

SUPREME COURT CASE NUMBER A112282

**STATE OF MINNESOTA
IN SUPREME COURT**

CASE TITLE:

Commissioner of Revenue

Respondent

Vs.

Estate of Ruth Singer,

Appellant,

**SUPREME COURT NUMBER:
A112282**

APPELLANT'S FORMAL BRIEF AND APPENDIX

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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LEGAL ISSUES

1) Is MSA 291.215 unconstitutional as a regressive and non-uniform tax?

{ A note on definitions: A proportional tax is frequently considered to be regressive by modern commentators such as Harper v. Virginia Board of Elections (1966) 383 US 663. As the poor have less ability to pay a proportional tax it falls more heavily on the poor than on the rich. This case involves a tax law where smaller estates will actually be forced to pay more taxes than larger estates. THIS WOULD BE CONSIDERED A TRULY REGRESSIVE TAX)

Tax Court held: Taxation may be regressive; Taxation does not have to be absolutely uniform. There is a heavy burden of proof on anyone who contends

that a law is unconstitutional and they are not convinced that the law is.

2A) Do deductions have to be justified for estates valued under \$ 2 million?

Tax Court held: Deductions have to be justified to the penny under MSA 270C.31

2B) Can the tax court penalize an estate for advancing this legal theory?

Tax Court held: Even if an estate presents evidence justifying certain deductions before the Tax Court, the Tax Court will disallow them as punishment for even advancing legal theories such as the burden of proof should be on the Minnesota Commissioner of Revenue, the United States Supreme Court does not require justification of deductions (at least to a certain extent), the Commissioner of Revenue is not following IRS rules and procedures, and if a \$ 2 million estate need not justify any deductions, why should lesser valued estates have to?.

2C) Is MSA 270C.31 even available to the tax court under MSA 270C.31 (7)?

Tax Court held: SILENCE

3) Does the IRS and Federal legal system pre-empt the Minnesota tax system if Minnesota tax statutes cite Federal tax laws and estates over \$ 2,000,000 are valued under Federal law?

Tax Court held: In the NEGATIVE

4) Does the Minnesota Estate tax legal system give estates valued under \$ 2 Million a reasonable amount of time to settle the estate?

Tax Court held: A reasonable time to settle an estate is not required

5) Does the tax court have jurisdiction to decide whether or not an individual owns a house under adverse possession or must this matter be decided in District Court? MSA 559.07 and MSA 559.013

Tax Court held: AFFIRMATIVE

- 6) Does a remand to the District Court for origination of the case entitle the parties to an actual District Court hearing and judgment?

Tax Court held: They agree that an individual has the right to their day in court without prejudice, but that apparently does not include the right to an actual day in District Court. The case was simply remanded to District Court and then remanded back. I did not even receive a letter from the Hennepin County District Court.

FACTS OF THE CASE AS SEEN BY THE APPELLATE:

Ruth Singer died intestate on May 26, 2008. Her son and sole heir, Jack M. Singer inherited the estate. As with many cases involving close relatives there are certainly issues of who owns what. On January 26, 2009 Appellate filed a Minnesota Estate Tax Return to the Commissioner of Revenue Department of Minnesota claiming a value of the Taxable Estate of Ruth Singer to be approximately \$ 800,000. The Minnesota Department of Revenue values the Estate of Ruth Singer at \$ 1,512,000. The discrepancy is as follows:

\$ 350,000 – decrease in the value of the estate to its lowest value within six months of the date of Ruth Singer’s death (May 26, 2008) as allowed by Federal Tax Code section 1032© and the fact that house are valued for the purpose of property taxes at almost double its appraised value.

The nation was very close to total economic collapse from October to November 2008

\$ 100,000 – IRA deduction allowed by Federal Tax Code section 1031

\$ 100,000 – value of Jack Singer’s interest in joint account (decreased in value)

\$ 150,000 – value of son’s claim of adverse possession of the home

incidental deductions allowed under Federal Tax Code section 1031 amounting to 2% of the estate were also disallowed. At trial the Attorney General stipulated that 1) The Commissioner of Revenue did not follow IRS procedures 2) Jack M. Singer lived in the house in question for 15 years, and 3) Ruth Singer spent the last 7 years of her life in a nursing home and never returned to the house.

ARGUMENT: MSA 291.15 is regressive and not uniform

OVERVIEW OF MSA 291.215

The intent of the legislature in the 2009 Modification of MSA 291.215 is clearly to allow the Minnesota Commissioner of Revenue to collect taxes on estates of larger value exclusively utilizing the efforts and expense of the Internal Revenue Service (IRS), while also collecting taxes on estates which are smaller than the Federal threshold. This creates the following huge disadvantages for estates valued at under the Federal threshold:

- 1) An estate valued at \$ 2,000,000 would be Federally valued and not be required to justify one penny of its deductions. A \$ 1,500,000 estate would be required to justify \$ 500,000 in deductions. (This constitutes half of the basis of the Tax Court’s initial opinion)
- 2) The burden of proof is on the I.R.S. for estates valued at over \$ 2,000,000 while it is placed on the taxpayer for estates under this

amount. And burden of proof means everything in Minnesota Courts!

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This constitutes the other half of the basis of the Tax Court's opinion.

- 3) A \$ 2,200,000 estate which lost half its value within six months of death would be taxed at \$ 1,100,000. A \$ 1,900,000 estate which lost half its value within six months of death would still be taxed at a value of \$ 1,900,000. The tax court ruled that this was fair!
- 4) There are expensive procedures and requirements that the government is required to follow for estates valued at over \$ 2,000,000. (26 USCA 7517). There are none required for estates valued below \$ 2,000,000.

FEDERAL CONSTITUTIONAL REQUIREMENTS FOR ESTATE TAXES

I) AN ESTATE TAX MUST NOT BE IMPOSED ON PROPERTY, BUT UPON THE RIGHT TO SUCCEED TO PROPERTY AND THE SUCCESSION MUST OCCUR.

In *Snyder v. Bettman* (1903) 190 US 249 the United State Supreme Court held “ an inheritance tax was not one upon property but upon the succession “ at page 251 and “ as repeated held, the taxes imposed are not upon property, but upon the right to succeed to property “ at page 254.

They cited: *Knowlton vs. Moore* (1900) 178 US 41 , *Magoun vs. Illinois Trust and Savings* (1898) 170 US 283 , and *United States vs. Perkins* 163 US 625. The current interpretation of this concept is that 1) the property in question must belong to the decedent on their date of death. 2) The decedent must have “beneficial interest” in the property (*Estate of Bogley vs. United States* (1975) 514 F2nd 1027, 1037 and 3) the decedent's heirs and beneficiaries must be able to inherit the estate by means of being designated as beneficiaries, by will, or intestate.

