



FRAMEWORK FOR CURRICULUM TO BE COVERED IN FPSA[®] EXAMINATION

The examination will consist of the following modules and outcomes:

1. LAW AND ETHICS IN THE FIDUCIARY SERVICES (compulsory – 50 marks)

1.1. Outcomes of this examination

The candidate should be able to:

- Discuss what is meant by the term ethics?
- Demonstrate how ethical behaviour can be determined.
- Understand the meaning of compliance within fiduciary services.
- Identify and describe the role of the various role players, as well as the statutory and non-statutory bodies (for example FISA), in the fiduciary services industry.
- List and describe each of the main regulatory bodies (for example Masters Office) applicable to fiduciary services.
- Understand the application of the various statutory regulations in the prevention and prosecution of money laundering crimes.
- Explain the application of applicable legislation on consumer protection.
- Discuss the relevant and important sections in the given legislation applicable to the delivery of fiduciary services.

1.2. Basic knowledge of the following legislation:

- 1.2.1. The Wills Act, 7 of 1953 (*De Waal, 2003 – Appendices 1- 234*)
(Administration of Estates, Wiechers, 2011,ACT 7-1)
- 1.2.2. The Administration of Estates Act, 66 of 1965
(*Meyerowitz, 2007 – Appendices A-1*)
(Administration of Estates ,Wiechers, 2011,ACT 66-1)
- 1.2.3. Intestate Succession Act, 81 of 1987
(*Meyerowitz, 2007- Appendices - 87*)
(Administration of Estates , Wiechers , 2011,ACT 81-1)
- 1.2.4. The Trust Property Control Act, 57 of 1988
(*Meyerowitz, 2007 – Appendices - 67*)
(*Du Toit, 2002, SA Trust Law , Appendix, page 193*)



- 1.2.5. The Marriage Act, 25 of 1961
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
- 1.2.6. The Civil Union Act, 17 of 2006
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
- 1.2.7. The Matrimonial Property Act, 88 of 1984
(*Meyerowitz, 2007 - Appendices – 99*)
(Administration of Estates , Wiechers, 2011, ACT 88-1)
- 1.2.8. Maintenance of Surviving Spouses Act, 27 of 1990
(*Meyerowitz, 2007 - Appendices – 104*)
(Administration of Estates , Wiechers, 2011, ACT 27-1)
- 1.2.9. Recognition of Customary Marriages Act, 120 of 1998
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
(Administration of Estates , Wiechers, 2011 ,ACT 120-1)
- 1.2.10. The Promotion of Administrative Justice Act, 3 of 2000
- 1.2.11. The Promotion of Access to Information Act, 2 of 2000
- 1.2.12. The Financial Intelligence Centre Act, 38 of 2001
- 1.2.13. Electronic Communications and Transactions Act, 25 of 2002
- 1.2.14. National Credit Act, 34 of 2005
- 1.2.15. Consumer Protection Act, 68 of 2008

1.3. Intensive knowledge of:

- 1.3.1. Constitution of FISA
- 1.3.2. (<http://fidsa.org.za/>)The FISA Code of Ethics and of Professional Responsible Conduct
(<http://fidsa.org.za/>)
- 1.3.3. The FISA Disciplinary Process
- 1.3.4. Fiduciary Duties (Constitution and miscellaneous)
- 1.3.5. The Administration of Estates
(Administration of Estates , Wiechers, 2011, Chapter 3, 4)
(*Meyerowitz, 2007, Chapter 8, 11,12,15, 25,*)
(Botha M, 2012,The South African Financial Planning Handbook, Chapter 34)
 - 1.3.5.1. Reporting of deceased estates
 - 1.3.5.2. Letters of executorship
 - 1.3.5.3. Provision of security
 - 1.3.5.4. Formality requirements of a Liquidation and Distribution Account
 - 1.3.5.5. Guardian's Fund
 - 1.3.5.6. Chief Master's Directive 3 of 2006
 - 1.3.5.7. Assumed executors and their role and duties
 - 1.3.5.8. Removal of executors
 - 1.3.5.9. Banking accounts (Administration of Estates Act, Horn's Executor vs. The Master 1919 CPD 48 and Chief Masters Directive 4 of 2011)



