

IN THE COURT OF APPEALS OF IOWA

No. 3-414 / 12-1682

Filed July 10, 2013

**IN RE THE MARRIAGE OF CHARLYN M. WILLIAMS
AND ERIC J. WILLIAMS**

**Upon the Petition of
CHARLYN M. WILLIAMS,**
Petitioner-Appellant,

**And Concerning
ERIC J. WILLIAMS,**
Respondent-Appellee.

Appeal from the Iowa District Court for Black Hawk County, Andrea J. Dryer, Judge.

Charlyn Williams appeals from the property distribution provision of her dissolution decree. **AFFIRMED.**

Christy R. Liss of Clark, Butler, Walsh & Hamann, Waterloo, for appellant.

Bruce L. Gettman and Brandon J. Gray of Redfern, Mason, Larson & Moore, P.L.C., Cedar Falls, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Tabor, JJ.

POTTERFIELD, J.

Charlyn Williams appeals from the property distribution provision of her dissolution decree. She contends the district court erred in equally dividing the couple's income tax obligation for the years 2010 and 2011. We affirm, finding the division was equitable.

I. Facts and Proceedings.

Charlyn and Eric were married in 2001; during the marriage the parties had two children whose interests are not at issue on appeal. Charlyn and Eric separated in 2010. Charlyn was thirty-five years old at the time of trial, Eric was thirty-two. Charlyn's annual income is approximately \$20,000 a year. Eric is a self-employed insurance salesman. His gross income was \$168,077 in 2010; in 2009 it was \$141,656. After the parties separated, Eric lived with his parents and Charlyn lived in the marital home. Eric continued to make the mortgage payments on the home, along with utilities, and home insurance. He also continued to pay the auto loan on Charlyn's vehicle and the car insurance.

Eric and Charlyn filed joint income tax returns during their marriage including the 2010 tax year. For several years, Eric did not pay his quarterly estimated taxes during the year and the parties paid income taxes and penalties after filing their return. At the time of trial, the parties owed almost \$40,000 for federal and state 2010 income taxes primarily on Eric's self-employment income; they estimated the 2011 liability would be over \$37,000. The parties have paid their outstanding tax liability for the tax years 2007, 2008, and 2009.

The parties sold the marital home and split the profit evenly. In its decree, the district court ordered Eric to pay Charlyn \$850 a month in spousal support for

five years. He was also ordered to pay Charlyn \$2700 in attorney fees. The district court divided the tax debt evenly between the parties. Charlyn appeals from the tax division aspect of the decree.

II. Analysis.

We review actions involving the dissolution of marriage de novo. *In re Marriage of Sullins*, 715 N.W.2d 242, 247 (Iowa 2006). We give weight to the trial court's factual findings. *Id.* The allocation of marital debts is part of the division of property in divorce. *Id.* at 251. "Debts of the parties normally become debts of the marriage, for which either party may be required to assume the responsibility to pay." *Id.* The overall division must result in the equitable distribution of property. *Id.*

Charlyn argues that because the parties separated a few months into 2010, she should not be responsible for any of the tax debt from Eric's self-employment. Eric counters that allocating all of the tax debt to him would be inequitable; after the parties separated, he still paid for Charlyn's car payment, car insurance, home mortgage, utilities, and home insurance. He argues failure to divide the tax debt would leave him with a highly disproportionate burden of the couples' debt: Charlyn would receive \$13,341 in assets and Eric would receive \$83,865 in debts.

In *Sullins*, our supreme court determined it would be inequitable for the wife to share in her former husband's self-employment tax obligation, as the two filed separately, and the tax problems were "self-imposed and largely the result of imprudent business practices adopted to minimize the amount of funds available to satisfy a personal judgment against him." *Id.* at 252. Here, in

contrast, the district court found the parties together owed the tax debt. The parties had also jointly failed during the marriage to pay their taxes on Eric's self-employment income. Charlyn and Eric filed jointly in 2010, and the district court ordered the two to file jointly for 2011. Charlyn enjoyed the benefits of Eric's 2010 and 2011 earnings. Allocation of the tax debt jointly to the parties was an integral part of the district court's equitable division of assets and liabilities and assignment of support obligations to Eric. We conclude the district court properly divided the tax obligation for 2010 and 2011 from Eric's business. Costs on appeal are assessed to Charlyn.

AFFIRMED.