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STUDENT NOTES

CONSTITUTIONAL LAW — INCOME TAX — HUSBAND AND WIFE AS TAXABLE UNIT. — A statute¹ provided that, as to persons living together as members of a family, the income of the wife and of each child under eighteen should be assessed as that of the husband or head of the family, and that a tax should be paid on the aggregate amount according to the applicable graduated rate. *H* married a widow with separate property and a separate income from a partnership of which she was a member; he seeks to recover the excess of the tax paid over that which he would have had to pay on his own income alone. The state court sustained

¹ WIS. STAT. (1929) § 71.05 (2) (d). The act provided for rates graduated with reference to the size of the income up to \$12,000, with a flat rate of six per cent. on amounts in excess of \$12,000. WIS. STAT. (1929) § 71.06. However, spouses could make separate returns at their option, or a single joint return. In either case the tax was to be computed on the combined average taxable income, exemption allowed but once and divided equally between them, and a tax paid by each in the proportion that the average income of each bore to the combined average income. WIS. STAT. (1929) § 71.09 (4) (e.).