Classification discussion problems

January 2024

a. Wendy did not trust her husband Howard with money because she knew he had a serious gambling problem. During the marriage, she inherited $25,000 from her great aunt. Wendy did not tell Howard about the money, and she put all of it into an investment account that Howard did not know about. Wendy met with an investment advisor twice each year, and on a couple occasions, she called and instructed the advisor to make a trade based on information she read in the Wall Street Journal. The rest of the time, the advisor made all decisions about managing the account. By the date of separation, the account had a balance of $55,000.

b. Polly began contributing to a 401K plan through her employer 5 years before she married Frank. On the date of marriage, the account contained $20,000. She continued to contribute to the plan through direct deduction from her monthly paycheck throughout her 20-year marriage to Frank. On the date of separation, the account contained $100,000. Polly introduces evidence that $40,000 was deducted from her paycheck during the marriage to fund the account.

c. Shea and Edward opened a joint savings account a week after they married. They deposited money into the account over the years and on the date of separation the account had a balance of $100,000. They both agree that each of them made regular deposits into the account from their monthly work paychecks throughout the marriage and that they took money out of the account whenever they needed extra funds for household expenses or family vacations. In addition, they both agreed that Shea deposited into this account the $15,000 she received when she sold the diamond ring her grandmother gave her before the wedding and that Edward always deposited into this account the dividends he received from IBM stock he purchased years before the marriage. He estimates these dividends amounted to approximately $40,000.

d. During the marriage, Edward inherited his grandmother's horse farm. Edward's accountant testifies that the farm was worth $500,000 at the time of the inheritance. Both Edward and Shea were thrilled with the inheritance because they love horses. The farm included a farmhouse and a couple of small barns. Shea and Edward painted all the buildings and replaced the roof on the farmhouse. They also fixed several broken fences. Shea painted the inside of the farmhouse, bought new furnishings and curtains and planted a beautiful flower garden in the yard. Unfortunately, their mutual love of horses was not enough to sustain their marriage, and they separated 5 years after Edward inherited the farm. Shea offers into evidence an appraisal of the farm which states that it was worth $650,000 on the date of separation.

e. Same facts as d. above except Edward transferred title to the horse farm to tenancy by the entirety shortly after receiving it from his grandmother's estate. Edward testifies that he transferred title only because his accountant told him he should do so for tax and liability purposes.

f. The assets in Kristen and Steve's estate include the marital residence, two cars and one modest 401K. They have stipulated that each party will receive one of the cars and the 401K will be divided equally by a QDRO. An interim distribution order distributed the house to Kristen and ordered that she make the mortgage payments. She made the mortgage payments with her separate funds. The house had a market value of $350,000 on the date of separation and the mortgage indebtedness on the date of separation was $150,000. On the date of trial, the market value of the house was $400,000 and the mortgage had been reduced to $130,000 by Kristen's payments.

g. Janet and Eddie were married 10 years before they separated. On the date of separation, they owned the marital residence as tenants by the entirety. The house had a market value of $300,000 on the date of separation and a mortgage with a balance of $200,000. Janet remained in the house throughout the two years it took to get to court for the equitable distribution trial. For the first year of the separation, Janet paid the mortgage payment in the amount of $1500 each month, which included principal ($500) and interest ($700) on the loan, as well as the amounts required to be placed in escrow for homeowners' insurance ($150) and property taxes ($150). Because she was unemployed for the first three months of the separation, Janet paid the first three mortgage payments using funds from the marital savings account. The rest of the payments during that first year of separation came from her postseparation employment. At the end of the first year, the mortgage balance was $194,000. Before Janet could make any payment during the second year, Eddie used money he received from an inheritance to pay off the mortgage completely. Janet remained in the house and paid the homeowners' insurance premium and the property taxes for the second year of separation – a total of $3600.

h. Peg and Andrew were married for 30 years. During that time, they jointly owned and operated several business entities engaged in residential and commercial development. They also had owned several similar businesses over the years with various members of Andrew's family. About 5 years before the date of separation, Peg and Andrew formed a new Limited Liability Corporation (an LLC). The purpose of the LLC was to own and manage commercial rental property. Peg and Andrew were equal owners of the LLC and there were no other owners. Shortly after the LLC was formed, Andrew's parents transferred title to a small shopping center to the LLC and no consideration was paid. The LLC owned the shopping center and collected rents from the tenants in that shopping center up to and following the date of separation. The value of the LLC on the date of separation was $1.5 million dollars. The value was based in large part on the income-producing potential of the shopping center.

i. After the date of separation, Peg had no involvement with the LLC. Andrew had regular contact with the tenants in the shopping center and collected the rent. He also handled the business affairs of the LLC by keeping all business records, overseeing all maintenance of the shopping center, negotiating the renewal of leases with the tenants, and generally managing the day-to-day requirements of maintaining the business. During the 3 years between the date of separation and the date of trial, Andrew collected $250,000 in rent from the tenants; $75,000 was deposited into the LLC's business account and $175,000 was deposited by Andrew into his personal account and used for his personal expenses during separation. By the date of trial, the value of the LLC was $1.8 million dollars. The valuation expert testified that the date of trial value would be higher if Andrew had not used the $175,000 in rents for his personal benefit.

j. During John and Jane's 15-year marriage, Jane worked for the same company that hired her the day after the couple returned from their honeymoon. Sadly, one month after John and Jane separated, the company announced it needed to downsize by terminating most of their employees, including Jane. All terminated employees were given a severance payment in an amount determined by a formula which took into account the individual's salary at the time of termination and the number of years the individual had worked for the company. Jane received a lump sum severance payment of $75,000 three months after the date of separation and before the equitable distribution trial.