R800 000,00.

9. He had invested in Bob Ltd shares which were sold for a total amount of R185 000,00 to his second wife Mpho. Stockbroker’s commission in the amount of R18 500,00 is payable to Stockbrokers on this deal.

10. There is a fixed deposit at Lisbon Bank recovered in the sum of R300 000,00. Included in the sum of R300 000,00 was interest in the sum of R30 000,00 up to date of death, as well as interest in the sum of R10 000,00 for the period after date of death to the date on which the deposit was redeemed. The liabilities of the estate including funeral and administration expenses amount to R223 000,00. In addition there is the final income tax assessment of R7 000,00.

Draft the entire Liquidation and Distribution Account to be lodged with the Master of the High Court. Specify the necessary expenses.

QUESTION 2

Antonio was a successful artist who exhibited his sculptures as far as the USA. He was unmarried and had no children of his own. After a disappointing exhibition in Washington DC, Antonio committed suicide on 20 April 2012.
selfmoord gepleeg. Hy het nooit 'n testament gemaak nie. Hy laat 'n verdeelbare boedel van R2 400 000,00 na, bestaande uit kontant.

Hy word oorleef deur sy vader Robert en sy twee broers Alfred en Simon. Simon het geen kinders nie, en Alfred het twee dogters, Lesego (20) en Lebo (17). Antonio se moeder is in 2011 oorlede. Sy het ook 'n kind uit 'n vorige huwelijk gehad, naamlik Antonio se halfsuster Martha. Martha het drie seuns, naamlik Freddy, Jackson en Kenneth. As gevolg van die stigma wat aan selfmoord kleef, het Alfred sy erfenis skriflik op 30 September 2012 gerepudieer.

Adviseer Antonio se familie oor wie sy erfgenaam is en wie nie. Welke bedrag sal iedere erfgenaam erf?

VRAAG 3

U word in Rita Crous se testament as haar eksekutrise benoem. Sy beskik oor haar boedel soos volg:

1. Haar huis met inhoud, gewaardeer teen R800 000,00, word aan haar dogter Sannet bemaak.
2. Haar motor, gewaardeer teen R200 000,00, word aan haar seun Gerald bemaak.
3. Die netto restant van haar boedel, bestaande uit R1 000 000,00 in kontant, word nagelaat aan haar eggenoot Bert met wie sy buite gemeenskap van goed getrou was sonder aanwas.

Sannet woon in Botswana en stel nie belang in die huis en die huisinhoud nie. Gerald verkies om kontant te erf sodat hy sy kinders se studiegelder kan betaal. Bert is bereid om met sy kinders te ruil, want hy verkies om die huis met inhoud en die motorvoertuig te neem.

Stel 'n herverdelingsooreenkomst vir die erfgenaam op.

Antonio never made a Will and leaves a distributable estate of R2 400 000,00 consisting of cash.

He is survived by his father Robert and his two brothers Alfred and Simon. Simon has no children and Alfred has two daughters, Lesego (20) and Lebo (17). Antonio’s mother died in 2011. She also had a child from a previous marriage, Antonio’s half-sister Martha. Martha has three sons called Freddy, Jackson and Kenneth. Because of the stigma connected to suicide, Alfred repudiated his inheritance in writing on 30 September 2012.

Advise Antonio’s family as to who are and who are not his heirs. How much will each heir inherit?

QUESTION 3

In her Will, Rita Crous appointed you as her Executor and dealt with her estate as follows:

1. Her house and its contents, valued at R800 000,00, is bequeathed to her daughter, Sannet.
2. Her motor vehicle, valued at R200 000,00, is bequeathed to her son, Gerald.
3. The net residue of her estate, consisting of cash of R1 000 000.00, is left to her husband, Bert, to whom she was married out of community of property, accrual excluded.

Sannet lives in Botswana and does not want the house or its contents. Gerald would rather have cash with which to pay his children’s tertiary fees. Bert is happy to swap with his children, as he would prefer to have the house with its contents and the motor vehicle.

Draft a Redistribution Agreement for the heirs.
### Question 4

In his will bequeaths R1 000 000,00 to his wife W and his two children in equal shares, and leaves the residue of his estate (to the value of R100 000,00) to his single brother B.

A's two children and B wish A's wife W, to whom he was married out of community of property, to inherit the whole estate. Explain how this can be done.

