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**University Examinations 2015/2016**

THIRD YEAR SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF COMMERCE

**BFC 3378: TRUST & EXECUTORSHIPS LAW AND ACCOUNTS**

 **DATE: AUGUST 2016 TIME: 2HOURS**

**INSTRUCTIONS:** *Answer question* ***one*** *and any other* ***two*** *questions*

**QUESTION ONE (30MARKS)**

1. Discuss the key provision of creation of trust. How can a trust be created? (4 Marks)
2. The recently concluded controversial Matrimonial Properties Act (2013) is a big win to male spouses. Discuss the foregoing observations in the context of Section 42 of the Succesion Act Cap 160 Laws in Kenya. (4 Marks)
3. Discuss the remedies available to the beneficiaries in case an executor distributes the gifts to the wrong beneficiaries. (2 Marks)
4. Ramara dies intestate leaving behind two wives Moly and Polly whom he married under a system of law that permits polygamy. A third wife, Dolly had predeceased him. Polly has three children Rasha, Vicky and Rose. Dolly had two children Shorty and Mrefu. Molly had no children. All the children survived Mr. Ramara. The value of his personal and household effects was shs.350,000 and the value of his net estate amounted to shs.3.6m. From reliable sources, it is ascertained that Mr. Ramara owes Equity Bank shs.450,000. During his life time, Mr. Ramara had advanced Rashs and Mrefu a total of shs.1 m to boost their joint hardware shop.

Required:

A clear statement showing how the deceased’s estate would devolve. (10 Marks)

1. Briefly explain the meaning of the following terms as used in the law of succession.
2. Donation mortis causa (2 Marks)
3. Partial intestacy. (2 Marks)
4. Kifo died on 12 March 2003 and by his will made in 2001, bequeathed the following:
5. To Linda, my daughter, shs.100,000.
6. To Elisha, my son, my house in Thome.
7. To Lita, my wife, Shs.500,000 on condition that she does not marry again.

The executor has established that;

* Kifo gave Linda shs.60,000 in 2002 to enable her open a salon.
* The contract for the purchase of the house in Thome was completed in June 2004.
* Lita is engaged to Kisongo and their wedding is scheduled for 31 December 2004

Required:

Explain how the executor should deal with each bequest. (6 Marks)

**QUESTION TWO (20 MARKS)**

Moses Waigwa died as a result of a motor accident on 5 September 2015. His estate at death after payment of debts, funeral and other expenses consisted of the following assets:

 Shs.

Freehold house 900,000

Furniture and other personal effects 120,000

Ornamental collection 12,000

12,000 ordinary shares in Kenya Co. Ltd210,000

Shs.100,000 nominal 105 Treasure stock 2017 92,000

Amount due from motor insurance company 114,000

Debt due from Paul 50,000

Cash in hand and balance at bank 262,000

Through his will executed several years earlier, Moses Waigwa forgave his brother-in-law, Paul, all debts at the date of his death and made the following bequests.

1. To my wife Grace, my freehold house, furniture and other personal effects not otherwise bequeathed.
2. To my brother William, the sum of shs.100,000.
3. To my good fried Peter Mwaro, the sum of shs.20,000.
4. To each of my sons Maina and Kamau, the sum of shs.2,000,000.
5. To my daughter Ziporah, my holding of shs.100,000 nominal 101/4% Treasury stock 2008 and shs.40,000 to my nephew Richard payable out of my holding of 9% Treasury stock 2007.
6. To my niece Sarah, my holding of 3,000 shares (ordinary) in Kenya Company Limited.
7. To my cousin Kenneth, my motor car.
8. To my grandson Jonathan, my ornamental collection.
9. To my neighbor Peter Mwaro, the sum of shs.10,000.
10. To residue of my estate to trustees, to provide an income for my wife and thereafter to my grandchildren in equal shares.

You further ascertain the following:

1. William and Kamau both predeceased Moses Waigwa, but their respective children Richard and Jonathan both survived him.
2. Peter Mwaro, a life long friend of Moses Waigwa, had purchased the house neighbouring that Moses Waigwa and Grace shortly before the execution of the will.
3. There is no such investment as 101/4%. Treasury stock 2017. The date referred to in Moses Waigwa’s will is believed to be typing error not previously notice.
4. Moses Waigwa’s had sold his entire holding of 9%Treasury stock 2016 in November 2014.
5. Moses Waigwa’s car was totally wrecked in the accident of 5 September 2015; the sum of shs.114,000 paid by insurance company represents the agreed value of the motor vehicle at that date.
6. In addition to Kamau’s son, Jonathan, there were five other grandchildren living at the date of Moses Waigwa’s death.
7. The Kenya Company Limited changed the par value of his shares from shs.10 to shs.5 prior to the death of Moses Waigwa. However, this had no significant effect on the market price of the shares.

