What Income is Used to Determine Alimony & Child Support in New Jersey?

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The fairness of the calculation of alimony and child support depends on the accuracy of both party's respective incomes. Both alimony and child support are calculated using each party's gross income.

Gross income may include income from the following sources:

- compensation for services, including: wages, fees, tips, and commissions;

- the operation of a business minus ordinary and necessary operating expenses;

- gains derived from dealings in property;

- interest and dividends;

- rents (minus ordinary and necessary expenses);

- bonuses and royalties;

- alimony and separate maintenance payments received from the current or past relationships;

- annuities or an interest in a trust;

- life insurance and endowment contracts;

- distributions from government and private retirement plans including Social Security, Veteran's Administration, Railroad Retirement Board, deferred compensation, Keoghs and IRA's;

- personal injury awards or other civil lawsuits;

- interest in a decedent's estate or a trust;

- disability grants or payments (including Social Security disability);

- profit sharing plans;

- worker's compensation;

- unemployment compensation benefits;

- overtime, part-time and severance pay;

- net gambling winnings;

- the sale of investments (net capital gain) or earnings from investments;

- income tax credits or rebates (excluding the federal and state Earned Income Credit and the N.J. homestead rebate);

- unreported cash payments (if identifiable);

- the value of in-kind benefits; and

- imputed income.

Since both parties' gross incomes are used to calculate alimony and child support, the first thing an attorney will do is determine what income to use for each party in the calculations. In some cases, the parties' gross incomes can be easily determined, such as where both parties earn predictable salaries as W-2 wage earners.

However, the appropriate income to use for either or both parties may also be more complicated, especially when one spouse does not earn an income or in cases that involve incomes that fluctuate from year to year, which usually involve business owners or when one party receives either discretionary bonuses or fluctuating commissions.

In cases where a Court finds that either party is voluntarily unemployed or underemployed, the Court will usually impute income to that party based on their work history, earning capacity, educational background, etc. A Court may look to that party's previous income, the average earnings for that occupation as reported by the New Jersey Department of Labor, or based on full-time employment at forty (40) hours per week at the New Jersey minimum wage.

In cases where a party's income fluctuates from year to year, our Courts will generally include all sources of income for each party, including bonuses and commissions, and average that party's income over a period of three (3) to five (5) years to determine the income for that party for purposes of calculating alimony and child support.

Although our Courts will usually average a party's income if one or both parties' income fluctuates, attorneys have the ability to be creative where our Courts do not. Typically, the payor spouse objects to calculating child support and/or alimony utilizing an income averaging approach, since their support obligations will be based on incomes, which may include discretionary bonuses or unpredictable commissions that they may not receive.

One common way attorneys are able to resolve a situation where one party's income fluctuates is to

negotiate a base child support or alimony figure on each party's base salaries alone. Additionally, there is an additional Supplemental child support and/or alimony figure, which is usually a percentage of the payor's bonus/commissions.

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