EQUITY AND THE LAW OF SUCCESSION

MODEL EXAM

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IRAC method of completing exams

Issues	-	Outline the issues that you are going to discuss.
Rules	-	Define the legal rules that are relevant to the question.
Application	-	Apply the legal rules to the facts of the question (this is the hard part!).
Conclusion	-	Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.

ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion.

Question One

Your firm holds the will of the recently deceased George who is survived by his wife Mary and two daughters Jennifer and Judith. The will was made more than thirty years ago when the daughters were still children. It appoints Mary as sole executor of George's estate and leaves his estate as follows:

(a) Mary is to receive a life interest in the income of the estate.

(b) On Mary's death half of the estate is to be divided in equal shares between his surviving children and the three children of Mary's deceased brother Henry or their children if they die before George.

(c) The other half of the estate is to go on Mary's death to the Public Trustee, the income to be held on trust for the benefit of such organizations providing for homeless people as the trustee in its absolute discretion appoints.

George and Mary together founded and built up a successful business that is now worth a million dollars. There were no marital problems and George was on good terms with his wife and daughters at the time of his death. …………….

Question Two

You have been consulted by John who is the great-great-grandson of a large landowner, Henry, whose will established a trust fund long before John was born. Since his father died, John has been the only living descendant of Henry. The trustees of the fund have always been the partners for the time being of the firm of accountants who attended to Henry's business.

Henry's will left the trust fund to his trustees in trust to invest the capital in bonds issued by the Canterbury Provincial government and to apply the income to whatever uses in their opinion served to promote the beliefs of the Gaian Society Inc., a group who believe that the earth responds favourably to human devotions addressed to it. Since the Provincial government was abolished 130 years ago, the trustees have instead invested the fund in New Zealand government bonds which pay at a notably lower rate than the former provincial government bonds did. …………….

Question Three

You have been consulted by the partners of a firm of accountants who are the trustees of a family trust fund established by a deceased client of their firm (but not of yours). When the trust was set up, the fund consisted of shares in a small, local stock and station company which was not doing well. The shares constituting the trust fund were losing their value and, in order to preserve the trust fund, the trustees personally, from their own funds, bought sufficient shares in the company to gain effective control of it. By exercise of their skill they saved the company and, in fact, greatly increased the value of the shares constituting the trust fund.

Some twenty years ago the then members of the family, who were all of full age, did not require the trust income and they all agreed and instructed the trustees to invest the income for that year in prudent investments of their choice, the income to be held subject to the terms of the trust. The trustees invested in a private equity company which was well run at the time, but recently the company's funds were embezzled by a trusted employee and lost. The trustees have discovered that the funds were used by the employee to repay her debt to a money-lender who knew that she did not have the resources to pay but asked no questions. …………….

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