1.3.6. Trusts

(*Du Toit, 2002 – Chapter 5*)

(Wills and Trusts, van der Westhuizen, Devision B, Trusts)

1.3.6.1. Powers and duties of trustees

1.3.6.2. Provision of security

1.3.6.3. Who can be trustees

1.3.6.4. Thorpe and others vs Trittenwein and another, 2007 (2) SA 172 (SCA).

1.3.7. Compliance

1.3.7.1. Financial Intelligence Centre Act, 38 of 2001

1.3.7.2. Financial Advisory and Intermediary Services Act, 37 of 2002

1.3.8. Masters Directives

1.3.9. Court cases (will be included in examination guidelines)

2. ESTATE PLANNING (Choice – 50 marks)

2.1. Outcomes of this examination

The candidate should be able to:

- Do the following calculations:
 - Capital Gains Tax in life and at death
 - Executor's fees
 - Estate Duty Payable
 - Residue in the estate
 - Apportionment of estate duty
 - Liquidity in the estate
 - Transfer duty
 - Accrual claims
- Explain the estate planning process and apply the process to the circumstances of a particular client.
- Make recommendations on the will and testamentary issues of a client
- Explain the working of limited interests and determine the value of these interests



- Explain the working of a trust with reference to the creation and operation of a trust and the parties involved
- Apply the principles of donations tax in order to calculate the tax due in particular circumstances
- Advise on the impact of estate duty on the estate of a client
- Advise on the impact of capital gains tax on the estate of a client
- Advise on the impact of a liquidity short fall in the estate of a client
- Advise on succession strategies and the distribution of assets by Will
- Advise on the impact of capital gains tax in cases where trust assets to which the beneficiary has a vested right
- Discuss the definition of spouse in terms of the Income Tax Act and the Estate Duty Act and the impact it may have estate planning and administration
- Explain how the proceeds of different policies will be dealt with for estate duty purposes
- Explain different estate planning techniques (first dying and surviving spouse)
- Advise on the tax considerations when bequests to charities and testamentary trusts with charitable objectives are made

2.2 Basic knowledge of:

- 2.2.1 Asset classes and Investment Instruments
(Botha M, 2012, The South African Financial Planning Handbook, Chapter 35)
- 2.2.2 The Administration of Estates Act, 66 of 1965
(Meyerowitz, 2007 - Appendices A-1)
- 2.2.3 The Transfer Duty Act, 40 of 1949
(Botha M, 2012, The South African Financial Planning Handbook, page 475)
- 2.2.4 The Value Added Tax Act, 89 of 1991
- 2.2.5 The Companies Act, 71 of 2008
- 2.2.6 The Close Corporations Act, 69 of 1984



2.3 Intensive knowledge of:

- 2.3.1 The Wills Act, 7 of 1953,
(*De Waal, 2003 - Appendices 1 - 234*)
(Administration of Estates , Wiechers,2011,ACT 7-1)
- 2.3.2 Intestate Succession Act
(Administration of Estates, 2011, Wiechers, ACT 81-1)
- 2.3.3 Matrimonial Property Act, 88 of 1984
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
(*Meyerowitz, 2007- Appendices -99 – sections relating to the Accrual System, donations between spouses and liability for household necessities*)
(*Lexis Nexis: Estate planning service issue 31 – 117*)
- 2.3.4 Recognition of Customary Marriage Act, 120 of 1998
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
- 2.3.5 Civil Union Act, 17 of 2006
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
- 2.3.6 The Trust Property Control Act, 57 of 1988
(*Meyerowitz, 2007 - A:67*)
(Du Toit, 2002, SA Trust Law, Appendix, page193)
- 2.3.7 The Estate Duty Act, 45 of 1955
(*Meyerowitz, 2007 – 67*)
 - 2.3.7.1 Calculate executors fee
 - 2.3.7.2 Estate duty payable
- 2.3.8 Capita Selecta from the Income Tax Act, 58 of 1962, including the Eighth Schedule (Capital Gains Tax), anti-avoidance provisions in sec 7, donations tax provisions
(*Lexis Nexis: Estate Planning Issue 31 Donations Tax p. 45 ; Capital Gains Tax p. 69 ; Anti-avoidance provisions in sec. 9 – p. 59*)
 - 2.3.8.1 Section 11(w) and policies, Income Tax Act
 - 2.3.8.2 Section 7 and section 25 and 25B, Income Tax Act
 - 2.3.8.3 Donations tax
 - 2.3.8.4 Taxable capital gain in an estate
- 2.3.9 The Alienation of Land Act, 68 of 1981
- 2.3.10 Limited interests
- 2.3.11 Interpretation of wills
- 2.3.12 Valuation of assets (minors & estate duty)
- 2.3.13 Estate Planning and estate planning structures
(*Lexis Nexis: Estate Planning Issue 31 – Section C*)
(*Botha M, 2012, The South African Financial Planning Handbook, Section 5*),
 - 2.3.13.1 Liquidity position of estate
 - 2.3.13.2 The effect of a liquidity short fall
 - 2.3.13.3 Estate planning techniques



