

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

30 AUGUST / 30 AUGUSTUS 2006

ANSWERS/ANTWOORDE

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

[68]

The First and Final Liquidation and Distribution Account¹ in the joint estate of the late ANDRE HORN (identity no 481208 5055 08 4)¹ and MARCIA HORN (identity no 481108 5053 08 3)¹, to whom he was married in community of property.

Date of death : 30 June 2005¹

Master's reference : 578/2005¹

[5]

<u>LIQUIDATION ACCOUNT</u>		
A <u>Immovable Property Awarded</u>		
The farm ERFENIS 501, district Parys, Free State Province; measuring 800 hectares; held by Deed of Transfer T5005/1995	1 1	
Appraised value	1	R3 000 000,00
Awarded as follows:		
One half to MARCIA HORN, the surviving spouse, by virtue of the marriage in community of property; and	1	
One half to PIERRE HORN, major son of the deceased, in terms of the will	1	
		[5]

B Proceeds of Assets Realised			
1	Proceeds of 100 shares in Cape Horn (Pty) Ltd, sold to John Cape for	2	R1 200 000,00
2	Proceeds of life policy with DEF Ltd	1	R 800 000,00
3	Proceeds of current account with XYZ Bank	1	R 200 000,00
	TOTAL ASSETS		<u>R2 200 000,00</u>
			<u>R5 200 000,00</u>
			[4]

C Administration Expenses			
1	Notice to Creditors : Government Gazette Volksblad	1	R 22,00 R 240,00
2	Advertisement of this account Government Gazette Volksblad	1	R 22,00 R 240,00
3	Provision for bank charges	1	R 500,00
4	Master's fees (maximum)	1	R 600,00
5	Executor's remuneration @ 3,5% on R5 200 000,00 14% VAT on R182 000,00	1 1	R 182 000,00 R 25 480,00
6	Valuation expenses: (a) J Piek for market valuation of farm (b) P Boersma for Land Bank valuation of farm (c) Auditors Nel & Co for valuation of shares	1 1 1	R 1 800,00 R 1 200,00 R 1 000,00
7	Attorneys Nel and Nelson for transfer of farm	1	R 9 782,00
8	Attorneys JA Inc for postages and petties 14% VAT on R100,00	1	R 100,00 R 14,00
			<u>R 223 000,00</u>
			[11]

D Claims against the estate		
1 Receiver of Revenue for final income tax assessment	1	R 60 000,00
2 Estate duty	1	R 141 700,00
		<hr/>
		R 201 700,00
		[2]
		R 424 700,00
		R4 775 300,00
		<hr/>
		R5 200 000,00
		[1]
		<hr/>

<u>RECAPITULATION STATEMENT</u>		
1 Proceeds of assets realised	1	R2 200 00,00
2 Administration expenses and claims against the estate	1	R 424 700,00
3 Cash available for distribution	1	R1 775 300,00
		<hr/>
		R2 200 000,00
		R2 200 000,00
		[3]
<u>DISTRIBUTION ACCOUNT</u>		
1 Balance for distribution	1	R4 775 300,00
2 One half awarded to MARCIA HORN, surviving spouse of the deceased, by virtue of the marriage in community of property. *	1	R2 387 650,00
The award comprises:		
½ share of the farm ERFENIS		
		R1 500 000,00
½ share of the cash		R 887 650,00
		<u>R2 387 650,00</u>
3 One half awarded to PIERRE HORN, major son of the deceased, in terms of the will	1	R2 387 650,00

<p>The award comprises:</p> <p>½ share of the farm ERFENIS R1 500 000,00</p> <p>½ share of the cash R <u>887 650,00</u></p> <p style="text-align: right;">R2 <u>387 650,00</u></p>	1	<hr/> R4 775 300,00	<hr/> R4 775 300,00
<p>* By virtue of her repudiation, the surviving spouse retains her half share, but may not take under the will.</p>	1		[7]

<u>INCOME AND EXPENDITURE ACCOUNT</u>			
1 Rental collected from Jan Nel on 1 July 2005	2		R 100 000,00
2 Executors remuneration @ 6% on R100 000,00	1	R 6 000,00	
14% VAT on R6 000,00	1	R 840,00	
3 Balance awarded as follows:			
½ to MARCIA HORN, the surviving spouse, by virtue of the marriage in community of property	1	R 46 580,00	
½ to PIERRE HORN, major son of the deceased, in terms of the will	1	R 46 580,00	
		<hr/> R <u>100 000,00</u>	<hr/> R <u>100 000,00</u>
<u>FIDUCIARY ASSETS</u>			[6]
None	2		[2]
<u>ESTATE DUTY</u>			
<u>Property of the deceased</u>			
Value of assets per liquidation account	1	R5 200 000,00	
LESS difference between market value and Land Bank value of farm	2	R1 000 000,00	
		<hr/> R4 200 000,00	

ADD difference between valuation and selling price of shares	2	R 300 000,00	
		<hr/>	
		R3 900 000,00	
LESS proceeds of life policy	1	R 800 000,00	
		<hr/>	
		R3 100 000,00	

		R3 100 000,00	
LESS half share of surviving spouse	2	R1 550 000,00	R1 550 000,00
		<hr/>	
<u>Property deemed to property of the deceased</u>			
Proceeds of policy with DEF Ltd	1		R 800 000,00
			<hr/>
			R2 350 000,00
<u>LESS Deductions</u>			
Administration expenses per liquidation account	1	R 223 000,00	
Claims against the estate per liquidation account	1	R 60 000,00	
		<hr/>	
		R 283 000,00	
Less surviving spouse's half share	1	R 141 500,00	R 141 500,00
		<hr/>	
			R2 208 500,00
NET VALUE			
LESS Section 4A deduction	1		R1 500 000,00
			<hr/>
			R <u>708 500,00</u>
DUTIABLE AMOUNT			
Estate duty payable @ 20% on R708 500,00	2	R 141 700,00	