4) The value of the estate must be limited to the “beneficial interest” of the heirs or beneficiaries at the time they achieve their inheritance. { I.R.S. regulation 20.2301-1(a)(1) } [Estate of Edward Bender vs. Commissioner (1987) 827 F2d 884] { plurality opinion – IRS vs. Estate of Hubert (1997) 520 US 93 } stating: “The marital deduction should not exceed the net economic interest received by the surviving spouse” citing US vs. Stapf (1963) 375 US 118

{ Property which is unlikely to be inherited would not be included in an Estate }

26 USCA (Revenue Code) , Section 2031 (a) states: “The value of the Gross Estate of the decedent shall be determined by including to the extent provided for in this part, the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated.”

THIS MUST BE MODIFIED BY 26 USCA (Revenue Code) , Section 2033 which states:

“ The value of the Gross Estate shall include the value of all property to the extent of the interest therein of the decedent at the time of his death” (enacted in 1954)

II) AN ESTATE TAX MUST BE EITHER PROPORTIONAL OR PROGRESSIVE. AN ESTATE TAX MAY NOT BE REGRESSIVE (The tax rates for larger estates must be greater than or equal to the rates for smaller estates and tax benefits for smaller estates must be greater then or equal to tax benefits for larger estates) Snyder vs. Bettman (1903) 190 US 249 citing: Knowlton vs. Moore (1900) 178 US 41 at page 109 “ a progressive tax is more just and equal than a proportional one” citing Magoun vs. Illinois Trust and Savings

(1898) 170 US 283. SMALLER ESTATES MUST HAVE THE SAME RIGHTS AND 13 PRIVILEGES AS LARGER ESTATES IN LAW, PROCEDURE, AND IN THE COURTS.

Minnesota Courts follow the Federal Courts exactly on these first two Constitutional Requirements { State v. Bazille (1905) 97 Minn 11 ; 106 NW 93 at 96 and 97 }

III) (WHENEVER POSSIBLE) THE ENTIRE BODY OF FEDERAL LAWS MUST OVERRIDE AND PRE-EMPT INCONSISTENT STATE PROPERTY LAWS INVOLVING VALUATION OF AN ESTATE FOR ESTATE TAX PURPOSES.

(This would even be true when the Federal laws in question are not part of Internal Revenue Code { 26 USCA }) (This may also be true for actual inheritance purposes)
United States vs. Estate of Edward Chandler ([1973] 410 US 257) citing:
Free vs. Bland (369 US 663 {1962})

IV) AS AN ESTATE TAX IS ON THE ACT OF SUCCESSION AND NOT PROPERTY, ANY DEDUCTIONS MAY BE VALUED BASED UPON PROPHECY RATHER THAN ON FACT.

“The first impression is that it is absurd to resort to statistical probabilities when you know the fact. But this is due to inaccurate thinking. [The tax is on the act of the testator ... Knowlton v. Moore 178 US 41, 49...] Value depends largely on more or less certain prophecies of the future; and the value is no less real at that time if later the prophecy turns out false than when it comes out true... Tempting as it is to correct uncertain probabilities by the now certain fact, we are of opinion that it cannot be done.”

COMMISSIONER v. ESTATE OF HUBERT (1997) 520 US 93 at 102 (plurality) citing 14 the unanimous opinion ITHICA TRUST CO. v. UNITED STATES (1929) 279 US 151, 155.

V) ANY LAW OR REGULATION WHICH DOES NOT ALLOW FOR A REASONABLE TIME FOR AN ESTATE TO BE SETTLED IS FACILE UNCONSTITUTIONAL.

PRESUMPTION OF A LAW'S CONSTITUTIONALITY

A law that discriminates is subject to heightened scrutiny – Nevada Department of Human Resources v. Hibbs (2003) 528 US 721 at 728 . “Laws drawn on the basis of wealth or property are traditionally disfavored” Harper v. Virginia Board of Elections 383 US 663 (1966) at 668. The Attorney General argues that MINNESOTA LAWS ARE PRESUMED TO BE CONSTITUTIONAL BEYOND A REASONABLE DOUBT. This is their entire case which did not prevent the Minnesota Supreme Court in the case of Chapman v. Commissioner of Revenue 651 NW2d 825 (cited by the Attorney General) from declaring the law in question unconstitutional. The actual viewpoint of the Minnesota Supreme Court was stated in Hutchinson Technology, Inc. v. Commissioner of Revenue (698 NW2d 1,8 (Minn 2005) “ We are guided by the presumption that the legislature does not intend to violate the U.S. Constitution; therefore we must place a construction on the statute that will make it constitutional if at all possible” citing Chapman v. Commissioner of Revenue (Minn 2002) 651 NW2d 825,830. The law in Chapman was declared unconstitutional on the 5-4 decision in Camps Newfound v. Town of Harrison (1997) 520 US 564. Not exactly either beyond a reasonable doubt or the 7-2 decision in Estate of Hubert (1997) 520

US 93 that controls this case.

LAWS IN QUESTION AS APPLIED TO CONSTITUTIONAL ISSUES

Under MSA 291.215 estates valued at over \$ 2,000,000 are valued by the Federal legal system and the Federal determination is applicable and final. Estates valued at under this amount are valued by the Minnesota State legal system. The taxpayer has far more rights under the Federal Estate Tax system than under the Minnesota Estate Tax system. The only concern of Minnesota Tax Courts is justification of deductions, (MSA 270C.31) rather than valuation of an estate, going directly against the 7-2 opinion of Estate of Hubert 520 US 93. { The I.R.S.'s current position on Hubert is that the 2 million dollar exemption and reversed burden of proof provides the necessary taxpayer relief. The Minnesota Estate Tax System retains the one million dollar exemption and still puts the burden of proof on the taxpayer. }

The I.R.S. has procedures, rules, and regulations for estate taxes. The Minnesota Department of Revenue has none. MSA 270C.31 (which was designed for income taxes) was utilized rather than 26 USCA 6659 and 7517 to value the estate. Minnesota Tax Courts follow far harsher MSA 271C.61 (orders of the commissioner are presumed correct), rather than Federal Tax Court Rules 26 USCA 6201(d) (burden of proof is on the I.R.S. to demonstrate that they followed proper procedures) and 26 USCA 7491 (burden of proof is on the I.R.S. if the taxpayer presents credible evidence before Tax Court). The Minnesota State imperative for placing the

burden of proof on the taxpayer (F-D Oil 560 NW2d 701, 707 (1997) is to “save the government 16

time and money” which is in addition to the Federal imperative of “requiring the taxpayer to keep good records”. United States v. Bisceglia (1975) 420 US 141, 145. Under Federal law the IRS can only base a tax judgment on their assumptions if either “a taxpayer fails to file a tax return or if a taxpayer files a fraudulent tax return” 26 USCA 6020. The commissioner of Revenue can base a tax order on assumptions if a taxpayer is being uncooperative.