3. WILLS CONSULTATION AND DRAFTING (choice – 50 marks)

3.1. Outcomes of this examination

The candidate should be able to:

- List and explain the formalities i.t.o. the Wills Act
(*De Waal:2003*)
(*Formalities in the execution and amendment on wills – Chapter 4*)
(*Wills & Trusts Manual, Pace, A5, page 8*)
- Discuss the contents of a will and explain the rights of the different role players
(*De Waal:2003 - Contents of the will - Chapter 7*)
- Discuss the impact of different matrimonial property regimes on the drafting of a will
- Describe and draft general clauses – appointment of executor, exclusion of joint estate beneficiary, exclusion of guardians fund, with furnishing security, creation of testamentary trust, revocation, insolvency clause
- Explain a codicil and list the formalities
(*De Waal: 2003 – Chapter 4*)
- Explain signature of wills and codicils
(*De Waal: 2003 – Chapter 4*)
- Define and apply testate and intestate succession
(*De Waal:2003 – Chapter 1*)
- Discuss or describe the following concepts:
(*Wills & Trusts Manual, Pace, Devison A , Wills*)
 - competent heir
 - blood relation and blood relationship
 - parental
 - *stirpes*
 - representation
 - degree of relationship
 - succession *per capita*
 - child's share
 - direct line and collateral line



- Testator
 - Will
 - Codicil
 - Attestation
 - Beneficiaries
 - Revocation
 - Legacy
 - Inheritance (including to minors)
 - direct or *fidei commissary* substitution
 - adiation
 - repudiation
 - competent beneficiary
 - limited interests (usufruct, fideicommissum for example)
 - bequests in trust
 - massing
 - accrual
 - *ius accrescendi*
- Advise a client on the court's power to declare a will not meeting the formality requirements a valid will. Advise a client on the power of the court and the master to declare a will, that does not meet all the formalities of a valid will, valid.

Intensive Knowledge of:

- 3.2. The Wills Act, 7 of 1953,
(*De Waal, 2003 – Appendices 1 - 234*)
(*Administration of Estates , Wiechers,2011,ACT 7-1*)
(*Meyerowitz, 2007 – Appendices A – 79*)
 - 3.2.1 You must be able to draft different clauses
 - 3.2.2 Wills for people married in community of property
 - 3.2.3 Analyze a will
- 3.3. Intestate Succession Act, 81 of 1987
(*Meyerowitz, 2007 – Appendices A - 87*)
- 3.4. The Estate Duty Act, 45 of 1955
(*Stein, 2011 – Appendix 2 – 171*)
(*Meyerowitz, 2007 Appendices A – 67*)
- 3.5. The Value Added Tax Act, 89 of 1991



- 3.6. The Marriage Act, 25 of 1961
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
- 3.7. The Matrimonial Property Act, 88 of 1984
(*Meyerowitz, 2007 Appendices A - 99*)
(*Administration of Estates , Wiechers, 2011, ACT 88-3*)
- 3.8. The Civil Union Act, 17 of 2006
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
- 3.9. Recognition of Customary Marriage Act, 120 of 1998
(*Heaton, 2010 – South African Family Law 3rd Ed.*)
(*Administration of Estates, Wiechers , 2011, ACT 120-1*)
- 3.10. Common law and case law on wills

