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**University Examinations 2015/2016**

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

**BFC3378: TRUSTS AND EXECUTORSHIPS ACCOUNTING**

**DATE: NOVEMBER 2015 TIME: 2 HOURS**

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

**QUESTION ONE (30 MARKS)**

1. State and explain the fundamental characteristics of a valid will. (6 Marks)
2. Discuss types of legacies that may be bequeathed by way of a valid will (12 Marks)
3. Mwithi, a widower, died intestate on 1st January 2015. He was survived by his two some, Karithi and Mutwiri, and a daughter Rose. His other daughter Mwendwa predeceased him leaving behind a son Kelvin and daughter Makena.

During his life time, Mwathi had advanced his some Sh.500, 000 each to enable them commence and run a hardware business, and Sh.400, 000 to Makena to equip her hair salon business. The net estate of Mwathi after paying all his expenses and liabilities as at 31st May 2015 was Sh.2000, 000.

Required:

A distributions statement showing how the net estate of Mwathi (Deceased) would be shared.

(12 Marks)

**QUESTION TWO (20 MARKS)**

1. Describe five conditions which must be fulfilled for a gift in contemplation of death to pass. (10 Marks)
2. Explain the extent to which Marriage and Divorce Act (2013) and Matrimonial Properties Bill (2012) contradict the provisions of section 40 of Law of succession Act Cap 160 Laws of Kenya. (10 Marks)

**QUESTION THREE (20 MARKS)**

1. In the context of the Law of Trust Act Cap 167, briefly and clearly explain the following terms:
2. Implied trust (3 Marks)
3. Protective trust (3 Marks)
4. Statutory trust (3 Marks)
5. Simon Thiauri died on 1st January 2008 leaving the following estate:

Sh.

Local Sacco deposits 480,660

Interest occurred on Sacco deposits to date 1,860

6000 ordinary shares 0f Sh. 20 each in ABC Ltd 105,000

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

Bank balance 562,520

Personal and household affects 30,000

Sh. 1M, 12% property 960,000

Freehold property 500,000

Debts due to be paid by Simon Thiauri amounted to Sh.12, 800. The funeral expenses incurred

his death amounted to sh.68,400.

His will provided the following bequests:

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

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

Date: 2008

January 1st, Received dividend of 10% for the year ended 31st December 2007

on shares in ABC Ltd and half year’s interest on the 12% government

stocks to date.

February 1st, Received the sums of Sh.495, 000, Sh.110, 000 and Sh.950, 000 being net proceeds from the sale of freehold property, shares in ABC Ltd and 12%

government stocks respectively.

March 2nd, Paid capital tax amounting to Sh.104, 000.

March 31st, Withdrew balance of Sh.490, 560 from local Sacco deposits to date

April 30th, Paid administration expenses of Sh.26, 040 call capital together with the

debts due and funeral expenses.

You ascertain the following:

1. Simon Thiauri was survived by his wife Ann, his son, Amod, daughter Jane and his brother Jonathan.
2. Peter and Josephine died in road accident on 10th May 2007.
3. Peter was survived by his widow Beth who had no child, while Josephine was survived by his son Steve and Joe.

All the legacies were distributed on 30th April, 2008.

**Required:**

1. Estate capital account (6 Marks)
2. Estate cash book (5 Marks)

**QUESTION FOUR (20MARKS)**

Milton Obote (deceased) died on April 2015 as a result of a motor accident. His estate at death after payment of debts, funeral expenses and other administrative costs consisted of the following:

Assets Sh.000

Free house 900

Furniture and other personal effects 120

Ornamental collections 12

12000 Ordinary shares in Kenya Ltd 210

Sh.100, 000 nominal, 10% Treasury stock 2015 92

Amount due from Motor Insurance Co. 114

Debt due from Paul 50

Cash in hand and at bank 262

Though his will the deceased forgave his brother in law, Paul all his debts due to him at the date of his death and made the following bequests:

1. To my wife Grace, my free house, furniture and other personal effects not otherwise bequeathed.
2. To my brother William, the sum of Sh.100, 000.
3. To my good friend Peter Mwanza, the sum of Sh.20,000
4. To each of sons Maina and Kamau, the sum of 200,000.
5. To my daughter Zipporah, my holding of Sh.100,000 nominal 101/4% treasury stock 2018 and Sh.40,000 to my nephew Richard payable out of my holding of 9% treasury stock 2010.
6. To my niece Sarah, my holding of 3,000 shares (ordinary) in Kenya Co. Ltd.
7. To my cousin Kenneth, my motor car.
8. To my grandson Jonathan, my ornamental collection
9. To my neighbour Peter Mwaro, the sum of Sh.10,000
10. The residue of my estate to trustee, to provide an income to my wife and thereafter, to my grandson children in equal shares.

You further ascertain the following:

1. William and Kamau both predeceased Milton Obote, but their respective children Richard and Jonathan both survived him
2. Peter Mwanza, a lifelong friend of Milton Obote, had purchased the house neighbouring that of Obote and Grace shortly before the execution of his will.
3. There is no such investment of 101/4% treasury stock, 2018. The rate refund to in the will is believed to be a typing error not previously noticed.
4. Obote had sold his entire holding of 9% treasury stock 2010 in December 2013.
5. Obote’s car was totally wrecked in the accident on April 20th 2015.The sum of Sh.114,000 paid by the insurance company represents the agreed value of the motor vehicle at that date.
6. In addition to Kamau’s son, Jonathan, these were five other grandchildren living at the date of Obote’s death.
7. The Kenya Ltd changed the par value of its shares from Sh.10 to Sh.5 period to the death of Obote. However, this has no significant effect on the market value of the shares.

**Required:**

1. A statement showing the distribution of Milton Obote’s estate (10 Marks)
2. Explain the treatment of the bequests to the following:
3. Peter Mwazo (2 Marks)
4. Zipporah (2 Marks)
5. Richard (2 Marks)
6. Sarah (2 Marks)
7. Kenneth (2 Marks)

**QUESTION FIVE (20 MARKS)**

1. Explain three causes of failure of a gift bequeathed by a will (6 Marks)
2. How can a valid will be revoked? (6 Marks)
3. Explain four ways in which a trustee can be appointed and how such a trustee can be removed

from office (8 Marks