One of the differences between Federal and Minnesota Estate Tax Systems is that Federal law allows an estate to be valued at its lowest value within six months of death. Minnesota law allows the same for estates over 2 million, but requires date of death valuation for estates beneath this amount, because of an unauthorized interpretation of 26 USCA 2032©. That makes a large difference in the value of estates from 2008 because of the financial crises. The Commissioner of Revenue brought this issue to me in 2010 and I told them I would fight this ridiculous Revenue Notice [#06-04] in court. Yet another difference between Federal and Minnesota tax systems is that the Federal Tax Court Mandate is : “ Its function is to weigh evidence on matters properly before it and make findings of fact thereon, and when there is substantial evidence to support the findings or when they are not clearly erroneous, they must be accepted. It may not arbitrarily discredit and disregard unimpeached, competent and relevant testimony of a taxpayer which is uncontradicted.” A & A Tool & Supply Co. v. Com. (1950) 182 F.2d 300. The I.R.S. is also required to present their case to the taxpayer under 26 USCA 7517, requiring a great deal of “time and money”. The Commissioner of Revenue is not. The Commissioner of

Revenue also targets taxpayers that the IRS could target but has no interest in because the money 17 involved is too minute. I could go on for another four or five pages however I shall stop for brevity.

MINNESOTA ESTATE TAX LAW IS UNCONSTITUTIONALLY REGRESSIVE

Appellant's Argument: Current Minnesota Estate Tax Law is clearly being enforced in a highly regressive manner. A 2008 Minnesota Estate valued at \$ 2,000,001 would have far more rights and privileges than an estate valued at \$ 1,999,999 and would certainly have to pay less in Minnesota Estate Taxes. Probably much less. Federal Estate Tax Law, the I.R.S., and the Federal Tax Courts give Estate Tax payers far more rights than they have under Minnesota laws and Commissioner of Revenue Rules. The most significant of these addition rights are delineated above. Foremost of these is the reversed burden of proof. "Given its importance to the outcome of cases, we have long held the burden of proof to be a "substantive" aspect of a claim. See, e.g., *Director, Office of Workers' Compensation Programs v. Greenwich Collieries*, 512 US 267,271 (1994); *Dick v. New York Life Ins. Co.*,359 US 437, 446 (1959); *Garrett v. Moore-McCormack Co.*, 317 US 239, 249 (1942). That is, the burden of proof is an essential element of the claim itself; one who asserts a claim is entitled to the burden of proof that normally comes with it. Tax law is no candidate for exception from this general rule, for the very fact that the burden of proof has often been placed on the taxpayer indicates how critical the burden rule is" *Raleigh v. Illinois Dept. of Revenue* 530 US 15 (2000) at 20-21

MINNESOTA ESTATE TAX LAW IS UNCONSTITUTIONAL IN THAT IT DOES
NOT ALLOW FOR A REASONABLE AMOUNT OF TIME TO SETTLE AN ESTATE.

FEDERAL CONSTITUTIONAL REQUIREMENTS FOR 26 USCA 2032

In *Maass vs. Higgins* 312 US 443 (1940) at 446 the United States Supreme Court spells out the requirement for section 2032 stating “It is agreed that the purpose of subdivision (j) was to mitigate the hardship consequent upon shrinkage of estates during the year following death. Congress enacted it in the light of the fact that, due to such shrinkage, many estates were almost obliterated by the necessity of paying a tax on the value of the assets at the date of decedent’s death.” The I.R.S. defines Federal Gross Estate as the value of any property which could be successfully willed to another party upon the death of the decedent, inherited intestate, or transferred at death by naming a beneficiary. (IRS regulations 20.2033-1(a) and 20.2031-1(a)1. So the Gross Estate has to be the minimum value of either the decedent’s estate on date of death OR the value of the estate on the date of inheritance. The six month period is a reasonable time to settle an estate. If the estate’s value should decline in this period, an alternative value election is required by the Constitution. This is an Estate Tax, rather than a property tax. In the last 50 years, estates have been largely valued by earnings assets have generated (*Central Trust Co. v. U.S.* {1962} 305 F2nd 393 , *Estate of Mary Bright v. U.S.* {1981} 658 F2nd 999 , *William B. Ackers v. Comm.* ({1986} 799 F2nd 243) and the law has largely fallen into disuse. In modern times, Federal Courts grant great discretion upon executors as to when an estate should be settled or when assets should be removed from an estate (*Reardon & Land v. U.S.* 565 F2d 355 & 381 (1978) , *Smith v. St. Paul Fire & Marine Insurance Co.*{

471 F2d 840 (1972)}, Hertsche v. U.S. {366 F2d 93 (1966)} , Stoutz v. U.S. {(1970) 439 F2d 1197}. and most notably Commissioner of Internal Revenue vs. Estate of Hubert 520 US 93 where the Supreme court ruled 7-2 that an executor can take 10 years to settle an estate and deduct anticipated expenses from such an estate. The deciding opinion said at 520 US 112 “ calculating the Estate Tax, however, takes time as does marshaling the decedent’s property and distributing it to the ultimate beneficiaries. During the process, the assets of the estate often earn income and the estate itself incurs administrative expenses. To deal with this eventuality, the Tax Code permits an estate administrator to choose between allocating these expenses to the assets in the estate at the time of death (the estate principle), or the postmortem assets.” 26 USCA 641, 642, & 691. At page 119 “it is virtually impossible to close an estate in a day....this will not often occur... Expenses are, moreover, of uncertain amount on the date of death” It is very likely that Sections 2031 and 2032 may not even be utilized by the Federal Tax Courts to evaluate estates over \$2 million. Many of these estates could be transferred to Fiduciary and / or Income tax returns. Revenue Opinion #06-04 targets the smaller estates. A 2.2 million dollar estate that lost half its value within six months after death would be taxed at a value of 1.1 million dollars, but a 1.9 million dollar estate with identical losses would still be taxed at 1.9 million dollars. This alone makes Revenue Opinion #06-04 unconstitutionally regressive. The Minnesota Tax Court rejected this argument stating that the decision in Hubert was not based on the constitution but on the law. However, the deciding opinion in Hubert clearly

states at 520 US 113 that “The tax code itself supplies no guidance”. The plurality opinion directly invokes the constitution :

AS AN ESTATE TAX IS ON THE ACT OF SUCCESSION AND NOT PROPERTY, ANY DEDUCTIONS MAY BE VALUED BASED UPON PROPHECY RATHER THAN ON FACT.

