

IN THE SUPREME COURT, STATE OF WYOMING

2026 WY 107

APRIL TERM, A.D. 2026

September 30, 2026

DAWN LENE ATKINSON,

Appellant
(Defendant)

v.

ABBEY LEIGH ATKINSON, as
Personal Representative of the Estate
of BRIAN KEITH ATKINSON,

Appellee
(Plaintiff).

S-26-0045

Appeal from the District Court of Park County
The Honorable Melissa M. Owens, Judge

Representing Appellant:

Jason C. Gay, Green River, Wyoming.

Representing Appellee:

Alex H. Sitz, III, Meinecke & Sitz, LLC, Cody, Wyoming.

Before BOOMGAARDEN, C.J., GRAY, FENN, JAROSH, and HILL, JJ.

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JAROSH, Justice.

[¶1] Dawn Lene Atkinson (Wife) and Brian Keith Atkinson (Husband) married in 1998 and divorced in 2025. Following a bench trial, the district court divided the marital property. As part of that division, the district court ordered Wife to pay Husband periodic property distribution payments related to her ownership of shares in her employer's business. The district court also ordered that, when Wife's employment ends and she sells the shares back to her employer as required, she must pay Husband one-half of the value received. Wife appealed, and finding no error, we affirm.

ISSUES

[¶2] Wife presents three issues for review, which we reorder and rephrase as:

- (1) Did the district court err in granting Husband half of Wife's annual partnership distributions?
- (2) Did the district court err in allocating future tax liability to Wife?
- (3) Did the district court erroneously grant judgment to a non-party when it ordered Husband and Wife must share in repaying a debt to Husband's mother?

FACTS AND PROCEEDINGS

[¶3] Husband and Wife married in 1998. The couple separated sometime between December 2023 and January 2024, and Husband initiated the underlying divorce action.

[¶4] Husband previously worked for Union Pacific Railroad, and for much of the marriage was unable to work due to a disability. He relied primarily on his Wife and family members for support. Wife serves as the chief financial officer for Plan One Architects (Plan One) and receives a fixed annual salary. She also holds thirty shares in the business, and the bulk of her income is the result of annual shareholder distributions.

[¶5] As part of their divorce, the parties stipulated to the distribution of certain personal property, their retirement accounts, and the assumption of some debts. However, the parties could not agree to the division of Wife's shares in Plan One, as well as other personal and real property not relevant to this appeal. Wife acquired the shares during the marriage after the couple made the joint decision to purchase the shares as an investment. Under Plan One bylaws, only employees can hold shares. Therefore, only Wife can hold the thirty shares, and she must sell the shares once her employment with Plan One ends. Husband and Wife purchased the Plan One shares, in large part, by securing two personal

loans from Husband's mother in 2016 and 2021. The couple also refinanced their home and sold a classic car to support their investment.

[¶6] The district court held a bench trial on August 14, 2025. Both parties testified to how Wife acquired the shares in Plan One, the ownership requirements of the company's bylaws, and the loans the couple secured from Husband's mother. Wife also testified to the existing value of the shares if forced to divest. This testimony revealed the bulk of the shares' value is in the annual distributions, and if Wife liquidates the shares for division with Husband, the couple will each yield a much smaller return on their investment than if Wife continues receiving annual shareholder distributions.

The Decree of Divorce

[¶7] The district court found the shares in Plan One were acquired during the marriage, resulted from Wife's loyalty to the company, and were financed largely with the support of Husband's mother. It also concluded that requiring Wife to divest all or a portion of the shares in Plan One would negatively impact both parties. The district court then ordered "each year, Wife shall make a periodic property distribution payment to Husband in the amount of one-half of the distributions from the shares minus the associated taxes until her employment ends." It also required the parties to "equally repay Husband's mother for the outstanding loan related to the shares." When Wife is required to sell the shares back to Plan One, the district court ordered her to pay Husband a final property distribution payment in the amount of one-half of the value received minus any capital gains taxes.

[¶8] Wife appealed on February 20, 2026. Husband, however, passed away on April 26, 2026. This Court granted the motion for substitution of a party pursuant to Wyoming Rule of Appellate Procedure 17.01(a) on June 24, 2026. Accordingly, the personal representative for Husband's estate, Abbey Leigh Atkinson, was substituted as a party to this appeal.¹

STANDARD OF REVIEW

[¶9] "The division of marital property is within the trial court's sound discretion, and we will not disturb that division absent an abuse of discretion." *Humphrey v. Humphrey*, 2007 WY 72, ¶ 7, 157 P.3d 451, 452-53 (Wyo. 2007) (quoting *Sweat v. Sweat*, 2003 WY 82, ¶ 6, 72 P.3d 276, 278 (Wyo. 2003)). "We consider the evidence presented in the light most favorable to the district court's decision, affording every favorable inference to the prevailing party and omitting from our consideration the conflicting evidence." *Amadio v. Amadio*, 2025 WY 21, ¶ 12, 564 P.3d 259, 264 (Wyo. 2025) (quoting *Vassilopoulos v.*

¹ Wife objected to Husband's failure to substitute a personal representative in her May 28, 2026, reply brief. With this Court's subsequent entry of the order granting the substitution of parties, those objections are deemed moot.