### Question 5

A is married out of community of property to B. They have a son C. A has a net estate worth R5 000 000,00. He wishes to benefit both his wife and his son upon his death, but without incurring any liability for estate duty. He particularly wants his son to inherit as much as possible, provided no estate duty is payable.

How much of his estate can he leave in his will to

- a) B?
- b) C?

Your answer must be in accordance with provisions of the Estate Duty Act as at 1 July 2012.
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

The First and Final Liquidation and Distribution Account (1) in the estate of the late Mabasa (Identity Number 630815 5638 08 3) (1) who died on 30 June 2012 (1) and who was married according to customary law and out of community of property without accrual to Bongi and Mpho (1).

Master's reference number: 3691/2012 (1)

(QUESTION 1 CONTINUES ON NEXT PAGE)
<table>
<thead>
<tr>
<th><strong>Liquidation account</strong></th>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>Assets:</strong></td>
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</tr>
<tr>
<td><strong>Immovable property</strong></td>
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<td>Erf 156 Riverside Township</td>
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<td></td>
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<tr>
<td>Registration Division JR, Province Gauteng</td>
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<tr>
<td>Measuring 2000m(^2)</td>
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</tr>
<tr>
<td>Held by Deed of Transfer No. T234/99 (1)</td>
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<tr>
<td>Valued at</td>
<td></td>
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<tr>
<td></td>
<td>1</td>
<td>1 200 000.00(1)</td>
</tr>
<tr>
<td>(Awarded and to be transferred to Bongi, the surviving spouse as sole heir i.t.o. clause 4 of the Will dated 13 March 2000)</td>
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<td>(1)</td>
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<tr>
<td><strong>Movable property</strong></td>
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<tr>
<td>Furniture and Fittings</td>
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<tr>
<td>Valued at</td>
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<td>(Awarded to Bongi, the surviving spouse as sole heir i.t.o. clause 5 of the Will dated 13 March 2000)</td>
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<td>(1)</td>
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<tr>
<td></td>
<td>2</td>
<td>150 000.00(1)</td>
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<tr>
<td>Proceeds of motor vehicle</td>
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<td></td>
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<tr>
<td></td>
<td>3</td>
<td>130 000.00(1)</td>
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<tr>
<td>Proceeds of Liberty Life Insurance Policy No. L37345X8</td>
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<td></td>
<td>4</td>
<td>840 000.00(1)</td>
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<tr>
<td>Proceeds of Old Mutual Life Insurance Policy No. OM345Y at surrendered value</td>
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<tr>
<td></td>
<td>5</td>
<td>405 000.00(1)</td>
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<td>Proceeds of shares in Rovers(Pty) Ltd</td>
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<td>6</td>
<td>800 000.00(1)</td>
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<tr>
<td>Proceeds of shares in Bob Ltd</td>
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<td></td>
<td>7</td>
<td>185 000.00(1)</td>
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<td>Lisbon Bank – fixed deposit No. 3426813 Capital</td>
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<tr>
<td>Accrued interest to date of death</td>
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<tr>
<td></td>
<td>8</td>
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<tr>
<td></td>
<td></td>
<td>260 000.00(1)</td>
</tr>
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<td></td>
<td></td>
<td>30 000.00(1)</td>
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<td><strong>Total Assets</strong></td>
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<tr>
<td></td>
<td></td>
<td>4 000 000.00</td>
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## Liabilities:

