



(University of Choice)

**MASINDE MULIRO UNIVERSITY OF
SCIENCE AND TECHNOLOGY
(MMUST)**

MAIN/BUNGOMA/WEBUYE/NAIROBI CAMPUS

**UNIVERSITY EXAMINATIONS
2021/2022 ACADEMIC YEAR**

SPECIAL/SUPPLEMENTARY EXAMINATIONS

**FOR THE DEGREE
OF
BACHALELOR OF COMMERCE**

COURSE CODE: BCA 423

COURSE TITLE: TRUST AND EXECUTORSHIP ACCOUNTING

DATE: MONDAY, 1ST AUGUST 2022

TIME: 2-4 PM

INSTRUCTIONS TO CANDIDATES

Answer Question ONE and any OTHER TWO questions

TIME: 2 Hours

MMUST observes ZERO tolerance to examination cheating

This Paper Consists of 5 Printed Pages. Please Turn Over. ►

QUESTION ONE (30 MARKS)

Mali Mengi (aged 45) perished together with his driver David Mwange (aged 51) in a tragic road accident on 31st December, 2014. On 1st May 2015, after paying all funeral expenses and debts except for mortgage on freehold house, his net estate comprised the following:

		Ksh.'000'
Bank balance		8,000
Motor car- Nissan		6,000
-Mercedes Benz		1,200
TV and video system set		100
Furniture and other personal effects		1,300
10,000 ordinary shares at castle Ltd		1,250
45000 ordinary share @sh.1 at S and L Ltd		750
Sh.8000, 5% Kenya stock		240
Income received to date		
Bank interest	200	
Dividends from sand Ltd	40	
-Mortgage interest	(100)	
Net income received		140

Additional information;

His will provided for the following bequests:

- i) To each of my sons Allan, Ben and Collins, Sh.2million.
- ii) To my wife Sarah, I leave my furniture and other personal effects and residue of my net estate.
- iii) My unmarried daughter, Dinah, freehold house subject to any mortgage thereon. (The house was subject to Sh.12m carrying 12% interest.)
- iv) My friend Tom, whichever of my cars owned by me at the time of my death he may choose.
- v) My good friend Jerry Sh.100,000
- vi) My cousin Tamasha, my paintings of musoleum by Mzalendo.
- vii) My friend Msitu, my holding of 800,000 10% Kenya Stock. Mali Mengi owed Msitu Ksh.200,000.
- viii) My sister Esther, Sh.600,000
- ix) My personal assistant Mlafi, Half of my holdings in Koroga Ltd
- x) My driver David Sh.300,000
- xi) My friend Tony, some of my furniture
- xii) My neighbour Juma Sh.100,000
- xiii) My sister Fatuma, Sh.200,000 to establish a business
- xiv) My nephew Tembo Sh.100,000 if he stops drinking
- xv) My niece Mrembo, 4000 ordinary shares from my holding of such shares in Koroga Ltd

You ascertain the following

1. That son Ben died in 2012, leaving wife and children
2. Son Collins died in 2013 leaving a wife only
3. Sister Esther died in 2012 leaving two daughters.
4. Paintings of mausoleum were sold and proceeds were used to purchase share in Sand Ltd during lifetime of the testator.
5. Neighbour, Juma had written to executors declining the gift while Tembo had indicated no indication of abandoning alcohol through a letter.
6. Mali Mengi had paid Sh.200,000 to sister Fatuma to establish business during his lifetime.

Required

- (a) State the rule in presumption of survivorship (2 mrks)
 (b) Explain the term abatement of legacies. (3mrks)
 (c) Estate capital account as at 1st May, 2015 (6 mrks)
 (d) Statement showing distribution of the deceased's estate on 1st May 2015 (12 mrks)
 (e) List of legacies, executors must not assent to, giving reasons for the decision (7 mrks)

QUESTION TWO (20 MARKS)

Robert Kimeu died on 31 OctOBER 2013 and left his estate as follows.