Notes:		
1 The entire amount of estate duty is payable by the estate. 1		
2 The proceeds of the life policy with ABC Ltd are free of duty in terms of s 3(3)(a)(iA) of the Estate Duty Act. 1		[17]

<u>CERTIFICATE</u>		
<p>I, the undersigned, ERIC JANSEN, in my capacity as executor in the estate of the late ANDRE HORN¹, do hereby certify that, to the best of my knowledge and belief, the above amount is a true and proper account of the liquidation and distribution of the estate¹, that all the assets of the deceased¹ of which I am aware and all post-death income collected to date hereof¹ have been disclosed.</p> <p>Signed at Bloemfontein on 1 December 2005. 1</p> <p style="text-align: center;">_____ ERIC JANSEN</p>		[5]
		<u>68</u>

QUESTION 2

[10]

If the unborn child is born alive (1), Sarah, Daniel and the unborn child (nasciturus rule) are the intestate heirs. (1)

Sarah will first get her $\frac{1}{2}$ share of the estate: R900 000.00 (1)

Sarah inherits a child's share (R900 000,00÷3 = R300 000,00) or R125 000,00 (1) whichever is the greater. (1)

Therefore, Sarah, Daniel and the unborn child each get R300 000,00. (3)

If the unborn child is born dead, then Sarah and Daniel are the intestate heirs and they each inherit R450 000.00. (2)

QUESTION 3

[22]

JOINT WILL

We, the undersigned,

SAM SITHOLE

Identity number 800212 5012 005

and

NTHABISENG SITHOLE (born MORAKE)

Identity number 820904 6407 008

spouses married out of community of property and presently residing at
16 Klondike Street Garsfontein, Pretoria,

declare this to be our Last Will (1)

1.

We hereby revoke all previous wills or any other testamentary writings previously made by us, either individually or jointly with any other person. (1)

2.

We nominate the survivor of us as the executor of our Will. (1) In the event of our simultaneous death or within the period and under the circumstances contemplated in clause 4 hereunder, or should the survivor of us not be able to accept the appointment, we appoint James Ndhlovu, a partner of Ndhlovu-Reddy Inc., attorneys practising at Pretoria. (1) Our executor shall have the power of assumption (1) and we direct the Master of the High Court to dispense with the finding of security by our executor in terms of the provisions of the Administration of Estates Act 66 of 1965 or any amending or subsequent legislation in force at the date of our deaths. (1)

3.

We appoint the survivor of us as the sole heir of the entire estate of the first dying. (1)

4.

Should we die simultaneously or within ninety days of one another, or as result of the same accident or disaster which caused the death of the first dying of us, or under any other circumstances within the aforesaid period so that this is our last Will, (1) we hereby direct that our separate estates be regarded as one estate and that all our assets shall devolve upon the children of our marriage in equal shares. (1)

5. CREATION OF TRUST

We direct that while our children have not yet attained the age of twenty five years, the inheritance due to them shall not be paid or transferred to them, but such inheritance shall be paid over and transferred to our Trustees in Trust, (1) to be held and administered by them according to the provisions set out hereunder. (1)

6. APPOINTMENT OF TRUSTEES

We nominate as the Trustees of the Trust a partner of the law firm Ndhlovo-Reddy Inc., the brother of the testator, SYDNEY SITHOLE and the sister of the testatrix, GRACE MORAKE, to act jointly. (1)

7. APPOINTMENT OF GUARDIAN

We nominate as Guardian of our minor children the brother of the testator SOLOMON SITHOLE (1) and failing him, the sister of the testatrix, AGNES MABE. (1)

8. SECURITY

We direct the Master of the High Court to dispense with the finding of security by any Guardian or Trustee appointed in terms of this Will, pursuant to the provisions of the Administration of Estates Act 66 of 1965 (1) and the Trust Property control Act 57 of 1988, or any amending or subsequent legislation promulgated during the existence of the trust. (1)

9. SUBSTITUTION

In the event of any of our children dying before the age of twenty five years, we direct that he/she shall be substituted as beneficiary of the Trust by his/her lawful issue in equal shares (1) and failing such lawful issue, upon our remaining children in equal shares or their lawful issue in equal shares by representation **per stirpes**. (1)

10. DEVOLVING OF TRUST ASSETS AND TERMINATION OF TRUST

The inheritance due to any of our children in terms of this Will shall be paid over or transferred to them as soon as they have attained the age of twenty five years.

(1) The trust shall terminate as soon as our youngest surviving child has attained the age of twenty five years. (1)

11. EXCLUSION OF COMMUNITY OF PROPERTY AND THE RIGHT OF ACCRUAL

Any inheritance, capital or income derived therefrom accruing in terms of this Will shall not form part of any community of property or be subject to any right of accrual as contemplated in the Matrimonial Property Act 88 of 1984, and such inheritance shall at all times be the sole and exclusive property of the beneficiary concerned. (1)

SIGNED AT POTCHEFSTROOM ON 25 JULY 2005 IN THE PRESENCE OF THE UNDERSIGNED WITNESSES, ALL BEING PRESENT AND SIGNING AT THE SAME TIME AND IN THE PRESENCE OF ONE ANOTHER. (1)

AS WITNESSES:

1. _____

TESTATOR

2. _____

TESTATRIX

TOTAL: [100]