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Advertising for Debtors and Creditors:</td>
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<td></td>
</tr>
<tr>
<td>Government Gazette</td>
<td>9</td>
<td>34.50</td>
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<tr>
<td>The Star</td>
<td></td>
<td>310.00(1)</td>
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<tr>
<td>Advertising Account for inspection:</td>
<td>10</td>
<td>34.50</td>
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<tr>
<td>Government Gazette</td>
<td></td>
<td>310.00(1)</td>
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<tr>
<td>The Star</td>
<td></td>
<td>310.00(1)</td>
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<tr>
<td>Master's fees (maximum)</td>
<td>11</td>
<td>600.00(1)</td>
</tr>
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<td>Executor's fees at 3.5% on R4 000 000.00 (1)</td>
<td>12</td>
<td>140 000.00(1)</td>
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<tr>
<td>Bank charges</td>
<td>13</td>
<td>300.00(1)</td>
</tr>
<tr>
<td>Postage and pettices</td>
<td>14</td>
<td>150.00(1)</td>
</tr>
<tr>
<td>P Jones – Valuation costs -house and movables</td>
<td>15</td>
<td>9 000.00(1)</td>
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<tr>
<td>Stockbroker's commission</td>
<td>16</td>
<td>18 500.00(1)</td>
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<tr>
<td>S Wadee Inc – Transfer costs -house</td>
<td>17</td>
<td>11 400.00(1)</td>
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<td>Funeral expenses</td>
<td>18</td>
<td>27 361.00(1)</td>
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<td>SARS – final tax assessment</td>
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<td>7 000.00(1)</td>
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<tr>
<td>Liberty Life Insurance Co – loan</td>
<td>20</td>
<td>15 000.00(1)</td>
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<tr>
<td><strong>Total Liabilities</strong></td>
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<td>230 000.00</td>
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<tr>
<td><strong>Estate Duty</strong></td>
<td></td>
<td>Nil</td>
</tr>
<tr>
<td><strong>Balance for distribution</strong></td>
<td></td>
<td>3 770 000.00</td>
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### Recapitulation Statement

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Cash and assets reduced to cash</td>
<td>2 650 000.00(1)</td>
</tr>
<tr>
<td><strong>Less:</strong></td>
<td></td>
</tr>
<tr>
<td>Liabilities</td>
<td>230 000.00(1)</td>
</tr>
</tbody>
</table>
### Cash Legacies
- Estate Duty
- Cash surplus

#### Distribution Account

**Balance for distribution**

Awarded to Bongi (1), major surviving spouse, as sole heir i.t.o. of and subject to the terms and conditions of the Will dated 13 March 2000 (1)

Award consists of:
- Immovable property: R1 200 000.00 (1)
- Movable property: R 150 000.00 (1)
- Cash: R2 420 000.00 (1)

R3 770 000.00

#### Income & Expenditure Account

- Interest paid on fixed deposit with Lisbon bank
- Executor’s remuneration @ 6% on R10 000.00 (1)
- Balance awarded to Bongi as sole heir

#### Fiduciary Assets Account

- None

#### Estate Duty

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>NIL</td>
<td>2 420 000.00 (1)</td>
</tr>
<tr>
<td>NIL</td>
<td>2 650 000.00</td>
</tr>
<tr>
<td><strong>==</strong></td>
<td><strong>==</strong></td>
</tr>
<tr>
<td>NIL</td>
<td>3 770 000.00 (1)</td>
</tr>
<tr>
<td><strong>==</strong></td>
<td><strong>==</strong></td>
</tr>
<tr>
<td>10 000.00(1)</td>
<td>10 000.00</td>
</tr>
<tr>
<td>9 400.00(1)</td>
<td>10 000.00</td>
</tr>
<tr>
<td><strong>==</strong></td>
<td><strong>==</strong></td>
</tr>
<tr>
<td>Nil(1)</td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td><strong>Property of the deceased</strong></td>
<td></td>
</tr>
<tr>
<td>Assets as per liquidation account</td>
<td>840 000.00(1)</td>
</tr>
<tr>
<td><strong>Less:</strong> Liberty Life Policy payable to estate</td>
<td>50 000.00(2)</td>
</tr>
<tr>
<td><strong>Less:</strong> Difference in value of private shares</td>
<td></td>
</tr>
<tr>
<td><strong>Property Deemed to be Property</strong></td>
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</tr>
<tr>
<td><strong>Add:</strong> Liberty Life Policy payable to estate</td>
<td>840 000.00(1)</td>
</tr>
<tr>
<td><strong>Add:</strong> Sanlam Life Insurance Policy</td>
<td>90 000.00(1)</td>
</tr>
<tr>
<td><strong>Gross value of the estate</strong></td>
<td>930 000.00(1)</td>
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<tr>
<td><strong>Deductions – Sect 4</strong></td>
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<tr>
<td><strong>Costs of Administration and claims</strong></td>
<td>230 000.00(1)</td>
</tr>
<tr>
<td><strong>Benefits to Surviving spouse – Sect 4(q)</strong></td>
<td>3 770 000.00(2)</td>
</tr>
<tr>
<td><strong>Net value of the estate</strong></td>
<td>4 000 000.00</td>
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<tr>
<td><strong>Less:</strong> Primary Rebate – Sect 4A</td>
<td>40 000.00(1)</td>
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<tr>
<td><strong>Dutiable Amount</strong></td>
<td>3 500 000.00(1)</td>
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<td><strong>Estate Duty at 20% on R0.00</strong></td>
<td>0.00(1)</td>
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<tr>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>
Certificate

I, the undersigned,
Bongi,
executrix in the estate of the late Mabasa, hereby declare that the above account is to the best of my knowledge and belief a true and proper account of the liquidation and distribution of the estate(1), and that to the best of my knowledge and belief all the assets and income collected subsequent to the death of the deceased to the date of this account have been disclosed therein (1).

