



THE FIDUCIARY INSTITUTE OF SOUTHERN AFRICA



### FPSA® BOARD EXAMINATION

Examination date	1 September 2015
Time:	9:00 – 11:15 (2 hours and 15 minutes)
Total marks:	50
Examination Paper:	<b>REGULATORY ENVIRONMENT</b>

This examination paper comprises 5 pages. Answer all the questions. The examiners are aware that there is not necessarily only one correct answer to certain questions in this examination paper. You are therefore expected to fully motivate all your answers, where applicable.

Only answers in your own handwriting in the official answer book will be considered.

### SECTION A: MULTIPLE CHOICE

#### INSTRUCTIONS

Please complete this section by marking the correct letter on the **separate answer sheet in pencil**. Only **one answer** per question can be marked on the answer sheet. No answers given in the examination book will be taken into consideration. Please **read the question carefully** and ensure that you take the relevant facts into consideration for each question.

#### Choose the correct answer (Questions 1- 5)

1. Which of the following statements are correct?: (2)
- a) Ethical behaviour can be regulated.
  - b) Obeying the law always results in ethical behaviour.
  - c) It is possible to behave ethically in an unethical business environment.
  - d) A lack of competency or inadequate knowledge of your profession will lead to unethical behaviour.
  - e) All of the above.

2. Which of the following statements are correct? (2)
- a) The current interest rate for money in the Guardian's Fund is 7.25%.
  - b) A claim for maintenance from the guardian's fund can be made by someone who looks after a minor, although it might not be the legal guardian of the minor.
  - c) If the money in the Guardian's Fund is unclaimed for five years after it has become claimable, it gets paid to the Receiver of Revenue Payment Register.
  - d) The Master of the High Court administers all funds in the Guardian's Fund free of charge.
  - e) All of the above.
3. What is the single discretionary allowance for a South African resident in terms of the Exchange Control regulations? (2)
- a) R10 million per calendar year.
  - b) R4 million per calendar year.
  - c) R1 million per calendar year.
  - d) None of the above.
4. A death has to be reported to the Master's office within a prescribed time period after the death of a person. (2)
- a) 14 days.
  - b) 21 days.
  - c) 30 days.
  - d) As soon as possible.
  - e) None of the above.
5. Where an *article 18(3)* estate is reported, and an immovable property forms part of the estate, the following documents have to be attached to the inventory. (2)
- a) A full valuation by a certified valuator.
  - b) A copy of the municipal valuation of the property.
  - c) The title deed of the property.
  - d) None of the above.

**Choose the incorrect answer (Questions 6 - 10)**

6. Where the Disciplinary Committee of FISA (Fiduciary Institute of Southern Africa) decides to deal with a complaint by the way of a consent order, the following sanctions may be made. (2)
- a) An admonishment.
  - b) A fine not exceeding fifty thousand rand.
  - c) A suspension of membership not exceeding six months.
  - d) A restitution offer.
  - e) None of the above

7. Which of the following scenarios may lead to an ethical transgression in terms of the FISA Constitution? (2)
- a) Mr. Barnard, an attorney, advertises that his fees for administering deceased estates are much lower and his service much better than his closest competition, Mr. Broodryk.
  - b) Mrs. Scholtz takes her clients, for whom she drew up a financial plan, to lunch to thank them for their business. She hopes that this will inspire them to refer more clients to her.
  - c) Mr. van Schalkwyk, advises his clients to invest in a company that he is the major shareholder of, without disclosing the fact to the clients.
  - d) Mrs. Mouton holds a tax diploma she obtained in 2002, but has not kept up to date with changes as she has been a stay-at-home mom since 2004. She has now returned to practice, and has advised her first clients on the possible tax implications of transferring farming properties to a trust.
  - e) None of the above.
8. Certain documents have to be kept by an accountable institution in terms of the *Financial Intelligence Centre Act 38 of 2001*. (2)
- a) These documents have to be kept for a period of five years from the conclusion of a business relationship.
  - b) These documents can be kept by a third party as long as the accountable institution has free and easy access to it.
  - c) A copy of a driver's licence will be sufficient proof of identity in the case of a natural person.
  - d) Proof of the natural person's tax number if so registered is a required document.
  - e) C and D
9. The following persons can draw up a valid will. (2)
- a) A 17 year old pupil in Grade 11.
  - b) A 34 year old mother of two married in community of property.
  - c) A 62 year old blind grandfather who still walks 10 kilometres per day.
  - d) A 49 year old person in the advanced stages of Alzheimers disease.
  - e) None of the above.
10. The following documents have to be lodged with the Master of the High Court when registering a new trust. Choose the incorrect answer. (2)
- a) A signed copy of the trust deed or will.
  - b) ID copies of all the trustees.
  - c) Proof of address for all the trustees
  - d) A list of trust beneficiaries.
  - e) None of the above