4. DECEASED ESTATE ADMINISTRATION (choice – 50 marks)

4.1. Outcomes of this examination

The candidate should be able to:

- List and discuss the functions of the Master of the Supreme court
(*De Waal, 2003 – Chapter 13*)
(*Administration of Estates Manual , Wiechers , Chapter 21–*)
- Structure and Functions of the Masters Office
- Explain and apply each of the following duties of an executor
(*De Waal, 2003 – Chapter 13*)
(*Meyerowitz, 2007 – Chapter 12*)
(*Estate Planning Manual , Lexis Nexis , Kaapstad , 4-1 to 4-7*)
(*Administration of Estates , Wiechers, 2011, Chapter 4*)
 - Interview with relatives
 - Reporting the estate
 - Advertising for debtors and creditors
 - Collecting assets of the deceased's business, interim maintenance of spouse and minor children; guardian's fund
 - Opening estate bank account
 - Valuation of assets
 - Calculating accrual (if any)
(*Botha M, 2012, The South African Financial Planning Handbook, Chapter 31*)



- Claims in terms of Maintenance of Surviving Spouse Act 27, 1990
(*Meyerowitz, 2007 – Appendices -104*)
- Dealing with objections
- Paying estate debts

- Explain the functions after the letters of executorship have been received
(*Meyerowitz, 2007 – Chapter 8*)
(*Administration of Estates , Wiechers, 2011, Chapter 4*)
- List, discuss or draft the executor's account in terms of the following:
(*De Waal, 2003 – Chapter 13*)
(*Meyerowitz, 2007 –Chapter 15*)
(*Administration of Estates , Wiechers, 2011, Chapter 4, page4-5*)
 - The heading
 - The liquidation account
 - The recapitulation statement
 - The distribution account
 - The income and expenditure account
 - The estate duty addendum
 - The executor's certificate
 - Fiduciary assets account
- Estate duty
(*Meyerowitz, 2007 – Chapter 27*)
(*Du Toit, 2002 – Chapter 7.4.*)
(*Botha M, 2012, The South African Financial Planning Handbook, Chapter 17*)
 - Define property
 - Define deemed property
 - List and discuss allowable deductions
 - List and discuss other rebates and deductions
(*Meyerowitz, 2007 – Chapter 28*)
 - Define the valuation of property
(*Meyerowitz, 2007 – Chapter 29*)
(*Stein. M.L. 2011. Estate Duty: Principles and Planning, Basic Principles page 5*)
 - Calculation of estate duty in terms of the Estate Duty Addendum
(*De Waal, 2003, Introduction to The Law of Succession, Chapter 13*)



- Discuss or describe the following concepts:
(*Administration of Estates , Wiechers, 2011, Chapter 2, 3, 4, 5*)
 - executor testamentary
 - executor dative
 - agent
 - acceptance of executorship
 - liquidation of assets
 - section 38 takeover
 - redistribution agreement
 - executor's remuneration
(*De Waal, 2003 – Chapter 13*)

Intensive knowledge of:

