

## **MAN, WOMAN, MONEY, TAXES**

**By Julian Block**

*Excerpted from "Marriage And Divorce: Savvy Ways For Persons Marrying, Married Or Divorcing To Trim Their Taxes -- And They're Legal."*

Our tax laws are usually spelled out precisely; it's real-life situations that don't always fall conveniently into place. For instance, there is a mile-wide definition of income that entitles the Internal Revenue Service to share in "all income from whatever source derived," including payments that are "compensation for services." On the other hand, the term "income" doesn't include gifts.

As a result, the courts often have to resolve the troublesome question of whether a tax-free "gift" was actually a payment for services rendered. Not surprisingly, the question has come up when the IRS insisted on its share of sizable amounts received by women from men who were not their husbands.

Consider the decision in 1955 by the United States Tax Court in the unusual case of Thelma Blevins, a Louisville divorcee who was a jill-of-all-trades and became the target of a painstaking IRS investigation. She did not limit herself to supervising a staff engaged in the oldest of professions. Thelma occasionally filled in herself and staged unique shows for her guests.

Among other things, the tax collectors charged that Jim Mulhall enjoyed a close relationship with Thelma and that the money he gave her before and after her divorce should have been reported on her returns. Thelma and Jim explained to the court that these payments were gifts that had been made "in contemplation of marriage" and not compensation. But the judge accepted the IRS's version of what these payments were for; after all, they spanned a 12-year period and Jim made no attempt to shed his wife during that period.

Another gift-or-income bout involved Margaret Brizendine, whose career resume was similar to Thelma's. The way Margaret told it to the judge, she met a gentleman at a restaurant in Roanoke, Va., and became his friend. During the next five years, he provided her with a house, a fur coat, and a weekly allowance.

Margaret thought these items were gifts because she received them in exchange "for her promise not to engage in prostitution and to grant him her companionship," whereas the judge thought it was stretching things to call them gifts. In fact, in its 1957 decision, the Tax Court took a damned-if-you-do-or-don't approach and said payments for vowing to abstain are just as taxable as payments for services rendered.

Atlanta bartender and cocktail waitress Lyna Kathryn Jones bestowed amorous attentions on a gentleman who rewarded her with generous amounts of cash. The largess came to the attention of the IRS, which assessed taxes against Lyna. She

maintained the money was not taxable income, but a gift from her benefactor, tactfully identified only as "James" by the Tax Court in a 1977 decision.

Unfortunately, Lyna proved to be a spectacularly poor witness, saying that James "was getting his money's worth." Her choice of words was interpreted by the court as evidence that the cash was compensation for services performed, not a gift given out of "detached and disinterested generosity" or "affection, respect, charity or like impulses" – the standard applied by the Supreme Court in 1960 in a gift-versus-income dispute involving a high-up in the Teamsters union, who was deluged with presents at a testimonial dinner.