“The first impression is that it is absurd to resort to statistical probabilities when you know the fact. But this is due to inaccurate thinking. [The tax is on the act of the testator ... Knowlton v. Moore 178 US 41, 49...] Value depends largely on more or less certain prophecies of the future; and the value is no less real at that time if later the prophecy turns out false than when it comes out true...Tempting as it is to correct uncertain probabilities by the now certain fact, we are of opinion that it cannot be done.”

COMMISSIONER v. ESTATE OF HUBERT (1997) 520 US 93 at 102 (plurality) citing the unanimous opinion ITHICA TRUST CO. v. UNITED STATES (1929) 279 US 151, 155.

MSA 270.C31’s REQUIREMENT THAT AN ESTATE JUSTIFY ITS DEDUCTIONS IS UNCONSTITUTIONAL BASED ON ESTATE OF HUBERT {520 US 93 (7-2 opinion)} 4 justices required no justification of any deductions. (The Opinion of the Court). 3 justices required no justification for “immaterial” deductions. Only 2 justices followed the tax court’s opinion requiring that deductions be justified to the penny. The IRS feels that the increase in the Federal exemption from 1 to 2 million dollars provides relief. Some of the many law review articles say that a prudent estate tax advisor should limit unjustifiable deductions to 5% of the estate. Others say as high as 17% of the estate. Minnesota law provides for no relief .

“Valuation is necessarily an approximation and a matter of judgment rather than mathematics.”
 Estate of Mellinger v. Commissioner 112 TC 26 (1999) , Estate of Davis v. Commissioner 110
 TC 530, 554 (1998)

MSA 270C.31, 270C.32, and 270C.33 as interpreted by the tax court violate the
 Taxpayer’s fifth and fourteenth amendment rights to have access to the courts without
 Prejudice. Under Baxter v. Palmigiano (1975) 425 US 308 at 318 “Palmigiano remained
 silent at the hearing in the face of evidence that incriminated him; and as far as this record
 reveals, his silence was given no more evidentiary value than was warranted by the facts
 surrounding his case” At 425 US 317 “It is thus undisputed that an inmate’s silence in and of
 itself is insufficient to support an adverse decision” and ‘is not in consequence of his silence
 automatically found guilty of the infraction”. That is the state of the law today. Eagle Hospital
 Physicians, LLC v. SRG Consulting 561 F.3rd 1298. ONLY SILENCE IN THE FACE OF
 EVIDENCE CAN BE USED IN CIVIL COURT! In Garner v. United States 424 US 648
 (1975) at 651-652 the commissioner has the right to go to court and ask for a summons in
 court 26 USCA 7602,7603, and 7604 (MSA 270C.32 and 270C.33) {which the commissioner
 failed to do}. Government also has the right to torture the taxpayer CHAVEZ v. MARTINEZ
 538 US 760 (2003) {which they also failed to do} The taxpayer in this case claims immunity
 under Estate of Hubert 520 US 93 . Taxpayer is even allowed to proudly contend that “he
 estimated that the estate would incur 5 million in administrative and legal expense, but it only
 incurred 2 million, but he wishes to deduct the entire 5 million”. The court said that at least to

certain extent, he can do it! (maybe 1.5 to 3.5 million in unjustified deductions ‘The court was hard pressed to allow this level of unjustifiable deductions, but they did’ ‘The outer boundary’) The deciding opinion listed the “diminution” as \$ 1,500,000. (3 times the amount at issue here) So why should I be required to cooperate with the Commissioner of Revenue? I even have the right to lie to them concerning estate tax deductions!!

THERE IS NO REQUIREMENT TO COOPERATE WITH GOVERNMENT AUTHORITY UNLESS THE SUPREME COURT EXPRESSLY REQUIRES SUCH COOPERATION AND NO CIVIL PREJUDICE SHALL BE INCURRED BY ONE WHO SIMPLY DESIRES TO HAVE HIS DAY IN COURT. In *Lefkowitz v. Cunningham* 431 US 801 (1977), *Gutknecht v. U.S.* 396 US 395 (1970), *Lefkowitz v. Turley* 414 US 70 (1973), *Gardner v. Broderick* 392 US 273 (1968), *Leary v. U.S.* 395 US 6 (1969), *Marchetti & Grosso v. U.S.* 390 US 39 & 62 (1968), and *Garrity v. New Jersey* 385 US 493 (1967) the court struck down any “coercive provisions” requiring an individual to administratively cooperate with the government even if as in 431 US 801 the coercion merely “diminishes ... general reputation in the community”. Certainly any type of “economic coercion” such as shifting the burden of proof would be clearly unconstitutional. Also in *Beckwith v. US* (1976) 425 US 341 and *Mathis v. US* 391 US 1 (1968), I.R.S. agents are required to tell taxpayers that they do not have to cooperate. This is the law today. If fact Justice Clarence Thomas was very careful to point out in *Chavez v. Martinez* 538 US 760 (2003) at 768, that even though it is perfectly O.K. for the government to torture uncooperative citizens, all of the above cases still apply, and not the slightest civil penalty may be imposed!

Conclusion: Annually, about 2,000 estates valued between \$ 500,000 and \$ 2,000,000 would be required to pay Minnesota estate tax. 1,200 estates valued between \$ 1,000,000 and \$ 7,000,000 would be valued under Federal rules and not required to pay Minnesota estate tax. 200 estates valued above \$ 6,000,000 would be required to pay Minnesota estate taxes but would get much more favorable tax treatment than the 2,000 smaller estates. A \$ 2,500,000 estates pays less Minnesota estate taxes than a \$ 1,500,000 estate! This would be based on the assumption that 26 USCA 7517 is reduces an estates effective value by \$ 800,000. 26 USCA 7491 would reduce an estates effective value by \$ 2,000,000 to \$ 4,000,000, and 26 USCA 2032 reduces and estates effective value by up to half. This court may ask “ How do you justify these figures “. I would not have to. It would be enough to contend that A TAXPAYER RECEIVES A HIGHER LEVEL OF JUSTICE IN THE FEDERAL LEGAL SYSTEM THAN IN THE MINNESOTA LEGAL SYSTEM.

An analogous situation is found in the case of Haywood v. Drown (2009) 129 S. Ct. 2108 556 US ___ where it was written “Although the absence of discrimination is necessary to our finding a state law neutral it is not sufficient. A jurisdictional rule cannot be used as a as a device to undermine federal law no matter how evenhanded it may appear. As we made clear in Howlett v. Rose (1990) 496 US 356 ‘the fact that a rule is nominated jurisdictional does not provide a court an excuse to avoid the obligation to enforce federal law if the rule does not reflect the concerns of power over the person and competence over the subject matter that jurisdictional rules are designed to protect (496 US 381)’. Ensuring equality of treatment

is thus the beginning, not the end, of the Supremacy Clause analysis” also citing *Felder v. Casey* (1988) 487 US 131. This court must reconcile the extremely unequal treatment that a taxpayer receives from the Minnesota courts, that “tax orders are presumed to be correct, the burden of proof is on the taxpayer, estate taxpayers must completely justify adjustments, and a law are presumed constitutional” with “the burden of proof is on the I.R.S. (26 USCA 7491), estate taxpayers do not have to justify deductions (*Estate v. Hubert* 520 US 93) at least to a certain extent” as practiced in the Federal courts. MSA Chapters 270, 271, and 291 must be brought into line with Federal taxation law and Federal court decisions on Estate Taxes.