- 4.2. The Administration of Estates Act, 66 of 1965
(*Meyerowitz, 2007 – Appendices 1*)
(*Administration of Estates , Wiechers, 2011, ACT 66-1*)
 - 4.2.1 Executor's remuneration
 - 4.2.2 Valuation of deceased's share in private companies
- 4.3. The Wills Act, 7 of 1953
(*De Waal, 2003 – Appendices 1 - 234*)
(*Administration of Estates , Wiechers,2011,ACT 7-1*)
- 4.4. Intestate Succession Act, 81 of 1987
(*Meyerowitz, 2007 – Appendices 1 - 87*)
(*Administration of Estates , Wiechers ,2011,ACT 81-1*)
- 4.5. Maintenance of Surviving Spouses Act, 27 of 1990
(*Meyerowitz, 2007 – Appendices 1 - 87*)
(*Administration of Estates , Wiechers, 2011, ACT 27-1*)
- 4.6. The Estate Duty Act, 45 of 1955
(*Meyerowitz, 2007 – Appendices 1 - 101*)
(*Administration of Estates , Wiechers , 2011, ACT 45-1*)
- 4.7. Capita Selecta from the Income Tax Act, 58 of 1962, including the Eight Schedule (Capital Gains Tax)
(*Lexis Nexis Estate Planning Manual - Issue 31 Income Tax Act – 45 Capital Gains Tax Act - 69*)
- 4.8. The Value Added Tax Act, 89 of 1991
(*Wills and Trusts, van der Westhuizen, B26*)
- 4.9. The Transfer Duty Act, 40 of 1949
(*Wills and Trusts, van der Westhuizen, B24*)
- 4.10. The Marriage Act, 25 of 1961
(*De Waal, 2003, Introduction to The Law of Succession, P.116*)
(*Botha ,M, 2012,The South African Financial Planning Handbook, page 851*)



- 4.11. The Matrimonial Property Act, 88 of 1984
(*Meyerowitz, 2007 – Appendices A - 99*)
(Administration of Estates, Wiechers, 2011, ACT 88-1)
- 4.12. Recognition of Customary Marriage Act, 120 of 1998
(Administration of Estates, Wiechers, 2011, ACT 120-1)
- 4.13. Civil Union Act, 17 of 2006
- 4.14. The Alienation of Land Act, 68 of 1981
(Botha ,M, 2012,The South African Financial Planning Handbook, page 486)
- 4.15. The different sections of a Liquidation and Distribution Account

5. TRUST ADMINISTRATION (choice – 50 marks)

5.1. Outcomes of this examination

The candidate should be able to:

- Define a “trust” and differentiate between the various types of trusts.
(*Du Toit, 2002 – Chapter 1*)
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 5 & Hoofstuk 7-7.5*)
- Identify the parties to a trust and understand the role that each party plays.
(*Du Toit, 2002 – Chapter 1*)
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 2 & 3*)
- Evaluate a trust in order to determine if the trust can be deemed a valid trust with regard to the formation and the administration of the trust.
(*Du Toit, 2002 – Chapter 1*)
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 2*)
- Apply section 6 of the Trust Property Control Act with regard to the appointment and power of Trustees.
(*Du Toit , F, 2002, South African Trust Law , Appendix, page 193*)
- Discuss the indemnification of trustees in terms of a trust deed
- Understand the duties, powers and liability of a trustee.
(*Du Toit, 2002 – Chapter 5.4 & 5.5 & 5.9*)
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 9-9.2.13*)
- Discuss who can be appointed as trustees.
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 3*)
(*Du Toit, F, SA Trust Law ,2002, Chapter 5.2*)
- Understand the term: “separation of ownership and control” with regard to the administration of the trust.



- Explain the process to create and register a valid trust.
(Du Toit, F , SA Trust Law, 2002, Chapter 3)
- Explain the amendment of the various types of trusts.
(*Du Toit, 2002 – Chapter 4*)
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 2 - Wysigings aan trustakte*)
- Differentiate between the advantages and the disadvantages of a trust.
- Discuss the different uses of a trust.
- Apply and understand section 6quat, 7, 25B and 78 as well as paragraph 68 – 72 and 80 of the 8th Schedule of the Income Tax Act with regard to the taxation of trusts.
(*Du Toit, 2002 – Chapter 7 , page 132 to 139*)
- Discuss the so-called anomalies in the SA law of trusts and distinguish the trust institution from other legal institutions
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 8 & Bylae A Sake-ondernemings: 'n vergelyking*)
- Understand the principles underlying the administration of a trust
(*Lexis Nexis - Trustreg en Praktyk Hoofstuk 2-2.8.3 – Die essensiële elemente wanneer Trustadministrasie 'n aanvang neem & Hoofstuk 3 – Trustadministrasie en die Trustee*)
(Wills and Trusts, van der Westhuizen, Division B, page 48(9))
- Discuss the removal of trustees from office
- Analyze a trust deed and comment in detail on the workings and the clauses of the trust deed.

