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Effect of Recent Statutory Changes in Minnesota on the Taxation of Property Transfers upon Dissolution of Marriage

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Notes

The Effect of Recent Statutory Changes in Minnesota on the Taxation of Property Transfers Upon Dissolution of Marriage*

I. INTRODUCTION

Under the rule of *United States v. Davis*,[1] a property transfer between spouses upon dissolution of their marriage is treated as a taxable event unless the property distribution is an equal division of co-owned property. State law controls the question of whether a transfer is a division of co-owned property (nontaxable) or an exchange of one spouse's property for the relinquishment of the other's marital rights (taxable).[2] The tax consequences can be substantial when all marital property is held by one spouse or when property that has greatly appreciated in value is transferred.

In Minnesota, transfers of separately held marital property have always been considered taxable exchanges under the *Davis* rule.[3] In 1978, however, the Minnesota Legislature adopted several amendments to the marriage dissolution statutes that give spouses substantial ownership interests in *all* property acquired during the marriage, regardless of which spouse is the title holder. This Note will examine the current scope of spousal rights in marital property under Minnesota law, and

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1. 370 U.S. 65 (1962). For detailed analyses of the *Davis* rule, see Alcott, *Selected Tax Problems in Matrimonial Disputes and Settlements*, 37 N.Y.U. INST. FED. TAX. § 33.04 (1979); DuCanto, *Federal Tax Law: Where You Divorce Does Make A Difference*, 9 LOY. CHI. L.J. 397 (1978); Note, *Should Federal Income Tax Consequences of Divorce Depend on State Property Law?*, 49 S. CAL. L. REV. 1401 (1976); Comment, *The Federal Income Tax Consequences of Property Settlements in Common Law States and Under the Uniform Marriage and Divorce Act: A Proposal*, 29 ME. L. REV. 73 (1977); Comment, *Transfer of Appreciated Property Pursuant to Divorce: Taxable Event in Oregon?*, 53 OR. L. REV. 544 (1974).

2. *See* 370 U.S. at 70.

3. *See* Lokken, *Tax Planning for Divorce*, 42 HENNEPIN LAW. 4 (Mar.-Apr. 1979); *Tax Gamesmanship in Marriage Dissolutions*, 35 BENCH & B. MINN. 25 (Mar. 1979).

will consider whether property transfers between spouses should now be treated as nontaxable divisions of co-owned property under the *Davis* rule. The Note concludes that although further legislative clarification is desirable, Minnesota spouses should be considered co-owners of marital property. Thus, transfers between spouses that effect an equal division of marital property should be held nontaxable.

II. BACKGROUND—*DAVIS* AND ITS PROGENY

Under *Davis*, spousal ownership interests are defined by state property law[4] and an equal division of co-owned property is not a taxable event.[5] Thus, in a community property state, an equal division of community property is nontaxable.[6] Similarly, in common law states, an equal division of property held in a traditional form of joint ownership is also tax-free.[7] If mar-

4. *See* 370 U.S. at 70. If a state's highest court has ruled on this issue, the decision is binding on a federal court that later considers the taxability of the transfer. Determinations by lower state courts are not binding, but federal courts must apply what they find to be state law after giving proper regard to such rulings. *See, e.g.*, Commissioner v. Estate of Bosch, 387 U.S. 456, 457 (1967); Kraut v. United States, 316 F. Supp. 740, 741 (E.D. Wis. 1970); Collins v. Tax Comm'n, 446 P.2d 290, 294 (Okla. 1968). The United States Tax Court, the Internal Revenue Service, and the federal courts have all indicated a willingness to grant favorable tax treatment to property transfers between spouses upon a proper showing of co-ownership under state law. *See* Wallace v. United States, 439 F.2d 757, 760 (8th Cir. 1971); McKinney v. Commissioner, 64 T.C. 263, 267 (1975); Rev. Rul. 74-347, 1974-2 C.B. 26, at 27.

5. *See, e.g.*, Rev. Rul. 74-347, 1974-2 C.B. 26, at 27.