**Indicate if the following statements are True or False (Questions 11 – 14).**

11. A codicil or addendum to a will is seen as an amendment to a will, and needs to comply with the formalities in the *Wills Act 7 of 1953* to be valid. (1)
- a) True  
b) False
12. It is possible for a Master to administer an estate, although the assets might be situated in a different jurisdiction. (1)
- a) True  
b) False
13. Tension between the executor of an estate and the heirs in an estate in itself constitute grounds for the immediate removal of the executor. (1)
- a) True  
b) False
14. Where a will fails to appoint trustees for the testamentary trust created by the will, no trust will be created. (1)
- a) True  
b) False
15. A main objective for new trusts being created must be to save income tax. (1)
- a) True  
b) False

**[25]**

**SECTION B**

**QUESTION 1**

Mr. Loots is a retired bookkeeper who was employed by a firm of auditors for 30 years, where he was in charge of the deceased estates department and administered deceased estates. He has decided to keep himself busy after his retirement by liquidating and distributing a few estates for clients in his personal capacity as an executor. Advise Mr. Loots if he will be able to do so. Motivate your answer with reference to legislation. **[3]**

**QUESTION 2**

As a member of FISA, you feel that the institute renders a valuable contribution to the fiduciary services industry. Compile a memorandum to your colleagues to convince them to also become members of FISA. This memorandum should include the objectives of FISA, as well as how they regulate the behaviour of their members. Use practical examples to indicate how these objectives can also further the professional image and conduct of your company. **[8]**

### QUESTION 3

Mr. Olwage's mother, a widow, had a will drafted by with a well-known trust company during her lifetime. After her death, her sons contacted the bank in order to report the estate and obtain the original will, only to hear that the original will was missing. They could, however, furnish the heirs with a printed copy of the signed will. In this will she left her total estate to her children in equal shares. The total value of the estate is R25,000. Advise the client on the best route to follow to report this estate.

Motivate your answer with reference to authority.

[4 x ½ = 2]

### QUESTION 4

#### Question 4.1

Calculate how the estates will be distributed in the following scenarios. Refer to authority throughout:

4.1.1 Mr. X and Mrs. Y is married in community of property. They have two minor daughters. Mr. X dies intestate with an estate value of R900,000. (1)

4.1.2 Mrs. X and Mrs. Y is married in terms of the *Civil Union Act 17 of 2006*. They have two minor daughters. In their ante-nuptial contract they excluded the accrual system. He dies intestate with an estate value of R900,000. (1)

4.1.3 Mr. X is married to Mrs. Y and Mrs. Z. These marriages were both concluded between 1995 and 1998. Mr. X had four minor children, all those of Mrs. Z. He dies intestate with an estate value of R900,000. (1)

4.1.4 Mr. X and Miss. Y is not married, but has been in a permanent relationship for the last 20 years. They have two minor daughters. Mr. X dies intestate with an estate value of R900,000. (1)

[4]

### QUESTION 5

While drafting your client's will, he requests you to add the following clause to the terms of the testamentary trust in the will:

*"The income and capital of this trust may be distributed in their discretion to any white female students in their third or final year of study towards an LL.B degree at any major South African University."*

Advise your client on potential problems with this clause as well as possible amendments to this clause. Refer to authority. [8]

[Total 50 Marks]