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**KIRIRI WOMENS' UNIVERSITY OF SCIENCE AND TECHNOLOGY**  
**UNIVERSITY EXAMINATION, 2022/2023 ACADEMIC YEAR**  
**FOURTH YEAR, SECOND FIRST SEMESTER EXAMINATION**  
**FOR THE DEGREE OF BACHELOR OF SCIENCE**  
**(BUSINESS ADMINISTRATION)**

Date: 13<sup>th</sup> April, 2022  
Time: 11.30am – 1.30pm

**KAC 404 - TRUST AND EXECUTORSHIP**

**INSTRUCTIONS TO CANDIDATES**

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

**QUESTION ONE (30 MARKS)**

- a) Explain the concept of dying testate or dying intestate. (4 marks)
- b) Highlight the duties of a trustee. (10 marks)
- c) After all other obligations had been discharged the estate of Hobert Ndarwa comprised the following
- |                                      |           |
|--------------------------------------|-----------|
| Plot at Kitengela                    | 900,000   |
| 15% Kenya Government Stock           | 1,500,000 |
| Artifacts                            | 1,000,000 |
| East Africa Building Society deposit | 1,634,600 |
| House at Ruaka                       | 2,000,000 |
| Motor car                            | 150,000   |
| Household effects                    | 200,000   |
| Cash at bank                         | 3,165,000 |
- His will provided as follows
- To his sister Mary Shs1, 000,000.
- To his son Alex the plot at Kitengela and Shs560, 000.
- To his daughter Lucy Shs1, 500,000 payable out of his account with EA Building Society.
- To his friend Gichina his ordinary shares in Sigara SACCO.
- To his brother Kamau Shs1, 500,000.
- To the local country club where he was a member the 15% Kenya Government stock.
- To his wife Jane Shs5, 000,000 and his personal effects. All beneficiaries were adults at the time of death
- The following is further provided:
- Just before he died Hobert had withdrawn from Sigara SACCO and his dues paid to him in full.

Mary and Alex had died in a gristly road accident four months before Hobert. Mary is survived by a son Magana while Alex left a widow Akinyi and a daughter Ann. The will of Alex left the whole of his estate to his widow Akinyi.

Required;

- i) A distribution account showing how the final distribution of the estate would be done. (10 marks)
- ii) Explain how you have dealt with the specific items where there is uncertainty. (6 marks)

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

- a) Highlight the powers of a personal representative. (10 marks)
- b) Explain the meaning of the following terms;
  - i) Certainty of subject. (2 marks)
  - ii) Secret trust. (2 marks)
  - iii) Special range. (2 marks)
  - iv) Codicil. (2 marks)
  - v) Donation mortis causa. (2 marks)

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

- a) Highlight the factors that would course testamentary dispositions to fail. (6 marks)
- b) Gilbert died on 1<sup>st</sup> January 2018. His will left his house to the wife for her life and on her death to his youngest son Timo absolutely. The residue of his estate was left to be held in trust for the benefit of his wife for her life and on her death to be shared amongst his children Nomsa, Nyarokat, Agubala, Kimani and Mutie. His will gave no further directions as to the investment of trust funds. On 1<sup>st</sup> January 2018 his house was valued at Shs13, 000,000. He held 100,000 shares at EABL valued at Shs42-48 and Shs5, 000,000 (nominal value) Kenya Government Stock valued at 90-92. He also had Shs2, 500,000 in the bank. The debts and funeral expenses amounted to Shs300, 000. On 1<sup>st</sup> July 2018 the EABL shares were quoted at Shs48-50 and the 12% Government Stock at Shs88-92.  
Required  
Draw the estate capital account and the balance sheet as at 1<sup>st</sup> July 2018. (14 marks)

### **QUESTION FOUR (20 MARKS)**

- a) Discuss the reasons that make people be unwilling to prepare wills. (8 marks)
- b) Trust law is one of the laws directly borrowing from Britain and used in Kenya. Discuss the other sources of law in Kenya which could guide succession matters. (12 Marks)

### **QUESTION FIVE (20 MARKS)**

- a) A will is a formal expression of a person's distribution of his estate on his death. It is thus final in determining the distribution. Discuss. (8 marks)
- b) Discuss the challenges trustees face in executing their duties and responsibilities clearly bringing out the requirements of Trustee Investment Act

(12 marks)