6. *See* Rev. Rul. 76-83, 1976-1 C.B. 213, at 213. An unequal division of community property, however, may result in taxable gain. *Cf.* Rev. Rul. 74-347, 1974-2 C.B. 26, at 27 (unequal divison of jointly held property in a common law state). *See also* Vaughan, *Divorce and Taxes: Significant Recent Developments*, 40 TEX. B.J. 947 (1977) (effect of Rev. Rul. 74-347 on unequal division of community property). Moreover, an award of community property to one spouse accompanied by the receiving spouse's payment is treated as a purchase of the transferor's interest in the community property and is a taxable event. *See* May v. Commissioner, 33 T.C.M. (P-H) ¶ 74,054 (1974). *But see* Rev. Rul. 76-83, 1976-1 C.B. 213, at 214 (transfer of note in small amount by one spouse to the other to equalize division of the community property held *de minimus*—no resulting taxable gain).

7. *See* Rev. Rul. 74-347, 1974-2 C.B. 26, at 26. The traditional forms of joint ownership are joint tenancy, tenancy in common, and tenancy by the entirety. *Id. See, e.g.*, Beth W. Corp. v. United States, 350 F. Supp. 1190 (S.D. Fla. 1972); Pokusa v. Commissioner, 37 T.C.M. (CCH) 434 (1978). *Cf.* Forbes v. United States, 472 F. Supp. 840 (D. Mass. 1979) (an equal division of property held by tenancy by the entirety in Massachusetts is *not* a division of co-owned property because during the marriage the husband maintains complete control of the property). Minnesota currently recognizes joint tenancies and tenancies in common, but not tenancies by the entirety. *See* MINN. STAT. § 500.19(1) (1978). An *unequal* division of jointly held property may result in tax liability even if it is necessary to effect an equal division of all property acquired by the parties or by either of them during marriage. *See* Rev. Rul. 74-347, 1974-2 C.B. 26, at 27; *accord*, Wiles v. Commissioner, 499 F.2d 255, 257 (10th Cir. 1974).

ital property is not considered jointly owned under state law, however, a transfer of separately held property will result in a tax on the property's appreciation in value, to be paid by the transferor spouse.[8]

The basic inquiry under *Davis* is the extent of a spouse's ownership interest in property acquired during the marriage but held in the other spouse's name. The supreme courts of several common law states have extended co-ownership beyond its traditional boundaries, holding that common ownership may arise from statutorily created rights in marital property.[9] This trend favoring co-ownership of marital property has been based on marriage dissolution statutes that give spouses substantial, albeit inchoate, interests in marital property held by the other spouse. In these jurisdictions, transfers of marital property are controlled by the general rule of nontaxability applicable in community property states.[10]

In determining whether dissolution statutes create co-ownership interests, courts have considered several factors. For example, one factor that is virtually essential to a finding of co-ownership is that the distribution of marital property under the statute be mandatory rather than merely permissive or discretionary.[11] If the statute further defines a special class of mari-

8. *See, e.g.*, Wiles v. Commissioner, 499 F.2d 255, 258 (10th Cir. 1973) (interpretation of Kansas state law later found erroneous by Kansas Supreme Court in Cady v. Cady, 224 Kan. 339, 344, 581 P.2d 358, 363 (1978)). Such a transfer is characterized as an exchange of property for the relinquishment of marital rights. *See* United States v. Davis, 370 U.S. at 73. The value of marital rights is presumed equal to the value of the property transferred in exchange for their release. *See id.* The exchange characterization gives rise to taxable gain under section 1001 of the Internal Revenue Code if the property has appreciated in value in the hands of the transferor spouse. The transferee spouse takes a substituted basis in the property equal to its fair market value on the date of the transfer. *See* I.R.C. § 1012. *Cf.* Rev. Rul. 74-347, 1974-2 C.B. 26, at 27-28 (mechanics of computing taxable gain).

9. *See* Cady v. Cady, 224 Kan. 339, 343-44, 581 P.2d 358, 363 (1978) (holding erroneous the federal court's construction of Kansas law in Wiles v. Commissioner, 499 F.2d 255 (10th Cir. 1974)); *In re* Questions Concerning Imel v. United States, 184 Colo. 1, 3-8, 517 P.2d 1331, 1332-35 (1974) (transfer of co-owned property later held nontaxable in Imel v. United States, 523 F.2d 853 (10th Cir. 1975)); Collins v. Tax Comm'n, 446 P.2d 290, 295-97 (Okla. 1968) (transfer of co-owned property later held nontaxable in Collins v. Commissioner [Collins IV], 412 F.2d 211 (10th Cir. 1969), *rev'g* Collins v. Commissioner [Collins I], 388 F.2d 353 (10th Cir. 1968)). *See also* Kujawinski v. Kujawinski, 71 Ill. 2d 563, 573, 376 N.E.2d 1382, 1386-87 (1978) (suggesting co-ownership under recently amended statute).

