



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

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**Testimony of the Honorable Elliot N. Solomon
Judiciary Committee Public Hearing
March 31, 2014**

**House Bill 5524, An Act Concerning The Recommendations Of The Law Revision
Commission With Respect To The Alimony Statutes**

Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee, thank you for the opportunity to testify, on behalf of the Judicial Branch, in regards to **House Bill 5524, An Act Concerning the Recommendations of the Law Revision Commission with Respect to the Alimony Statutes.**

While the Judicial Branch takes no position on the larger policy question of whether Connecticut should amend its alimony statutes, we need to comment on the proposed language in section 1(c) and section 2(a) that would mandate the court take into consideration the tax consequences of its orders.

As members of the Committee are aware, the issue of tax treatment in any setting under the Internal Revenue Code can be highly complex. It is a field which is typically left to CPAs and attorneys who have returned to school to obtain their masters degree in taxation. Our judges typically have an understanding of basic tax consequences attendant to their orders, but many property and alimony orders require a level of sophistication beyond that possessed by my colleagues. And that assumes that, apart from having the requisite knowledge of applicable tax law, the parties have provided the trial judge with all of the necessary facts to make an informed decision regarding tax consequences. That in itself can often be a complicated undertaking involving facts to which the trial judge might not even have access.

Moreover, it is unclear whether the trial court's consideration of "the tax consequences of its orders" refers only to the tax implications which will arise strictly from the order itself or, alternatively, whether it requires consideration of the tax consequences attendant to the

disposition of the property at a later time by the party who received the property at the time of the divorce. I suspect it means the latter because, typically, transfers of property between spouses incident to the entry of a decree of dissolution of marriage are not a taxable event to either party at that time. If that is the case and the court is really anticipating tax consequences at a later time, then it should be noted that the tax consequences of a later disposition of the property may not be the same as would have been expected at the time of the divorce. That can be the result not only of a change in the law but, as well, of other considerations such as the identity of a later transferee as well as subsequent events affecting the asset which was transferred.

If the intent of the study group was to require judges to consider the tax consequences of their orders *only* if the parties introduce evidence as to those potential consequences, I would respectfully suggest that, at a minimum, the proposed legislation should specify that requirement. I would also note that under current law – *Powers v. Powers*, 186 Conn. 8 (1982) – the parties are already free to introduce evidence regarding tax considerations affecting the assets of the marital estate as well as orders that the court might enter for spousal support. I know that in this field, trial courts always welcome and consider such evidence, so the law, in its current state, is well suited to allow trial judges to make informed decisions on these issues. Consequently, the Branch would ask that the “tax consequences” language of the proposed legislation not be adopted.

Thank you for the opportunity to testify on this bill.