Legal Issue 2A : Application of *Estate of Hubert* 520 US 93 and

Congress’s Response to it on Smaller Estates : Argument

If a \$ 2,000,000 estate would not have to justify one penny of its deductions, why should a \$ 1,500,000 estate be required to justify \$ 500,000 in deductions? If a \$ 2,500,000 estate claims to have \$ 500,000 in deductions, the IRS assesses the value of said estate at \$ 6,000,000, the estate threatens to take the IRS to court and cites the reversed burden of proof, and the final Federal determination is “Forget About It” - I put forth the same question? If a \$ 2,800,000 estate requires the IRS to provide 26 USCA 7517

materials and the IRS's final determination is "forget about it" – I would have the identical question? The Attorney General contends that Estate of Hubert has nothing to do with unjustified deductions. The deciding opinion of Estate of Hubert allowed a "diminution" of \$ 1,500,000 – and I would once again ask the identical question? It clearly states in the Facts of the Case that the Estate anticipated \$ 5,000,000 in legal and administrative expenses but only incurred \$ 2,000,000. It wished, however to deduct the entire \$ 5,000,000 based on prophecy rather than fact. The plurality opinion of the court not only allowed it but stated that the estate could have had an unlimited amount of unjustified deductions. The Tax Court appears to believe that Estate of Hubert does not exist. The opinion of the United States Supreme Court may not be crystal clear but it must have some significance! By 2008, Congress responded to this opinion by increasing the threshold by \$ 1,000,000 and reversing the burden of proof. The Minnesota Legislature has not responded to Estate of Hubert. It is time for the Minnesota Supreme Court to consider the ramifications of the Estate of Hubert decision. Four United States Supreme Court Justices in "Hubert" appear to be of the opinion that estate taxes should be abolished. Another three appear to

have the opinion that the estate tax threshold should be increased to \$ 2,500,000 from the \$ 1,000,000 threshold at that time. There is one thing that both the United States Supreme Court and Minnesota Supreme Court have in common. They don't take a case unless they wish to say something. ARGUMENT ON ISSUE 2B – Not only did the Estate not benefit from citing Estate of Hubert, but it was actually penalized for doing so! Both this court in Dreyling v. Commissioner of Revenue 711 N.W.2d 491 (Minn. 2006) and the Tax Court cited the McCarthy era opinion of Blumberg v. Palm 238 Minn. 249 (Minn 1953) which has long since been overturned by Baxter v. Palmigiano 425 US 308 (1975). This court, however, came out with an opposite opinion from the Tax Court in Dreyling, ruling that no penalty should be imposed for lack of cooperation with the Commissioner of Revenue. The Tax Court rules that deductions must be substantiated under MSA 271.06 and MSA 270C.31 while not mentioning Estate of Hubert at all in its initial opinion. In its opinion on constitutional issues it limits its analysis of Estate of Hubert to date of death issues. It never addresses the fundamental issue of unjustified deductions. 26 USCA 7517 is the only Federal law which prevents the IRS from valuing estates at ridiculously high values. The Estate contended that

the Commissioner is required to submit their 26 USCA 7517 material to the Estate before the Estate must cooperate. The Tax Court was silent on 26 USCA 7517 but it appears to have implicitly ruled that this law is only applicable to estates valued above \$ 2,000,000. The Tax Court did not even allow the deduction of \$ 10,000 in funeral Expenses or the \$ 100,000 IRA deduction.

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ISSUE 2C) MSA 270C.31 subdivision (7) states that MSA 270C.31 is not applicable to tax cases brought before the tax court. However, the Tax Court utilized MSA 270C.31 as the basis of their opinion. This is clearly erroneous judgment. This Court's opinion on this issue will be the first case law on the subject.

PREEMPTION – THE MINNESOTA ESTATE TAX LEGAL SYSTEM PREEMPTS FEDERAL LAW BY CITING FEDERAL LAW AND NOT INTERPRETING OR ENFORCING IT IN THE SAME WAY AS FEDERAL AUTHORITIES OR DIFFERING TO THOSE AUTHORITIES. REVENUE NOTICE 06-04 CITES FEDERAL LAW IN A MANNER THAT WAS UNINTENDED BY CONGRESS. BOTH ARE UNCONSTITUTIONAL.

LEGAL ISSUES : IF MINNESOTA ESTATE TAX LAW MIMICS FEDERAL ESTATE TAX LAW, MUST THE COMMISSIONER OF REVENUE AND MINNESOTA TAX COURTS OBEY LAWS, RULES, AND PROCEDURES OF THE I.R.S. AND THE FEDERAL TAX COURTS? DOES MINNESOTA HAVE TO COMPLETELY DEFER TO THE I.R.S. AND FEDERAL COURTS? DOES

THE “HMN FINANCIAL” DECISION STRIKE DOWN THE “SPECTOR, WEED”, AND 28
“BOND” DECISIONS FOR ESTATE TAXATION AND FOR INCOME TAXATION?

If state law cites Federal law, is the state required to give due consideration and respect to the Federal legal system? The United States Supreme Court has ruled that states are mandated to exactly follow Federal law if a departure would cause undue hardship on entities attempting to comply with Federal law or on the Federal government. (*Buckman Co. v. Plaintiff’s Legal Committee* 531 US 341 (2001)). States are required to exactly comply with Federal law if Federal law completely dominates the field encompassing the State Statute, or if it would be physically impossible to comply with both State and Federal laws (*Barnett Bank of Marrion County v. Nelson* 517 US 25 {1996}). Federal rules, regulations, and procedures also supersede State statutes, rules, regulations, procedures, and court rulings if such are “unreasonable, unauthorized, or inconsistent with the underlying [Federal] statute (*Fidelity Federal Savings and Loan Assn. v. De la Cuesta* 458 US 141 (1982) at 154 citing *Free v. Bland* 369 US 668 (1962)). Decisions of United States Supreme Court on construction of a Federal Statute are binding of state courts (*Stevens v. Federal Cartridge Corp.*, 1948, 226 Minn. 148 , 32 NW2d 312). Tax court held that determination of Federal Income was exclusively the province of the IRS until reversed by the Minnesota Supreme Court in *Spector vs. Commissioner of Revenue* (1981) (308 NW2d 806). The Minnesota Supreme Court recently reversed itself in *HMN Financial, Inc. and Affiliates vs. Commissioner of Revenue* ({2010} 782 NW2d 556) in stating that the Minnesota Commissioner of Revenue has no common law right to be sole judge and jury over the tax laws and regulation.