Basic knowledge of:

- 5.2. Investment Instruments
(Botha ,M, 2012,The South African Financial Planning Handbook, sec.4)
- 5.3. The Value Added Tax Act, 89 of 1991
(Wills and Trusts, van der Westhuizen, B26)
- 5.4. The Alienation of Land Act, 68 of 1981
(Botha ,M, 2012,The South African Financial Planning Handbook, page 486)
- 5.5. The Transfer Duty Act, 40 of 1949
(Wills and Trusts, van der Westhuizen, B24)
- 5.6. Common and case law on wills and trusts

**Intensive Knowledge of:**

- 5.7. The Trust Property Control Act, 57 of 1988
(*Meyerowitz, 2007 – Appendices - 107*)
(*Du Toit, F, SA Trust Law, 2002, Appendix, page 193*)
 - Care, diligence and skill required of trustee
 - Removal of trustees
 - Trust records
 - Liability for trust expenses (including legal expenses)
 - Amendment of trust provisions
 - Account to Master
 - Creation and registration of trusts
- 5.8. The Wills Act, 7 of 1953
(*De Waal, 2003 – Appendices 1- 234*)
(Administration of Estates, Wiechers, 2011, ACT 7-1)
- 5.9. Capita Selecta from the Income Tax Act, 58 of 1962, including the Eighth Schedule (Capital Gains Tax)
(*Lexis Nexis Estate Planning Manual - Issue 31 – 45; Income Tax Act & - 69*)
(*Lexis Nexis Capital Gains Tax Act*)
- 5.10. The Matrimonial Property Act, 88 of 1984
(*Meyerowitz, 2007 - Appendices -79*)
(Administration of Estates , Wiechers, 2011, ACT 88-1)
- 5.11 Difference between 'vesting' and 'non vesting' trusts
- 5.12 Requirements for Charitable Trusts
- 5.13 Amendments to trusts (recent case law)
- 5.14 Special Trusts (tax implications)

Court cases

- Simplex (Pty) Ltd v van der Merwe and Others 1996 (1) SA 111 (W)
- Stander and Others v Schwulst and Others 2008 (1) SA 81 (C)
- Land and Agricultural Bank of SA v Parker and Others 2005(2) SA 77 (SCA)
- Badenhorst v Badenhorst 2006 (2) SA 255 (SCA)
- Jowell v Bramwell-Jones and Others 1998 (1) SA 836
- Hoosen and Others v Deedat and Others 1999(4) SA 425(SCA)
- Sackville West v Nourse and Another 1925 AD 516
- Tijmstra v Blunt-MacKenzie NO and Others 2002 (1) SA 459 (T)
- Thorpe v Trittenwein (2006) SA 30 SCA
- Doyle v Board of Executors 1999 (2) SA 809 (C)



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TEXT BOOKS

Please note that these books serve just as an example of the material you can use to prepare for this professional examination. The candidate may use any book or material applicable to the outcomes and topics. Further note that newer issues of the text books mentioned may be available.

Botha, M.; Rossini, L., et. al. 2012. *The South African Financial Planning Handbook 2012*. Lexis Nexis. Durban

De Waal, M.J. & Schoeman-Malan, M.C. 2003. *Introduction to the Law of Succession*. Juta. Stellenbosch

Du Toit, F, 2002. *South African Trust Law: Principles and Practice*. Butterworths. Kaapstad

Heaton, J, 2010. South African Family Law 3rd Ed.

Meyerowitz, D. 2007. *The Law and Practice of Administration of Estates and Estate Duty*. The Taxpayer CC. Cape Town.

Stein. M.L. 2004. *Estate Duty: Principles and Planning*. Lexis Nexis/Butterworths. Durban

Estate Planning Manual (Issue 31) Lexis Nexis. Kaapstad.

Trustreg en Praktyk. Diensuitgawe. 2006. Lexis Nexis/Butterworths. Kaapstad.

Wills and Trusts Manual, 2011, Pace; van der Westhuizen, Lexis Nexis, Durban