



*(University of Choice)*

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

MAIN/BUNGOMA/WEBUYE /NAIROBI CAMPUS

**UNIVERSITY EXAMINATIONS  
2021/2022 ACADEMIC YEAR**

**MAIN EXAMINATIONS**

**FOR THE DEGREE  
OF  
BACHELOR OF COMMERCE**

**COURSE CODE: BCA 423**

**COURSE TITLE: TRUST AND EXECUTORSHIP  
ACCOUNTING**

**DATE: Tuesday 26<sup>TH</sup> APRIL 2022**

**TIME: 3 - 5PM**

**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)**

- a) Briefly explain the meaning of the following terms as used in the law of succession
- i. Donatio mortis causa.
  - ii. Partial intestacy.
  - iii. Demonstrative legacy (3 marks)
- b) State two main ways of constituting a trust. Give appropriate examples (3 marks)
- c) Describe 3 duties and 3 powers of a trustee (6marks)
- d) With reference to the provisions of the law of succession, give 4 explanation of failure of legacies. (4 marks)
- e) In the creation of a trust, the “three certainties” are necessary. Explain what the three certainties are, giving an example of each and indicating the effect of the failure of each. (6 marks)
- f) Five years ago Kamau bought a house in the name of his friend Hama in order to conceal the ownership of the house. Hama is now claiming the house as his own.

#### **Required:**

- i. What is the position on ownership of the house?
  - ii. Would the position be the same if Hama was kamau’s son? (3 marks)
- g) An aircraft went out of control and crashed on Kimani’s villa in Tena estate. Kimani and his members of the family perished in the accident.. The Utopian ambassador being a kind man immediately raised a fund for the benefit of the dependants of Kimani’s family. It now appears that there are no dependants and the ambassador wishes to know how he should distribute the money he had raised for late Kimani’s dependants. Explain to the ambassador the alternatives opened to him. (5 marks)

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

Moses Waigwa died as a result of a motor accident on 5 September 2018. His estate at death after payment of debts, funeral and other expenses consisted of the following assets

Freehold house	Sh.	900,000
Furniture and other personal effects		120,000
Ornamental collection		12,000
12,000 ordinary shares in Kenya Company Ltd.		210,000
Sh.100,000 nominal 10% Treasury stock 2020		92,000
Amount due from motor insurance company		114,000
Debt due from paul		50,000
Cash in hand and balance a 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 Sh. 100,000
- 3 To my good friend Peter Mwaro, the sum sh.20,000
- 4 To each of my sons Maina and Kamau, the sum of Sh. 2,000,000
- 5 To my daughter Ziporah, my holding of Sh. 100,000 nominal 101/4% Treasury stock 2020 and Sh. 40,000 to my nephew Richard payable out of my holding of 9% Treasury stock 2019.

- 6 To my niece Sarah, my holding of 3,000 shares(ordinary) in Kenya Company 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 trustees, to provide an income for my wife and thereafter to my grandchildren inequal shares.
- You further ascertain the following:
- William and Kamau both predeceased Moses Waigwa, but their respective children Richard and Jonathan both survived him.
  - Peter Mwaro, a lifelong friend of Moses Waigwa, had purchased the house neighbouring that of Moses Waigwa and Grace shortly before the execution of the will.
  - There is no such investment as 101/4%. Treasury stock 2020. The date referred to in Moses Waigwa's will is believed to be a typing error not previously noticed.
  - Moses Waigwa's had sold his entire holding of 9% Treasury stock 2019 in November 2017
  - Moses Waigwa's car was totally wrecked in the accident of 5 September 2018, the sum of Sh. 114,000 paid by the insurance company represents the agreed value of the motor vehicle at that date.
  - In addition to Kamau's son, Jonathan, there were five other grandchildren living at the date of Moses Waigwa's death.
  - The Kenya Company Ltd. Changed the par value of he shares from Sh. 10 to Sh. 5 Prior to the death of Moses Waigwa.

However, this had no significant effect on the market price of the shares.

**Required:**

- (a) A statement showing the distribution of Moses Waigwa's estate (10 marks)

(Ignore all income and interest on legacies).