This court distinguished HMN Financial from cases ranging from Spector to Bond vs. Commissioner of Revenue ({2005} 691 NW2d 831) and Weed vs. Commissioner of Revenue ({1996} 550 NW2d 285).The Minnesota Supreme Court accused the Minnesota Commissioner of Revenue of “HOLDING A RADICAL POSITION” in HMN Financial 782 NW2d at page 570. That effectively strikes down Spector (308 NW2d 806) for Minnesota tax cases. This case is distinguished from the Spector case in a second area. Minnesota law provides for statutory authority for the Commissioner of Revenue to determine Gross Federal Income in MSA 290.01, MSA 290.46, MSA 290.47, and MSA 290.56. These laws all apply to income taxes and not to estate taxes. MSA 291.215 (1) {2} appears to state exactly the opposite! It is therefore clear that HMN Financial strikes down Spector (308 NW2d 806) for estate tax cases.

The interesting aspect of HMN Financial is that in Spector, Bond, and Weed, the taxpayers were scofflaws and they were taking frivolous, abusive, and “bad faith” positions. Does the Commissioner of Revenue have the common law right to intervene if the I.R.S. refuses or is unable to do so as they are in this case? The question is: Does it strike down Spector for income tax cases? If someone makes \$ 60,000 a year and refuses to pay their taxes and the I.R.S. refuses to intervene, can the Commissioner of Revenue intervene? I guess not.

The Attorney General and Tax Court both cited both Wyeth v. Levine 555 US 555 and Jefferson v. Commissioner of Revenue 631 NW2nd 391 (Minn 2001). Both of these cases are distinguished from this case as in neither instance do State Statutes cites Federal law and then either interpret or enforce it than Federal authorities. In Jefferson, Minnesota

Statutes differed from Federal law. Under Federal law “Indians who intended to return to a reservation could not be taxed”. Under Minnesota Statutes they could be. However, the United States Supreme Court declared the Federal law to be unconstitutional in *Mescalero Apache Tribe v. Jones* 411 US 145 (1973) at 148-149 as racist. Where is the preemption? How can an unconstitutional Federal law pre-empt anything? The Indian Gambling Act allows the IRS to tax Indians off the reservation it does not pre-empt anything either.

Both Minnesota Law and Minnesota Courts have recognized this concept. MSA 645.22 states “Laws uniform with those of other states shall be interpreted and construed to effect their general purpose to make uniform the laws of those states which enact them.” State Supreme Court gives great weight to other states’ interpretations of a uniform law {*Johnson v. Murray* (2002) 648 NW2d 664}. If Minnesota cites a law of another state they must give respect to the other state’s legal system.

The United States Supreme Court has also ruled in *United States vs. Estate of Edward Chandler* ([1973] 410 US 257) that Federal law should be utilized whenever possible to value an estate as opposed to varying state laws. This would be true even when the Federal laws in question are not part of Internal Revenue Code (26 USCA). Utilizing 26 USCA 3032 in a manner which is contrary to its intended purpose of benefiting taxpayers is unconstitutional *Rosenfeld v. U.S.* 254 F.2d 940 (1958)

LEGAL ISSUE : Can MSA 291.215 be modified by Commissioner of Revenue Opinion #06-04 to disallow valuation under 26 USCA (IRS code) 2032 if a Federal (or Minnesota) Gross Estate is beneath

the Federal Estate Tax threshold? SCOPE OF REVIEW AND BURDEN OF PROOF: Scope of Review: Statutory construction is a question of law (State v. Perry App.2007 725 NW2d 761) Burden of proof: If the tax law is clear, the burden of proof is totally on the Commissioner of Revenue. The Minnesota Supreme Court has recently ruled “If Minnesota Statutes allow a favorable tax, neither our court nor the Commissioner has the power to disregard those statutes and impose a different tax treatment....If we conclude a taxpayer has complied with the relevant statutes, that ends our analysis” (HMN Financial, Inc. and Affiliates v. Commissioner of Revenue 782 NW 2d 558 at 571 – (2010) That reversed the opinion of this tax court. They cited: Administrative interpretations do not control court interpretation of a statute when the language of the statute is clear. Courts only look to legislative and administrative interpretations of a statute when the words of the law are not explicit (Hutchinson Technology, Inc v. Commissioner of Revenue 2005 , 698 NW2d 1) When a statutory question involves the failure of expression rather than the ambiguity of expression, a court is not free to substitute amendment for construction and thereby supply the omissions of the legislature (State v.Tracy, [Minn.App. 2003] 667 NW2d 141) Statute controls if administrative rule conflicts with the plain meaning of statute (Special School District No. 1 v. Dunham (1993) 498 NW2d 441). Administrative ease, while a legitimate concern, does not justify an interpretation of a statute which is inconsistent with its purpose (Olympia Brewing Co. v. Commissioner of Revenue (1982) 326 NW2d 642)

FEDERAL CONSTITUTIONAL REQUIREMENTS FOR 26 USCA 2032

In Maass vs. Higgins 312 US 443 (1940) at 446 the United States Supreme Court spells out the requirement for section 2032 stating “It is agreed that the purpose of subdivision (j) was to mitigate the hardship consequent upon shrinkage of estates during the year

following death. Congress enacted it in the light of the fact that, due to such shrinkage, many estates were almost obliterated by the necessity of paying a tax on the value of the assets at the date of decedent's death." The I.R.S. defines Federal Gross Estate as the value of any property which could be successfully willed to another party upon the death of the decedent, inherited intestate, or transferred at death by naming a beneficiary. (IRS regulations 20.2033-1(a) and 20.2031-1(a)1. So the Gross Estate has to be the minimum value of either the decedent's estate on date of death OR the value of the estate on the date of inheritance. The six month period is a reasonable time to settle an estate. If the estate's value should decline in this period, an alternative value election is required by the Constitution. This is an Estate Tax, rather than a property tax. In the last 50 years, estates have been largely valued by earnings assets have generated (Central Trust Co. v. U.S. {1962} 305 F2nd 393 , Estate of Mary Bright v. U.S. {1981} 658 F2nd 999 , William B. Ackers v. Comm. ({1986} 799 F2nd 243) and the law has largely fallen into disuse. In modern times, Federal Courts grant great discretion upon executors as to when an estate should be settled or when assets should be removed from an estate (Reardon & Land v. U.S. 565 F2d 355 & 381 (1978) , Smith v. St. Paul Fire & Marine Insurance Co. {471 F2d 840 (1972)}, Hertsche v. U.S. {366 F2d 93 (1966)} , Stoutz v. U.S. {(1970) 439 F2d 1197}. and most notably Commissioner of Internal Revenue vs. Estate of Hubert 520 US 93 where the Supreme court ruled 7-2 that an executor can take 10 years to settle an estate and deduct anticipated expenses from such an estate. The deciding opinion said

at 520 US 112 “ calculating the Estate Tax, however, takes time as does marshaling the decedent’s property and distributing it to the ultimate beneficiaries. During the process, the assets of the estate often earn income and the estate itself incurs administrative expenses. To deal with this eventuality, the Tax Code permits an estate administrator to choose between allocating these expenses to the assets in the estate at the time of death (the estate principle), or the postmortem assets.” 26 USCA 641, 642, & 691. At page

119 “it is virtually impossible to close an estate in a day...this will not often occur...

