



JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY
SCHOOL OF BUSINESS AND ECONOMICS
UNIVERSITY EXAMINATION FOR BACHELOR OF BUSINESS ADMINISTRATION
WITH IT THIRD YEAR SEMESTER TWO FOR 2018/2019 ACADEMIC YEAR

MAIN CAMPUS (EVENING)

UNIT CODE: ABA 313

UNIT NAME: TRUSTS AND EXECUTORSHIP ACCOUNTS STREAM: BBA (With IT)

EXAM DATE:

EXAM VENUE:

EXAM SESSION:

DURATION: 2 HOURS

INSTRUCTIONS

Answer QUESTION ONE and any other TWO QUESTIONS

Question one

(a) Beatrice Anyango was a solicitor in sole practice who had returned income on a cash basis. On her death in November 2006, a trust was created under her will conferring the following fixed interests in the net income of the trust estate:

	Kshs.
William (widowed husband).	40,000
Albert.	30,000
Belinda	20,000

In addition to the above fixed interests, the trustee of this trust estate has the discretion each year to accumulate the balance of the net income or to distribute it amongst other eligible beneficiaries as the trustee sees fit. The trustee made the following resolution on 29 June 2007:

‘It is resolved that the balance of the net income of the Estate of Beatrice Anyango for the year ending 30 June 2007, after taking account of the fixed interests in this net income, be distributed as follows:

	Kshs.
Cate	15,000
David	10,000

Any remaining balance to be accumulated.’

For the year ending 30 June 2007, the trust returned a net income of Kshs.160,000 in terms of subsection 95(1) of the 1936 Act. The bulk of this income was derived from extensive rental properties which had been owned by Beatrice, but also included was an amount of kshs.20,000 received for fees owing to Beatrice at the time of her death. There were no outstanding debts owing by the estate.

Additional information

1. Albert is a son aged 26 and a resident of Mexico for the last 3 years where he is employed as a computer consultant. He does not lodge income tax returns in Australia.
2. Belinda is a daughter aged 19 who is a full-time student with a part-time job.
3. Cate is a daughter aged 16 who is also a full-time student with a part-time job.
4. David is a son aged 14 and fully occupied with school work.

Required

Explain how the net income of the trust, and the taxable incomes of the beneficiaries where appropriate, will be assessed for income tax for the year ending 30 June 2007.

Reference should be made to the relevant tax law and rates, but calculations of tax are not required. 25 marks

(b) Write short notes on the following terms as used in administration of deceased estate. **5 marks**

- (i) Intestate
- (ii) Executor and administrator
- (iii) Invalid will
- (iv) Probate succession process
- (v) Testator

Question Two

Tomas and Alberto are trustees of a trust the trust property of which includes shares in a private company that were transferred to the trustees on the creation of the trust. The settlor had been involved in building up the private company and did not want the shares sold and, consequently, the trust instrument provided that the shares were not to be sold.

The shares in the private company held in trust by Tomas and Alberto accounted for 30% of the issued voting shares of the company. Because Tomas and Alberto held shares in their capacity as trustees they received notice of a shareholders’ meeting. When they attended the shareholders’ meeting they became aware that the company had significant potential but, due to internecine strife between the other shareholders, the company’s potential could not be fully achieved. Tomas and Alberto have

convinced one of the other shareholders who holds 25% of the voting shares of the company to sell his shares. If Tomas and Alberto can acquire those shares they will have sufficient control over the company to make the changes they believe will produce significant gains for the company. The trust fund includes substantial property other than the shares in the private company and there are more than adequate funds to acquire the additional private company shares as part of the trust property. Tomas and Alberto want to buy the shares for themselves so they can personally profit from the potential gains they believe they can make by exercising control over the company. Is there a problem with the plan Tomas and Alberto are proposing? Explain. **20 marks**

Question three

(a) With reference to regularities of trustees under the Kenyan and English laws, discuss the functions of and control over trustees. **10 marks**

(b) A trust is merely an agreement, like a contract between two parties. The person establishing the trust (the “Settlor”) and the person holding the property (the “Trustee”) hold property for the benefit of another (the “Beneficiary”). Discuss a living trust in relation to the three legal persons. **10 marks**

Question four

(a) Christine Musyoka died unexpectedly and had executed a will. Musyoka was a single woman with no children. She left kshs. 20,000 each to her dear friends Sally and Mona. She also left kshs.20,000 to the local children’s home . The remainder of her property was left to her ex-husband, Paul. Assume Christine had a kshs. 4 million taxable estate. Christine’s will has the following clause “I direct that my Executor pay out of my residuary estate, without apportionment, all estate, inheritance, succession and other taxes (together with any penalty thereon), assessed by reason of my death imposed by the Government of the Republic of Kenya , or any state or territory thereof, or by any foreign government or political subdivision hereof, in respect to all property required to be included in my gross estate for estate or like death tax purposes by any of such governments, whether the property passes under this will or otherwise, including property over which I have a power of appointment, without contribution by any recipient of any such property.”

Required :

Discuss who will bear the tax burden of Christine’s estate.**10 marks**

(b) David Ochieng is 80 years Old .He has substantial wealth that he would wish to be distributed to his heirs upon his death.He is aware that under Probate and succession there is a lot of money that will be spent in the administration of his estate.

Required: Advise the old man on how best he is able to plan for the administration of his estate before passing on.**10 marks**

(b)

Mr Okello died in June 2017 with an adjusted gross estate of Kshs..8million.He left Kshs. 2million to his wife Mrs Okello,Kshs.1 million to his local Church for construction purposes, paid Kshs.500,000 in estate taxes ,Kshs.20,000 in funeral expenses and had Kshs.200,000 remaining on mortgage Calculate Mr Okello’s estate tax. **10Marks**

Question Five

(a) David Ochieng is 80 years Old .He has substantial wealth that he would wish to be distributed to his heirs upon his death.He is aware that under Probate and succession there is a lot of money that will be spent in the administration of his estate.

Required: Advise the old man on how best he is able to plan for the administration of his estate before passing on.**10 marks**

(b) (i) Discuss intestate succession. 5 marks

(ii) What is a will and an apportionment clause? 5 marks