- (b) Explain the treatment of the bequests to the following beneficiaries:

- |                 |           |
|-----------------|-----------|
| (i) Peter Mwaro | (2 Marks) |
| (ii) Zipporah   | (2 Marks) |
| (iii) Richard   | (2 Marks) |
| (iv) Sarah      | (2 Marks) |
| (v) Kenneth     | (2 Marks) |

**QUESTION THREE (20 MARKS)**

- a) What is the rule of lapse? (3 marks)
- b) Explain what is meant by abatement. (3 marks)
- c) Tantu died on 31 October 2021 and was survived only by Mwanda his grandson, the son of his son Maga.. By his will, which barred equitable apportionment and was silent on the date of payment of legacies, he left his estate as follows:
  - to my cousin Mwamba my beach plot;
  - to my friend Nyambaya my car;
  - to my nephew Pamba my boat;
  - to each of my two sons sh.10,000;
  - to my brother-in-law sh.2,000;
  - to my housekeeper Awa if still in my employment sh.20,000;
  - to the pastor of my church, Charles sh.5,000;
  - to my local church sh.5,000 to buy a piano in memory of my deceased mother;
  - to my shamba-boy, Akida, if still in my employment sh.2,000;

to each of my neighbours Nyawawa, Weru and Langat sh.1,000; to the water games club, my outboard engine and to my grandson Mwanda the residue absolutely.

On 30 April 2022, the Executors, having paid all the liabilities of the estate and the expenses of administration, were ready to assent to the legacies. The property in their possession and its value at that date was:

Car, Fiat	9,000
Car, Toyota	5,000
Boat	2,500
Furniture, Jewellery etc.	9,500
Farm	4,000
Beach plot	1,200
sh.150,000 6%Government stock	120,000
Balance at bank	68,800

You further obtain the following additional information:

- i) Pamba died on 30 March 2021.
- ii) Tantu had two brothers-in-law surviving at 31 October 2021.
- iii) Awa was still employed at 31 October 2021.
- iv) During his lifetime, Tantu had provided his local church with a piano in memory of his late mother.
- v) Akida retired on 31 October 2019.
- vi) Nyawawa and Langat both predeceased Tantu.
- vii) The farm had been purchased by Tantu with proceeds of the sale of the outboard engine.

**Required:**

Prepare a schedule showing the distribution of the estate and give your reasons should you decide that the executors should not assent to any of the legacies. Ignore taxation.

(14 marks)

**QUESTION FOUR(20 MARKS)**

Kombo died on 31 October 2021 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 Sh.30 per share.	300,000
Investment at 5% on freehold property securities (interest thereon paid to 30 June 2021)	400,000
Share in business of Kombo & Co. valued at death	1,226,000
Sundry debtors	20,000
His liability amounted to	5,000
Funeral expenses	10,000

The following additional information is available:

1. A legacy of Sh.20,000 was bequeathed to his executor and was paid on 28 January 2022.
2. The residue of the estate was left in trust for his infant son.

3. The household furniture was sold on 15 December 2021 for Sh.96,000.
4. The shares were sold on the same date at Sh.29 ex div: a dividend being received on 25 January 2022 at 10% for the year ending 31 December 2021.
5. Interest on investment in freehold property securities was received on 31 December 2021, 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 2021 on which date Sh.10,000 of the debts due were received. The balance being unpaid at the date of preparation of the accounts.

**Required:**

- (a) Journal entries to record the above transactions (5 marks)
- (b) The Estate cash book (4 marks)
- (c) The Estate income account (3 marks)
- (d) The Estate capital account (5 marks)
- (e) Balance sheet of Kombo: deceased as at 31 January 2022 (3 marks)

**QUESTION FIVE (20 MARKS)**

- a) Wekesa a large scale farmer in Kitale died intestate, leaving his two wives Nafula and Nanjala whom he married under a luhya customary law which permits polygamy. Nanyama his second wife had predeceased him leaving two children, Wafula and Wanyonyi who are still alive. Nanjala has three surviving children: Wangila, Naswa and Nelima while Nafula has no children.

Wekesa's estate consists of:  
 Personal effects Sh. 800,000.  
 Household effects Sh. 2,000,000.  
 Motor vehicle Sh. 1,000,000.  
 Residue Sh. 6,000,000.

**Required:**

- A statement showing how Wekesa's estate will be distributed. [ 12 marks]

- b) Distinguish between the following terms:

- i. Estate and trust accounts [ 2 marks]
- ii. Ademption and lapse [ 2 marks]
- iii. Testate and intestate succession [ 2 marks]
- iv. Personal and real estate [ 2 marks]