Expenses are, moreover, of uncertain amount on the date of death” It is very likely that Sections 2031 and 2032 may not even be utilized by the Federal Tax Courts to evaluate estates over \$2 million. Many of these estates could be transferred to Fiduciary and / or Income tax returns. Once again, #06-04 targets the smaller estates. A 2.2 million dollar estate that lost half its value within six months after death would be taxed at a value of 1.1 million dollars, but a 1.9 million dollar estate with identical losses would still be taxed at 1.9 million dollars. The Attorney General’s Office considers this to be both constitutional and just. This alone makes Revenue Opinion #06-04 unconstitutionally regressive.

FEDERAL STATUTORY REQUIREMENTS: 2032 © : “Election must decrease gross Estate and estate tax – No election may be made under this section with respect to an estate unless such election will decrease – (1) the value of the gross estate, and (2) the sum of the tax imposed by chapter 13 with respect to property includible in the decedent’s gross estate (reduced by credits allowable against such taxes)”. The argument of the Attorney

General seems crystal clear. When a person does not have any Federal Estate tax to pay, they would not be able to utilize alternative valuation. A good solid argument except for the fact that if you are certain that you will have no Federal Estate Tax to pay, you would not have to have to value your Federal Estate at all. Therefore I would not have to file a Minnesota Estate Tax return at all, as under this logic it is dependent on the value of a Federal Estate which can only be over \$ 2 million. There is also Section 2032 (3) : “Any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time”. 26 USCA 2032 (3) IS THE CURRENT VERSION OF FEDERAL LAW THAT IS NOW GENERALLY UTILIZED. NO ELECTION IS REQUIRED! See Estate of Hubert 520 US 93! ALLOCATION IS PERMITTED. An estate administrator is free to withdraw an asset from an estate on its date of lowest value, WHICH WAS EXACTLY WHAT I DID! It could be 10 years later. 26 USCA 2032 © would not be applicable to 26 USCA 2032 (3) as no election would be required! There would also be the Federal Issues involved when a State cites Federal Law. 1) Congress did not intend this law to be used in this manner. 2) The interpretation of this law in such a way creates physical impossibilities and contradictions. (previously noted in the ITEM 2 – In General - Section of this brief) MINNESOTA INTERPRETATION OF A LAW: MSA 291.215 “All property includable in the Minnesota gross estate of a decedent shall be valued in accordance with the provisions of sections 2031 or 2032 and,

if applicable, 2032A of the Internal Revenue Code and any elections made in valuing the Federal gross estate shall be applicable to valuing the Minnesota gross estate. The value of all property includable in the Minnesota gross estate of a decedent may be INDEPENDENTLY determined under those sections for Minnesota estate tax purposes except: ... (2) if the Internal Revenue Service, after receiving the estate's Federal Tax return, either conducts a separate appraisal of an asset reported on the return or proposes a change in the in the reported valuation of an asset in the estate, in which case the federal final determination of the value controls". A Statute is to be construed as a whole so as to harmonize and give effect to all of its parts (Beaver Creek Mutual Insurance Company v. Commissioner of Jobs and Training 463 NW2d 535, 538 (Minn. App. 1990) citing Anderson vs. Commissioner of Taxation 93 NW2d 523 , 253 Minn 528 (1958) . The disclaimer sentence { any elections made in valuing the federal gross estate may be applicable in valuing the Minnesota gross estate } must have a purpose since we cannot assume it is superfluous. (MSA 645.16) Willmus for the Benefit of Willmus v. Commissioner of Revenue 371 NW2d 210 (1985) at 213 also citing Anderson 93 NW2d 523. The word "independently determined" must also have a purpose. I would propose that the word independently means either " as if one were filing a Federal Estate Tax return " or " as if the Federal Estate Tax had an identical threshold as the Minnesota Estate Tax does ". IT SAYS THREE TIMES IN MSA 291.215 THAT I CAN UTILIZE SECTION 2032. Revenue Opinion # 06-04 goes against the intent of the legislature.

TAX COURT JURISDICTIONAL LEGAL ISSUES: Does the Tax Court have Jurisdiction to decide if an individual owns a house under adverse possession? Does origination of a case in District Court to determine constitutional or other issues as it is currently being practiced by the tax court provide an individual with their "Day In Court"? Is MSA 270C.31 available to the tax court under MSA 270C.31 subdivision (7) which says it is not (previously argued)

THE QUESTION OF ADVERSE POSSESSION OF A RESIDENCE BY THE HEIR OF SOMEONE WHO HAS LIVED IN A NURSING HOME FOR OVER FIVE YEARS

LEGAL ISSUES ---- THE QUESTIONS THAT ARE PUT BEFORE THE COURT:

COULD APPELLANT THEORETICALLY HAVE OWNED THE HOUSE BY ADVERSE POSSESSION BETWEEN SEPTEMBER 1, 2006 AND MAY 26, 2008 (date of death) ??

DOES THE COMMISSIONER OF REVENUE EVEN HAVE STANDING IN AN ADVERSE POSSESSION CASE UNDER MINNESOTA RULES OF CIVIL PROCEDURE 12.02 & 38.01?

IF SO – WOULD THE HOUSE THEN BE PART OF THE ESTATE OF RUTH SINGER?

EVEN IF THE HOUSE WOULD TECHNICALLY NOT BE PART OF THE ESTATE OF RUTH SINGER, WOULD THE HOUSE STILL BE INCLUDED IN THE ESTATE FOR ESTATE TAX PURPOSES?

IN OTHER WORDS, I MAY VERY POSSIBLY HAVE OWNED THE HOUSE BY ADVERSE POSSESSION WHILE RUTH SINGER WAS STILL ALIVE – BUT WILL THE TAX COURT

ALLOW TRANSFER OF PROPERTY BY ADVERSE POSSESSION FOR ESTATE TAX 37
PURPOSES ??