10. *See* Rev. Rul. 74-347, 1974-2 C.B. 26, at 27.

11. To date, all cases holding that spouses are co-owners of marital property have been decided under statutes that place a mandatory duty of distribution on the trial court. *See* note 9 *supra*. Cases rejecting claims of co-ownership have been decided under statutes that merely permit the court to

tal property to be distributed upon dissolution, the likelihood of a finding of co-ownership increases because the composition of the estate subject to distribution is not left to the court's discretion.[12] Similarly, a court will more readily determine that property is co-owned if the statute includes a direction to the court to consider each spouse's contribution to the acquisition of marital property,[13] especially if the statute specifically directs the court to consider a spouse's contribution as a homemaker.[14] Additional evidence of co-ownership may be inferred when statutes concerning support and maintenance are separate and distinct from property distribution statutes.[15] The time at which a spouse's interest in marital property vests is immaterial so long as the interest vests upon dissolution of the marriage.[16]

Conversely, courts have determined that some factors militate against a finding of co-ownership. For example, if a court is directed by statute to consider the spouses' needs, income, employability, and length of marriage, the property division may be construed as a mere substitute for maintenance.[17] Similarly, if the relative fault of the parties leading up to the dissolution can be used as a factor in making the property division, a court may find such consideration inconsistent with co-ownership.[18]

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make the distribution. *See, e.g.*, United States v. Davis, 370 U.S. 65, 70 (1962); Wallace v. United States, 439 F.2d 757, 760 (8th Cir. 1971); Kraut v. United States, 316 F. Supp. 740, 741 (E.D. Wis. 1970); McKinney v. Commissioner, 64 T.C. 263, 266 n.3 (1975); Dunn v. Commissioner, 36 T.C.M. (CCH) 664, 666-67 (1973). *Compare* Wiles v. Commissioner, 499 F.2d 255, 257-58 (10th Cir. 1974) (no co-ownership under mandatory distribution statute) *with* Cady v. Cady, 244 Kan. 339, 343-44, 581 P.2d 358, 362 (1978) (co-ownership found under mandatory distribution statute).

12. *See* Collins v. Tax Comm'n, 446 P.2d at 295.

13. *Compare* Bosch v. United States, 590 F.2d 165, 167-68 (5th Cir. 1979); Mills v. Commissioner, 54 T.C. 608, 617-18 (1970); *In re* Questions Concerning Imel v. United States, 184 Colo. at 3-8, 517 P.2d at 1334-35, and Collins v. Tax Comm'n, 446 P.2d at 295 *with* Dunn v. Commissioner, 36 T.C.M. (CCH) at 667.

14. *See In re* Questions Concerning Imel v. United States, 184 Colo. at 3-10, 517 P.2d at 1334-36.

15. *See, e.g.*, Collins v. Tax Comm'n, 446 P.2d at 295-96.

16. *See* United States v. Davis, 370 U.S. at 70.

17. *See id.*; Wallace v. United States, 439 F.2d at 760. *But see In re* Questions Concerning Imel v. United States, 184 Colo. at 2, 10, 517 P.2d at 1334-36 (consideration of economic circumstances and amount of separate property retained by each spouse not necessarily fatal to a finding of co-ownership).

Because maintenance is a personal obligation of marriage, property used to settle such an obligation could not have been co-owned. *See* notes 37-42 *supra* and accompanying text.

18. *See* Collins v. Tax Comm'n, 446 P.2d at 297.

III. IMPACT OF THE STATUTORY CHANGES IN MINNESOTA

Under Minnesota law prior to 1979, spouses clearly were not considered co-owners of property that had been separately acquired during marriage.[19] Upon dissolution, the distribution of marital property was permissive, consideration of the contribution of one spouse as homemaker was not mandatory, the property settlement could be made in lieu of alimony, and there was no presumption that both spouses contributed substantially to the accumulation of property during marriage.[20] The transfer of separately held marital property was thus considered a taxable exchange of such property for the release of marital rights.