Vassilopoulos, 2024 WY 87, ¶ 7, 557 P.3d 725, 728-29 (Wyo. 2024)) (citation modified). “Property settlements present complex problems requiring district courts to assess the respective merits and needs of the parties.” *Id.* (quoting *Ransom v. Ransom*, 2017 WY 132, ¶ 31, 404 P.3d 1187, 1194 (Wyo. 2017)). We do not disturb a property division in a divorce except on clear grounds, because “the trial court is usually in a better position than the appellate court to judge the parties’ needs and the merits of their positions.” *Id.*, ¶ 15, 585 P.3d at 172-73 (quoting *Metz v. Metz*, 2003 WY 3, ¶ 6, 61 P.3d 383, 385 (Wyo. 2003)). “An abuse of discretion will be found if the property division shocks the conscience of the Court and appears to be so unfair and inequitable that reasonable people cannot abide it.” *Id.*, ¶ 15, 585 P.3d at 173 (citation modified).

DISCUSSION

I. The district court did not abuse its discretion when it ordered Wife to pay Husband periodic property distribution payments.

[¶10] Wife maintains the district court recognized her annual shareholder distributions as income, not property. Therefore, she claims the district court improperly awarded Husband a portion of the distributions because the annual payments are “future assets and mere expectancies.”

[¶11] In a divorce, the court is limited to the property in its hands because it cannot divide “a mere expectancy.” *Dunham v. Dunham*, 2006 WY 1, ¶ 12, 125 P.3d 1015, 1018 (Wyo. 2006) (quoting *Storm v. Storm*, 470 P.2d 367, 370 (Wyo. 1970)) (citation modified). With this rule, the Court has also recognized there is “a distinction between current rights to future assets, and mere expectancies.” *Id.*, ¶ 12, 125 P.3d 1018 (citation omitted). An “expectancy” is defined as “a future interest which cannot be distributed in a divorce proceeding since it may never come into being.” *Id.* (citation modified); *see also Storm*, 470 P.2d at 370 (“In speaking of future property, we are referring to a prospective expectancy of an estate which may come into being in the future as distinguished from future benefits to be derived from an estate already in existence.”); *and* 24 Am.Jur.2d *Divorce and Separation* § 486 (2026) (“A court cannot divide property which the parties do not own at the time of its decree although they may acquire it later on.”).

[¶12] Wife correctly identifies the rule that in divorce proceedings a court should not distribute future interests. However, she overlooks the distinction between current rights to a future asset and expectancies. The district court recognized the uncontested fact that Wife’s shares were acquired during the marriage. The district court also found that testimony established Husband and Wife made the joint decision to purchase the shares as an investment and the couple financed most of the share purchases with loans from Husband’s mother. In other words, the district court concluded that Wife’s shares in her firm constitute *existing* marital assets.

[¶13] Wife argues the distributions constitute future assets because the parties and district court described the distributions as a form of “additional income.” But the label attached to Wife’s annual shareholder distributions is not dispositive. Instead, district courts consider the nature of the asset and whether it is a present property interest at the time of the decree. *See, e.g., Kane v. Kane*, 577 P.2d 172, 175 (Wyo. 1978) (finding a ranch was a presently existing marital asset subject to the decree even though Husband received consideration in an option to purchase the ranch). With respect to business interests, courts have considered whether the interest was vested or unvested. *See Humphrey*, ¶ 10, 157 P.3d at 453-54 (distinguishing *Dunham* and *Storm* where the spouse held an unvested interest from an instance where the spouse held a vested interest in a business during the marriage).

[¶14] Much like *Humphrey*, Wife’s shares constitute existing property interests in Plan One, even though they may yield annual distributions in the future. *See Humphrey*, ¶ 10, 157 P.3d at 453-54. The district court did not abuse its discretion when it found Wife’s shares in Plan One constituted marital assets and awarded Husband half of any proceeds from their investment.

II. The district court did not abuse its discretion when it assigned Wife the responsibility of managing any tax consequences associated with the shares.

[¶15] Wife also maintains that the district court abused its discretion by assigning Wife an unknown future tax liability. Alternatively, she argues even if the distributions constitute a “dividend,” the tax classification of any distribution alone is sufficient to demonstrate the district court erred.

[¶16] As an initial matter, Wife asserts how an asset is taxed ultimately controls whether it is an existing or future asset.² We find this argument unpersuasive because it ignores the nature of Husband and Wife’s investment in Plan One and how the parties acquired that investment. *See Humphrey*, ¶ 10, 157 P.3d at 453-54 (reiterating the focus is whether the asset is a “current interest”); *see also Regan v. Regan*, 2024 WY 90, ¶ 11, 554 P.3d 383, 386 (Wyo. 2024) (finding a portion of Husband’s interest in a trucking company constituted marital property).