SHOULD THIS CASE BE REMANDED FOR AN ADVERSE POSSESSION TRIAL IN
DISTRICT COURT OR COULD THIS CASE POSSIBLY BE TRIED IN TAX COURT ??

IF SO – WHO WOULD HAVE THE BURDEN OF PROOF?? – THE MINNESOTA
COMMISSIONER OF REVENUE OR I?

OR THE COURT COULD RULE “ THIS IS AN INTERESTING CASE! “ – IF SO
WOULD A POTENTIAL ADVERSE POSSESSION CLAIM MATERIALLY AFFECT VALUE
OF THE HOUSE? WOULD IT DO SO FOR ESTATE TAX PURPOSES ?? BY HOW MUCH ??

CONSTITUTIONAL ARGUMENT:

In order to satisfy Federal Constitutional requirements that an estate tax is not a property tax but a tax on the right to transfer property by inheritance, property of the estate must be transferred by: 1) will , 2) intestate (closest living relative) , 3) by designation of beneficiary or 4) otherwise by state or Federal Probate Law. The property in question would not be part of the estate if transferred or converted or acquired by any other means EXCEPT BY GIFT! It could even be stolen ! Minnesota Rules of Civil Procedure 38.01 requires a District Court jury trial for adverse possession cases. The Commissioner of Revenue lacks standing to argue a dispute involving Torrens title validity, adverse possession, or superiority of title. These issues can only be argued by those with a “fee” interest in the land {Minnesota rules of civil procedure 12.02 (a), (b), (e), 17.01, & 18.01 }. In the identical case of Konantz v. Stein (1969) 283 Minn. 33 , 167 NW2d 1 a district court awarded land

by adverse possession against a Torrens title holder. The title holder sued the county registrar of 38 titles. The Attorney General's Office had absolutely no standing to argue this case. The best they could do was to submit a friend of the court brief. The counties and State of Minnesota clearly had a great interest in this case, but only those parties with an interest in the "fee" of the land may argue an adverse possession case. That was true both then and now. THE MATTER OF JURISDICTION IN AN ADVERSE POSSESSION CASE REQUIRES THAT THE LOSER MUST FACE A WRIT OF EJECTMENT UNDER MSA 559.07. THE TRIAL COURT IS REQUIRED TO ORDER THE LOSER OFF THE PROPERTY. UNLESS THIS TAX COURT HAS THE AUTHORITY TO ORDER ME OUT OF MY OWN HOUSE, THE CASE MUST BE REMANDED TO DISTRICT COURT FOR ORIGINATION AND A JURY TRIAL UNDER BOTH RULE 38 AND MSA 559.013. Instead of simply ruling that I may very possibly own the house in question for the purposes of Adverse Possession, but the Tax Court is not going to allow it for estate tax purposes, The Tax Court ruled that I did not own the house by Adverse Possession.

ORIGINATION IN DISTRICT COURT: " A PERSON'S RIGHT TO THEIR DAY IN COURT "

The Tax Court agreed with me in two areas. First, that a person has a right to their day in court without prejudice. Second that cases involving constitutional issues are entitled to an origination. or an initial opinion { BYERS V. COMMISSIONER OF REVENUE 741 NW2d 101 (2007) } { GONZALES V. COMMISSIONER OF REVENUE 706 NW2D 909, 911 (2005) } {ERIE MINING COMPANY V. COMMISSIONER OF REVENUE 343 NW2D 261,264 (1984) } {WULFF V. TAX COURT OF APPEALS 288 NW2D 221 (1979)}. The origination ought to be

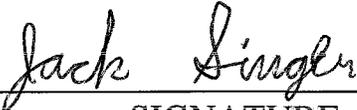
in district court. This court called this the Erie Mining shuffle. The only problem with it is that 39
the case is never actually heard in District Court. I never even received a letter from Hennepin
County District Court! Is this court saying that at least two Minnesota Supreme Court Justices
consider this to be an interesting case, but none of the 90 Hennepin County District Court Judges
do! There are also 600 law clerks, interns, law students, mediators, arbitrators, and law review
authors in Hennepin County. Obviously there is not a single one with an interest in Estate Law
or Estate Taxes. A young attorney with a billion dollars in Law School debt who wants to go
into Estate or Taxation law could easily make a name for themselves by writing an opinion on
this case and a judge could approve it. That is all I ask for! The Case could even be tried at the
University of Minnesota Law School for a course in taxation or estate law. I was not even given
the opportunity to search for an interested entity to hear the case at District Court level.

CONCLUSION

APPELLANT MOVES FOR POST TRIAL RELIEF FOR A JURY TRIAL IN HENNEPIN
COUNTY DISTRICT COURT. APPELLANT MOVES FOR THIS COURT TO FIND THAT
ESTATES VALUED AT UNDER \$ 2,000,000 HAVE IDENTICAL RIGHTS AS ESTATES
VALUED AT OVER \$ 2,000,000. APPELLANT MOVES THAT THIS COURT FIND THAT
MINNESOTA MUST INTERPRET AND ENFORCE FEDERAL LAWS THAT IT CITES IN
AN IDENTICAL MANNER AS FEDERAL AUTHORITIES. APPELLANT MOVES THAT
THE ESTATE TAX RETURN IN QUESTION SHALL BE REMANDED TO THE I.R.S. FOR
A PROPER VALUATION UNDER FEDERAL TAX LAWS, RULES, AND PROCEDURES

(even if this entails the IRS throwing the estate tax return in the garbage can). APPELLANT 40
MOVES FOR THE TAX COURT TO BE ORDERED TO AT LEAST CONSIDER THE
EVIDENCE PRESENTED BEFORE IT IN LIGHT OF “ESTATE OF HUBERT”. AS
PREVIOUSLY ARGUED IN THIS BRIEF, ESTATES HAVE BEEN VALUED BASED
ON GENERATION OF INCOME RATHER THAN FAIR MARKET VALUE FOR THE
LAST 50 YEARS. APPELLANT MOVES THAT THE ESTATE OF RUTH SINGER BE
VALUED BASED ON GENERATION OF INCOME. THIS LAW IS SO RIDICULOUS
THAT APPELLANT WOULD EVEN ASK TO HAVE THE ESTATE IN QUESTION
VALUED AT \$ 2,000,001 (AN UPWARD DEPARTURE) SO THE MATTER CAN BE
FORWARDED TO THE I.R.S. AND THEY CAN RESPOND “ FORGET ABOUT IT “
AS THEIR FEDERAL DETERMINATION OF THE ESTATES VALUE.

Respectfully Submitted,



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SIGNATURE

Dated : January 20, 2012

APPENDIX AND INDEX

1 – Opinions of the tax Court