



# PROFESSOR LEX

BY HARVEY I. HAUER

**Dear Professor Lex,**

**In a divorce case, does a court have the authority to require the parties to file joint income tax returns?**

Dear Practitioner:

Opinions of courts of other states that have addressed this issue have not been uniform. This response pertains to Michigan law only. There are two unpublished Michigan decisions which shed light on your inquiry.

In *Szukala v. Szukala*, unpublished order of the Court of Appeals, issued June 22, 2010 (Docket No. 289456), the trial court required the parties to file a joint income tax return. Appeal was limited to whether the trial court's opinion was equitable. The trial court's jurisdiction to make such a ruling was never brought up. In affirming the trial court's ruling, the Court of Appeals found that the trial court's decision to require the parties to file a joint return for 2007 was equitable.

A more relevant case involving this issue is *Jacobsen v. Jacobsen*, unpublished order of the Court of Appeals, issued August 17, 1999 (Docket No. 211172). In this case, plaintiff, during the marriage, filed separate income tax returns from 1994 through 1997. The trial court required her to pay a portion of the unpaid taxes if she did not wish to re-file those income tax returns as joint returns and ruled that she was liable for one-half of any excess tax liability suffered by

defendant for having to file individual returns. The appellate court sustained the trial court's opinion finding there was nothing inequitable about the court's ruling and held:

*... the trial court had evidence to make a ruling on this issue and had authority to decide this issue as part of the divorce judgment. We also note that plaintiff has failed to cite any authority for the proposition that the trial court could not order her to re-file her taxes jointly or pay one-half of the cost of refusing to do so.*

**Answer respectfully submitted by  
Harvey I. Hauer, Hauer & Snover.**

Please send questions for Professor Lex to [Hhauer@hauersnover.com](mailto:Hhauer@hauersnover.com). Include "Professor Lex" in the e-mail's subject line.

The above response is not meant to serve as a solution to a case. That would require complete disclosure of all facts in the case, including client consultation. Rather, the intent is to provide informal guidance based upon the facts that have been presented. The inquiring lawyer bears full legal responsibility for determining the validity and use of the advice provided herein.