Most of the statutory changes that took effect in 1979, however, point toward spousal co-ownership of marital property. The amended statutes require the court to make a distribution of marital property,[21] implying that both spouses have a strong interest in or right to such property. The statutes also guarantee a "just and equitable" distribution,[22] strongly suggesting that a transfer required by the property settlement is not made in exchange for the release of the transferor's independent legal obligations.[23] In other jurisdictions, a statutory duty to make an equitable distribution of marital property has been crucial to a finding of co-ownership.[24]

Additionally, the statutes presume that all property acquired by the parties during their marriage is marital property, regardless of formal ownership.[25] Thus, the composition of the marital estate is not subject to judicial discretion, and title alone is not a factor on which the court may base its distribu-

19. *See* note 3 *supra* and accompanying text.

20. *See* 1974 Minn. Laws, ch. 107, § 22. The statute required only consideration of alimony and support awarded, the manner in which the property was acquired, and "all the facts and circumstances of the case." *Id.*

21. *See* MINN. STAT. § 518.58 (Supp. 1979).

22. *See id.*

23. *See* Collins v. Tax Comm'n, 446 P.2d at 296.

24. *See* note 11 *supra.*

25. All property acquired during marriage is presumed to be marital property regardless of whether title is held individually or by the spouses in a traditional form of co-ownership. *See* MINN. STAT. § 518.54(5) (Supp. 1979). The presumption of marital property may be overcome by a showing that the property was "(a) . . . acquired as a gift, bequest, devise, or inheritance by a third party to one but not to the other spouse; (b) . . . acquired before the marriage; (c) . . . acquired in exchange for or is the increase in value of property described in (a), (b), (d), and (e); (d) . . . acquired by a spouse after a decree of legal separation; or (e) excluded by a valid antenuptial contract." *Id.*

tion. This marital property classification does not affect ownership interests in the property during marriage;[26] rather, it creates a contingent interest that vests upon the dissolution of the marriage.[27]

The contribution of each spouse also weighs heavily in the ultimate property division. There is a statutory presumption that each spouse has made a substantial contribution to the acquisition of income and property while living together as husband and wife.[28] Moreover, the court is specifically directed to consider the extent of the contribution of each spouse, including the contribution of a spouse as homemaker.[29] Courts in other states have tended to recognize a common ownership interest when transfers between spouses have been in recognition of each spouse's contribution—financial or otherwise—to the joint estate.[30]

Moreover, the amended Minnesota dissolution statutes retain separate provisions for support[31] and maintenance,[32] distinct from the distribution of marital property. The personal obligations of support and maintenance can thus be wholly satisfied outside the property division. Where the obligations are so satisfied, an equal division of marital property cannot realistically be viewed as an exchange in discharge of the independent support obligations—such a division is properly characterized as a distribution of co-owned property.[33] Finally, the amended statutes bar the court from considering fault in

26. *See In re* Questions Concerning Imel v. United States, 184 Colo. at 8-10, 517 P.2d at 1335-36; Kujawinski v. Kujawinski, 71 Ill. 2d at 573, 376 N.E.2d at 1386; Cady v. Cady, 224 Kan. at 344, 581 P.2d at 362-63.

27. Because marital property includes property acquired by either party during the pendency of the dissolution as well as during the marriage, *see* note 25 *supra*, it is possible that spousal interests in marital property do not vest until the entry of a decree of dissolution. *See* Johnson v. Johnson, 277 N.W.2d 208, 211 (Minn. 1979) (decided prior to the effective date of the 1978 amendments). *But see* Cady v. Cady, 224 Kan. at 344, 581 P.2d at 362-63 (1978) (despite statutory language implying that co-ownership rights vested upon entry of a decree of dissolution, interests held to vest upon filing of the dissolution action).

28. *See* MINN. STAT. § 518.58 (Supp. 1979).

29. *See id.*

30. *See* note 13 *supra*.

31. *See* MINN. STAT. § 518.57 (1978).

32. *See* MINN. STAT. § 518.552 (Supp. 1979). Maintenance and the distribution of marital property have long been recognized as serving entirely different functions in Minnesota. *See, e.g.*, Warner v. Warner, 219 Minn. 59, 68-70, 17 N.W.2d 58, 63-64 (1944); Anich v. Anich, 217 Minn. 259, 260-61, 14 N.W.2d 289, 290 (1944); Bensel v. Hall, 177 Minn. 178, 178, 181, 255 N.W. 104, 104-06 (1929).