Required:

1. A statement showing the distribution of Moses Waigwa’s estate. (10 Marks)

(Ignore all income and interest on legacies)

1. Explain the treatment of the bequests to the following beneficiaries:
2. Peter Mwaro (2 Marks)
3. Zipporah (2 Marks)
4. Richard (2 Marks)
5. Sarah (2 Marks)
6. Kenneth (2 Marks)

**QUESTION THREE (20 MARKS)**

1. In accordance with the Law of Trust Cap 167 Laws of Kenya, the trust estate should be invested in Special Range, Wider Range and/or Special Range. Citing the provisions of the relevant Act, discuss these provisions. (6 Marks)
2. In the context of the Law of Succession Act, briefly discuss the following terms:
3. Implied Trust. (4 Marks)
4. Protective Trust (2 Marks)
5. Statutory Trust (2 Marks)
6. “A will is testamentary document which must be executed to the letter”. Discuss the exceptions to the foregoing statement. (6 Marks)

**QUESTION FOUR (20 MARKS)**

1. Simon Makonde died on 1st January, 2008 leaving the following estate:

Local Sacco deposits 480,660

Interest accrued on Sacco deposits to date 1,860

6000 ordinary purchases of shs.20 each in ABC Ltd 105,000

2000 ordinary shares of shs.20 each in Maji Ltd 98,000

Balance at Bank 562,520

Personal and household effects 30,000

Shs.1,000,000 12% Government stocks 960,000

Freehold property 500,000

Debts due to be paid by Simon Makonde amounted to shs.12,800. The funeral expenses incurred upon his death amounted to shs.68,400.

Simon Makonde had in his will made the following bequests:

1. To my wife Ann, household and personal effects and sum of shs.100,000
2. To my sons Arnod and Peter, the sum of shs.50,0000 each.
3. To my brother Jonathan, my holding of 1000 ordinary shares in Maji Ltd.
4. To my sister Josephine, the sum of shs.40,000.
5. To my daughter Jane, the sum of shs.70,000.

The following transactions took place during the four months to April:

1. 31st January 2008 Received dividend of 10% for the year ended 31st December 2007 on shares

 in ABC Ltd and half years interest on the 12% Government stock to date

1. 1st February 2008 Received the sums of shs.495,000, shs.110,000 and shs.950,000 being net

 proceed from the sale of freehold property, shares in ABC Ltd and 12%

 Government stocks respectively.

1. 2nd March 2008 Paid Capital Tax amounting to shs.104,000.
2. 31st March 2008 Withdrew balance of shs.490,560 from local Sacco deposits including

 interest accrued on Sacco deposits to date.

1. 30th April 2008 Paid administration expenses of shs.26,040 (all capital) together with the debt due and funeral expenses.

You ascertain the following:

1. Simon Makonde was survived by wife Ann, his sons Arnord, daughter Jane and his brother Jonathan.
2. Peter and Josephine died in a road accident in May 2007.
3. Peter was survived by his wideo Beth who had no children.
4. Josephine was survived by his two sons, Steve and Joe.

All the legacies were distributed on 30th April, 2008

1. Estate Capital Account (12 Marks)
2. Estate Cash Book (8 Marks)

**QUESTION FIVE (20 MARKS)**

Kombo died on 31 October 2000 and left his estate as follows:

 Shs.

Household furniture 90,000

Cash in house 2,000

Cash at bank 250,000

10,000 ordinary shares of sh.20 each in KFC Ltd.

Valued at shs.30 per share 300,000

Investment at 5% on freehold property securities

(interest thereon paid to 30 June 2000) 400,000

Share in business of Kompbo & Co. valued at death 1,226,400

Sundry debtors 20,000

His liability amounted to 5,000

Funeral expenses 10,000

The following additional information is available:

1. A legacy of shs.20,000 was bequeathed to his executor and was paid on 28 January 2001.
2. The residue of the estate was left in trust for his infant son.
3. The household furniture was sold on 15 December 2000 for shs.96,000.
4. The shares were sold on the same date at shs.29 ex div: a dividend being received on 25 January 2001 at 10% for the year ending 31 December 2000.
5. Interest on investment in freehold property securities was received on 31 December 2000, on which date the shares in the business of Kombo & Co. was received with interest at 5% per annum.
6. The liabilities and funeral expenses were discharged on 20 December 2000 on which date shs.10,000 of the debts due were received, the balance being unpaid at the date of preparation of the accounts.

Required:

1. Prepare journal entries to record the above transactions. (5 Marks)
2. Prepare the estate cash book. (4 Marks)
3. Prepare the estate income account. (3 Marks)
4. Prepare the estate capital account. (5 Marks)
5. Prepare balance sheet of Kombo: deceased as at 31 January 2001. (3 Marks)