	Ksh.
House hold furniture	450,000
Cash in hand	10,000
Bank	1,250,000
Sh,10;10,000ordinary shares at KBL	1,500,000
Investment in Tembo Ltd.	200,000
Debtors	100,000
Liabilities	25,000
Funeral expenses	25,000
Other necessary expenses	25,000
Share in business of Kimeu&co.	6,130,000

Additional information

1. He was survived by his only son Katili aged 14. A legacy of Sh.100,000 was bequeathed to his executor. The residue of his estate was left in trust to his infant son.
2. The household furniture was sold on 15 December 2013 for 480,000. The shares were sold on the same day at sh.14.5 ex div, a dividend was received on 21st January, 2014 at 10% for the year ending 31st December 2013. Interest on investment in Tembo Ltd was received on 31st December 2013, on which date, the share of Kimeu in business of Kimeu & Co was received with interest of 5% p.a.
3. All liabilities and funeral expenses were discharged on 20 December 2013 on which date, Sh.50,000 of debtors due were received. The balance remained outstanding at the date of preparation of accounts.

Required:

- (a) Estate capital and income accounts (12 mrks)
 (b) Estate cash book (4mks)
 (c) Balance Sheet as at 31st January, 2014 (4mks)

QUESTION THREE (20 MARKS)

- (a) Explain the duties of a trustee (4mks)
 (b) Onyango of Nyakach died in 2013 and left the net residue of his estate to his children Omolo and Atieno in equal shares. The will directed that a child's share should be ascertained and discharged on reaching 21yrs. The trustees were empowered to maintain the children out of the income of the estate and use their unfettered discretion in choice of investment.

The following extracts were obtained in the books on 31st December, 2013

	Sh.'000'
Investment on estate capital	
20000 shares @sh10 in S. Ltd	220
30,000 shares @sh10 in L Ltd	280

Investment on accumulation account	
1000 shares @sh10 in S. Ltd	11
1000 shares @sh10 in L. Ltd	9
Balance in bank	
On estate capital	20
On accumulation	5
	545
Estate capital account	520
Accumulation: Omolo	15
Atieno	10
	545

- Omolo attained 21 years on 31st March, 2014 on which date the average market price of investments was S Ltd 12.50, and L Ltd sh.10.
- Transactions in three month ended 31st march 2014, were,
 - 31st Jan: receipt of dividend of sh.0.5 on each Sh.10 share in S ltd.
 - 31st Jan; maintenance payment; Omolo Sh.3,000; Atieno sh.2000
 - 31st March, the trustees revalued all their investments and discharged their liability to Omolo by transfer to him;
 - Half of each investment held on capital account
 - 3/5th of each investment held on accumulation
 - Cash for balance of amounts due to him

Required

- Estate capital account (4mks)
- Accumulation account (4mks)
- Distribution account (4mks)
- Balance sheet as at 31st December 2014. (4mks)

QUESTION FOUR (20 MARKS)

(a) Peter died intestate on 20th October 2015 leaving no spouse but children Tom and Dick. Harry, his eldest son had predeceased him leaving two sons, Abel and Bett. Peter's net estate was Sh.12million. During his life, Peter had made advancements to Tom and Abel worth Sh.3m. and Sh.1m respectively.

Required:

- State the rule of hotchpot (3 marks)
- Prepare a statement showing distribution of Peter's estate. (6 marks)

(b) Mr Ruto died intestate leaving his two wives Lucy and Charity whom he married under a system that allows polygamy. A third wife Betty had predeceased him. Lucy had 3 children, peter Laban and Richard. Betty had children Seth and Tony. Charity had no child. All children were alive at the time of Ruto's death. The value of personal effects was Sh.3.5milliom and the value of his net estate was Sh.31.5million.

Required:

Prepare a clear statement showing how Ruto's property will be devolved
(8 marks)

(d) Ali of Mombasa bought a house at Makunda in the name of his friend Abdi in order to conceal the ownership of the house. Abdi is now claiming the house as his own:

Required:

Explain the position of the ownership of the house. Would the position be different if Abdi was Ali's son? (3 marks)

QUESTION FIVE (20MARKS)

(a) A well-executed will must have three certainties otherwise it might fail.

Required:

- (i) Explain the three certainties. (3mks)
- (ii) Explain four main reasons that may occasion failure of legacies apart from uncertainty, giving exemptions where necessary (6mks)
- iii) Identify two consequences of failure of a legacy. (3mks)

(b) In relation to Trust and Executorship Act, explain the following terms

- (i) *per stirpes* rule (2mks)
- (ii) Marshalling of assets (2mks)
- (iii) Narrow and wider range investments (2mks)

(c) Mr. Malewa made an oral will before leaving for a UN peacekeeping mission in southern Sudan on 3rd Jan 2013. He died on the battle on 28 June 2013.

Required:

Explain the validity of his will. Would the position be the same if he were not a member of armed forces? Explain. (2mks)