33. *See In re* Questions Concerning Imel v. United States, 184 Colo. at 10, 517 P.2d at 1335-36. *But see* Kraut v. United States, 316 F. Supp. at 741 (rejection of husband's claim that award of maintenance exhausted his independent personal marital obligations).

making a property division.[34] The removal of this factor from consideration provides further evidence that spouses should be regarded as co-owners of their marital property.[35]

Some elements of the statutes, however, suggest that a spouse's interest in marital property may not rise to the level of co-ownership. Most significant is the direction to the court to consider whether the property division is in lieu of or in addition to maintenance or support.[36] This is compounded by the requirement that each spouse's contributions to the acquisition of property during marriage be considered in connection with the maintenance award.[37] The resulting interdependence between the award of maintenance and the distribution of property undermines the concept of co-ownership of marital property.[38] Although a decision not to award maintenance does not necessarily mean that spouses cannot be co-owners of their marital property,[39] a property distribution expressly in lieu of maintenance certainly falls within the scope of the *Davis* rule and hence is a taxable event.[40] The statutory direction to consider factors such as need, income, occupation, employability, age, and length of marriage is also inconsistent with co-ownership.[41] Although consideration of these factors is not fatal to a finding of co-ownership, courts may reject co-ownership claims when these discretionary factors outweigh the "mandatory distribution" elements in the overall statutory formulation.[42]

Perhaps the most compelling evidence of co-ownership

34. *See* MINN. STAT. § 518.58 (Supp. 1979).

35. *See* Collins v. Tax Comm'n, 446 P.2d at 295.

36. *See* MINN. STAT. § 518.58 (Supp. 1979).

37. *See* MINN. STAT. § 518.552(2)(g) (Supp. 1979).

38. Under the current statutes, a distribution of property could be in partial or total satisfaction of the personal obligations of support and maintenance. *See* MINN. STAT. § 518.58 (Supp. 1979). This distorts the historical concept of maintenance as a personal duty of support that is separate and distinct from divisions of property held at the time of dissolution. *See generally* cases cited in note 32 *supra.*

39. The absence of an award of maintenance under such circumstances should not support the inference that the property was transferred in exchange for the spouse's release of the right to maintenance. *See In re* Questions Concerning Imel v. United States, 184 Colo. at 8, 10, 517 P.2d at 1335-36. Moreover, upon receipt of a just and equitable share of marital property, a spouse may not have a need for maintenance.

40. *See* note 17 *supra.*

41. *See* MINN. STAT. § 518.58 (Supp. 1979). Other factors to be considered are any prior marriages of the parties and each party's health, station, vocational skills, estate, liabilities, and opportunity for future acquisition of capital assets. *Id.*

42. *See e.g.*, Wallace v. United States, 439 F.2d at 760-61; Kraut v. United States, 316 F. Supp. at 741.

rights in Minnesota is the treatment of marital property settlements under the state income tax laws. Gross income includes, *inter alia*, gains or profits derived from every "disposition of" or "dealing in" property.[43] However, the amount of any gain recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights is excluded from state gross income.[44] The obvious inference is that the state legislature does not consider such a transfer to be a "disposition of" or "dealing in" property, but rather a mere nontaxable division of property between two people with common rights of ownership. Although the statutory language appears to acknowledge that such transfers could be in exchange for the release of marital rights, it is more likely that this language was used only in an effort to identify, by convenient reference to a previously accepted federal characterization, those transfers qualifying for exclusion.[45]

Thus, although there is some basis in the current statutes for rejecting a claim of spousal co-ownership of marital property, the better reasoned and more compelling conclusion is that the statutes as a whole create a species of co-ownership that vests upon the dissolution of marriage. Such a construction is also more equitable, putting Minnesota taxpayers on a par with those in community property states and a growing number of common law states where transfers between spouses effecting an equal division of marital property are tax-free. Litigation of this issue deserves serious consideration, especially because the Minnesota Supreme Court has not yet addressed the extent of a spouse's interest in marital property held by the other spouse.[46] A determination of co-ownership would be most probable if a trial court expressly found that the

43. MINN. STAT. § 290.01(20) (Supp. 1979).

44. *See* 1980 Minn. Sess. Law Serv. (West) 1050 (amending MINN. STAT. § 290.01(20)(b)(8) (Supp. 1979)).

