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**KIRIRI WOMENS' UNIVERSITY OF SCIENCE AND TECHNOLOGY  
UNIVERSITY EXAMINATION, 2019/2020 ACADEMIC YEAR  
FOURTH YEAR, FIRST SEMESTER EXAMINATION  
FOR THE DEGREE OF BACHELOR OF SCIENCE  
BUSINESS ADMINISTRATION**

**Date: 9<sup>th</sup> August, 2019  
Time: 9.00 – 11.00am**

**KAC 404 - TRUST AND EXECUTORSHIP**

**INSTRUCTIONS TO CANDIDATES**

**ANSWER QUESTION ONE (COMPULSORY) AND ANY OTHER TWO QUESTIONS**

**QUESTION ONE (30 MARKS)**

- a) In relation to the law of succession explain the meaning of the following terms
- i. Gifts inter vivos. (2 marks)
  - ii. Codicil. (2 marks)
  - iii. Donation mortis causa. (2 marks)
- b) In relation to the Trust Law explain the meaning of the following terms
- i. Certainty of subject. (3 marks)
  - ii. Secret trust. (2 marks)
  - iii. Special range. (3 marks)
- c) Timo died on 31<sup>st</sup> October 2004 and was survived by his grandson Mwangi only (the son of his son). He left his estate as follows
- To my cousin Mwala, my beach plot
  - To my friend Nyamweya my car
  - To my nephew Pambana, my boat
  - To each of my two sons, Kshs1, 000, 000
  - To my brother in law, Kshs200, 000
  - To my house help Ann if still in my employment, Kshs2, 000, 000
  - To the pastor of my church, Changanya, Kshs500, 000
  - To my local church, Kshs500, 000 to buy an accordion in memory of my deceased mother.
  - To my shamba-boy, Awino if still in my employment, Shs200, 000.

To each of my neighbours, Nyakiamo, Waweru and Langat, Kshs100, 000.

To the water surfing club, my outboard engine

To my grandson Mwangi, the residue of my estate absolutely.

On 30<sup>th</sup> April 2005, the executors having paid all the estates liabilities and administrative expenses were ready to assent to the legacies. The property in their possession and its value at that date was as follows

✓ Boat	250,000
✓ Furniture, jewelry	950,000
✓ Car: Audi	900000
✓ Car Toyota	500000
✓ Farm	400,000
✓ Beach plot	120,000
✓ Kshs15,000,000, 6% Government Stock	12,000,000
✓ Bank balance	6,880,000

The following additional information is available

Pambana died on 30<sup>th</sup> March 2004

Ann was still employed as at the date of death of Timo

During his life time Timo had provided his local church with an accordion in memory of his mother.

The shamba boy retired on 31<sup>st</sup> October 2002.

Nyakiamo and Langat predeceased Timo.

The farm had been purchased by Timo with proceeds from the sale of the outboard engine.

### **Required**

- i. Prepare a schedule showing the distribution of the estate. **(10 marks)**
- ii. Give your reasons why the executors should or should not assent to any of the legacies. Ignore taxation. **(6 marks)**

### **QUESTION TWO (20 MARKS)**

- a) Explain how a trustee gets terminated. **(10 marks)**
- b) Differentiate between the following terms
  - i. Executor and administrator. **(3 marks)**
  - ii. Abatement and ademption. **(4 marks)**
  - iii. Devices and legacies. **(3 marks)**

### **QUESTION THREE (20 MARKS)**

- a) What are the rules in relation to the revocation of a will? **(6 marks)**
- b) Simon Makonde died on 1<sup>st</sup> July 2010 and by his will left his house to his wife for her life and on her death to his youngest son, Harry absolutely. He left the residue of his estate to be held on trust for the benefit of his wife and on her death to be shared among his other children Salome, Kariach and Perminus. His will gave no further information as to the investment of funds. On 1<sup>st</sup> July 2010 his house was valued at Kshs2, 000, 000. He held 20000 shares in Standard Chartered Bank Ltd

valued at Shs54-56 and 100000 15% Kenya Government Stock valued at Shs94-96 and Shs300,000 in the bank. His debts and funeral expenses amounted to Shs400,000. On 31<sup>st</sup> December 2010 the Standard Bank shares were quoted at Shs58-60 and the 15% Government Stock was quoted at Shs92-94.

**Required**

Show the estate capital account and the balance sheet on 31<sup>st</sup> December 2010. **(14 marks)**

**QUESTION FOUR (20 MARKS)**

- a) Highlight the key features of the Trustees Investment Act. **(8 marks)**
- b) Explain the liabilities of a trustee in case of breach of trust **(8 marks)**
- c) Discuss what is a demonstrative legacy and what are the rules of abatement in relation to the same. **(5 marks)**

**QUESTION FIVE (20 MARKS)**

- a) Explain why it is important for someone to die testate. **(8 marks)**
- b) Discuss the reasons why Kenyans in general don't make wills. **(6 marks)**
- c) Explain the term investments requiring advice. **(6 marks)**