Signed at Pretoria on this 19th day of November 2012.

__________________________________________
Bongi
Executrix (1)

QUESTION 2

Antonio’s estate will devolve as follows:

His father Robert will inherit half of the estate in terms of Section 1(1)(d)(ii) of the Intestate Succession Act 81 of 1987, as amended, (1) in the amount of R1 200 000,00 (1).
Alfred, Simon and Martha will inherit half of the estate of their pre-deceased mother in terms of Section 1(1)(d)(ii) of the Intestate Succession Act 81 of 1987, as amended (2). Each one of them will inherit R400 000,00 (1).
Alfred has, however, renounced his inheritance and his two children Lebo and Lesego will each receive the amount of R200 000,00 (1) in terms of Section 1(7) of the law of Intestate Succession Act 81 of 1987, as amended (1). Martha’s children cannot inherit (1) because their mother is still alive and has not been disqualified from being an heir to the intestate estate (1) and has also not renounced her right to be such heir in the estate(1).

QUESTION 3

REDISTRIBUTION AGREEMENT (1)
ESTATE LATE RITA CROUS
MASTER’S REFERENCE NO.: 2364/2012 (1)

WHEREAS in terms of Clauses 4, 5 and 6 of the Last Will and Testament dated 15 July 2011 of the late Rita Crous, the deceased dealt with her estate as follows: (1)

1. Her immovable property and its contents were bequeathed to her major daughter, Sannet Crous, which property is valued at R800 000,00; (1)
2. Her motor vehicle was bequeathed to her major son, Gerald Crous, which motor vehicle is valued at R200 000,00; (1)

3. The residue of her estate, consisting of cash in the amount of R1 000 000,00, was left to her surviving spouse, Bert Crous, to whom she was married out of community of property; (1)

AND WHEREAS the heirs Sannet Crous and Gerald Crous would prefer to receive cash in place of the specific items bequeathed to them, and the surviving spouse, Bert Crous, would prefer to receive the aforesaid specific assets; (1)

AND WHEREAS the heirs, all majors, have agreed to redistribute the assets. (1)

NOW THEREFORE the heirs agree as follows:

1. In place of the immovable property and its contents (Items 1 and 2 in the Liquidation Account), Sannet Crous shall receive the equivalent value of cash in the amount of R800 000,00 (1).

2. In place of the motor vehicle (Item 3 in the Liquidation Account), Gerald Crous shall receive the equivalent value of cash in the amount of R200 000,00 (1).

3. In place of the cash residue in the sum of R1 000 000,00, Bert Crous shall receive the said immovable property and contents valued at R800 000,00 and the motor vehicle valued at R200 000,00 (1).

4. The parties acknowledge that this Redistribution Agreement is subject to acceptance by the Master of the High Court (1).

DATED AT CAPE TOWN THIS DAY OF OCTOBER 2012.

AS WITNESSES:

1. ____________________________
   Bert Crous

2. ____________________________
   Sannet Crous

   ____________________________
   Gerald Crous (1)

QUESTION 4

A's 2 children must renounce their inheritance (2). The effect will be that W will receive the whole bequest of R1 000 000.00 in terms of section 2C(1) of the Wills Act (1).
B must renounce his inheritance (2). The effect will be that the residue of the estate will devolve in terms of the law of intestate succession (2). W inherits a child's share or R125 000.00, whichever is the greater (1). She therefore inherits the whole residue of R100 000.00 (1).
QUESTION 5 [6]

(a) A can bequeath a maximum amount of R3 500 000 (the amount of the section 4A deduction) to C. (4)

(b) The balance of R1 500 000.00 will be left to B. Whatever is left to a surviving spouse is free of estate duty – see section 4(q) of the Estate Duty Act. (2)

QUESTION 6 [2]

Johnny Walker N.O.
Harvey Wallbanger N.O.

TOTAL: [100]