45. The starting point for determining state gross income is federal adjusted gross income. *See* MINN. STAT. § 290.01(20) (Supp. 1979). Since gains on property transfers incident to marriage dissolution have been thought to be includable in federal gross income under the *Davis* rule, a reference to the federal characterization of these transfers is necessary to identify the excluded gain and should not be interpreted as an acceptance of that characterization by the state legislature. Indeed, the very purpose of this statutory section is to ensure that such transfers are not treated as taxable gain.

46. There is no need to wait for a Minnesota Supreme Court determination under the newly amended dissolution statutes before litigating; if the case is a federal one the question can be certified to the Minnesota Supreme Court under MINN. STAT. § 480.061 (1978). The supreme court's finding will then be binding on the federal court considering the taxability of the transfer under the federal income tax statutes. *See* note 4 *supra*.

property division was based on the spouses' relative contributions to the acquisition of property during marriage and that the property distribution was wholly separate from any award or denial of maintenance.[47]

Alternatively, the Minnesota Legislature could remove all doubts on this issue by further amending[48] the marriage dissolution statutes. Under any such amendments, the distribution of marital property should be based solely on the spouses' relative contributions, financial or otherwise, to the acquisition of marital property,[49] and the amended statutes should continue the presumption of substantial contribution on the part of each spouse.[50] Consideration of such factors as need, income, employability, and length of marriage is properly the exclusive province of the maintenance inquiry and should be removed as a factor affecting the property settlement. Finally, the legislature should omit all reference to contribution from the statute governing maintenance awards.

IV. CONCLUSION

Prior to 1979, a transfer of appreciated property between spouses in Minnesota was clearly a taxable event under the *Davis* rule. Amendments to the marriage dissolution statutes and the state income tax statutes in 1978 and 1979, however, give both spouses substantial rights in property acquired during marriage but held by one spouse. Under the new laws, the composition of the marital estate subject to distribution is fixed by statute, and each spouse is presumed to have made a sub-

47. *See, e.g., In re* Questions Concerning Imel v. United States, 184 Colo. at 8, 517 P.2d at 1335. Consider, too, the possibility of varying degrees of common ownership, depending on the extent of contribution. Although such a rule might be workable, it would present substantial problems of proof at the trial level. A uniform rule of statutorily created equal ownership in marital property would be preferable.

48. The Kansas Legislature recently acted to ensure tax-free marital property settlements in that state. *See* KAN. STAT. ANN. 23-201 (Supp. 1979). The statute provides in pertinent part:

> (b) Each spouse has a common ownership in marital property which vests not later than the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the court pursuant to K.S.A. 1978 Supp. 60-160, and any amendments thereto.

This amendment was not necessary, however, because the Kansas Supreme Court had ruled that common ownership was created by the dissolution statute prior to its amendment. *See* Cady v. Cady, 224 Kan. at 346, 581 P.2d at 363.

49. *See* notes 13-14 *supra* and accompanying text.

50. *See* note 28 *supra* and accompanying text.

stantial contribution to the acquisition of all marital property. The court must make a just and equitable distribution of marital property in light of, *inter alia*, each spouse's contribution, including the contribution of the spouse as homemaker, and personal obligations can be completely satisfied through awards of support and maintenance wholly outside the property settlement. Any gain recognized on transfers between parties to a marriage dissolution is now excluded from state gross income.

Taken as a whole, these statutory changes present a strong argument that spouses hold a common ownership interest in marital property that vests upon the dissolution of marriage. Thus, transfers of separately held property between parties to a marriage dissolution in Minnesota may no longer be taxable under the *Davis* rule.

Although such a co-ownership interest could be unequivocally established by further statutory amendments clarifying spousal interests in marital property, judicial recognition of common ownership under the current statutes is nonetheless likely. A favorable resolution of this issue would inure to the benefit of Minnesota residents who face marriage dissolution under the recently amended statutes, and would bring Minnesota in line with other common law states[51] that have recognized that similar marriage dissolution statutes create co-ownership interests.

51. *See* note 9 *supra* and accompanying text.