[¶17] Even so, courts with jurisdiction to resolve domestic matters generally do not have jurisdiction over federal tax matters. *See Dorr v. Newman*, 785 P.2d 1172, 1180 (Wyo. 1990) (“The federalist nature of American government renders state courts powerless to change congressional intent as defined in the Internal Revenue Code.”); *see also Briese v. Briese*, 325 N.W.2d 245, 248 (N.D. 1982) (“Federal tax matters are generally not within the jurisdiction of the courts which have jurisdiction over domestic matters.”). For that

² We note, here, Wife concedes in her brief the shares are a “current asset.”

reason, Wyoming courts are directed to consider the “nonspeculative federal income tax ramifications” when distributing marital property and debts. *Begley v. Begley*, 2020 WY 77, ¶ 15, 466 P.3d 276, 282 (Wyo. 2020).

[¶18] Testimony at trial showed the Plan One bylaws require Wife to own the shares and that she is personally responsible for any associated federal income taxes. The district court correctly did not attempt to anticipate the unknown; instead, it awarded Husband half of any distributions “minus associated taxes” and designated Wife as the party responsible for managing their investment. *See Hall v. Hall*, 2005 WY 166, ¶ 16, 125 P.3d 284, 289 (Wyo. 2005) (explaining how spouse’s request to have the district court consider the tax implications of a theoretical future liquidation of assets was speculative). The district court did not abuse its discretion when it assigned Wife the responsibility of managing any tax consequences associated with the Plan One shares.

III. The district court did not grant judgment to a non-party.

[¶19] Finally, Wife argues the district court improperly granted judgment in favor of a non-party when it ordered the couple to equally repay their outstanding loans to Husband’s mother.

[¶20] The district court has the authority and responsibility to dispose of the parties’ assets and liabilities. *Olsen v. Olsen*, 2011 WY 30, ¶ 13, 247 P.3d 77, 81 (Wyo. 2011) (citing Wyo. Stat. Ann. § 20-2-114); *see also Malli v. Malli*, 2020 WY 42, ¶ 21, 460 P.3d 245, 250 (Wyo. 2020) (recognizing trial courts have broad discretion to consider the debts of the parties in fashioning an equitable award of property). However, the only proper parties to a divorce action are “the spouses seeking to be divorced.” *Snyder v. Snyder*, 2021 WY 115, ¶ 22, 496 P.3d 1255, 1260 (Wyo. 2021) (quoting *Nielson v. Thompson*, 982 P.2d 709, 712 (Wyo. 1999)). Therefore, “[a] judgment against a non-party is a nullity.” *Id.* (quoting *Wyoming Health Servs., Inc. v. Deatherage*, 773 P.2d 156, 156 (Wyo. 1989)).

[¶21] The parties’ disagreement centers on what the decree of divorce says; therefore, this Court must interpret the language in the decree. This Court applies the standards of contract construction when construing a decree of divorce. *Van Vlack v. Van Vlack*, 2023 WY 104, ¶ 20, 537 P.3d 751, 757 (Wyo. 2023) (quoting *Wunsch v. Pickering*, 2008 WY 131, ¶ 16, 195 P.3d 1032, 1039 (Wyo. 2008)). Our interpretation of the decree of divorce begins with ascertaining its intent, which is evidenced by the specific language of the decree. *Id.* (citing *Hofhine v. Hofhine*, 2014 WY 86, ¶ 9, 330 P.3d 242, 245 (Wyo. 2014)).

[¶22] There is no dispute that Husband’s mother provided the couple with two loans during their marriage. After ordering Wife to pay Husband one-half of the distributions from the shares in Plan One, the district court ordered “[t]he parties shall equally repay Husband’s mother for the outstanding loan related to the shares.” This language is not ambiguous; the district court clearly divided responsibility for a marital debt.

[¶23] This case is unlike *Olsen*, because there, the court unequivocally rendered judgment in favor of a non-party when it ordered “[Wife’s mother] shall have judgment against each party for the remainder.” *Olsen*, ¶ 4, 247 P.3d at 79. While the difference between assigning responsibility for a marital debt and rendering judgment for a non-party may seem thin, the line exists because courts cannot determine rights of or award relief to persons who are not parties to the litigation. *Waterbury v. Waterbury*, 2017 WY 11, ¶¶ 10-11, 388 P.3d 532, 535 (Wyo. 2017) (defining third-party beneficiary claims).

[¶24] The district court did not award judgment in favor of a non-party; it fulfilled its obligation to divide responsibility for a marital debt. *See Bloedow v. Maes-Bloedow*, 2024 WY 115, ¶ 22, 558 P.3d 576, 584 (Wyo. 2024) (recognizing trial courts are “obligated to take all material property into account” when deciding how to allocate marital property, “including the parties’ debts.”) (citations omitted). We find no abuse of discretion in the decree of divorce.

CONCLUSION

[¶25] Wife’s ownership in Plan One is a vested marital asset, and the district court did not abuse its discretion in awarding Husband periodic property distribution payments until Wife divests her interest in the company. Similarly, the district court did not abuse its discretion in assigning Wife the responsibility of managing any related tax consequences or in requiring each party to equally repay their outstanding debt to Husband’s mother.

[¶26] Affirmed.