Determining Income
Prepared For: Legal Education Society of Alberta
Child Support Fundamentals

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For Presentation In:
Edmonton – February 7, 2012
Calgary – February 9, 2012
INCOME DETERMINATION FOR SUPPORT PURPOSES –
PRACTICAL TIPS AND POINTERS

I wanted to draft a simple and usable paper to outline some basic steps that could be looked at for the determination of income for support purposes. While I was thinking of primarily child support cases, there is no reason why you could not apply some of these same principles to spousal support cases (although the payor’s income alone isn’t necessarily as significant a determining factor as it is in child support cases). Also, for the purposes of this paper and one’s ability to obtain disclosure by way of a Notice to Disclose, I am assuming that there are no property issues between the parties or that they have already split their property.

This paper will look at 3 common income scenarios for payors:
1. Salaried Employees;
2. Sole proprietorships; and
3. Self employed persons with their own private corporations.

Finally, I will look at some inexpensive and common sense ways to get the necessary financial disclosure needed in each of the above scenarios in a manner that is cost-effective for your client.

SALARIED EMPLOYEES
Everyone generally assumes that when they receive the tax returns for a salaried employee that all they have to do is look to Line 150 to determine the payor’s income and that there are no adjustments that can be made to that income. While it’s true that you can’t generally add additional income to a salaried employee (unless you have a legitimate argument to impute additional income for underemployment etc.), there are certain legislated deductions and adjustments to income that a salaried employee may be entitled to. These are set out in Schedule III of the Federal Child Support Guidelines and are often overlooked in my experience. If you act for the payor you need to be aware of these deductions/adjustments and use them in appropriate cases.

One of the most common income adjustments that is missed is not using the actual dividends received and instead using the grossed up figure that appears on the tax return
which comprises part of the payor’s “inflated” Line 150 income. Currently, non-eligible dividends are grossed up by 25% (Line 180) and eligible dividends are grossed up by 41% (was 45% - Line 120 minus Line 180). If this is not caught, then the payor may end up paying inflated child support.

Some other deductions can be made for sales expenses, travel expenses, motor vehicle travel expenses and for “dues and other expenses of performing duties”. This last category can be particularly helpful to a payor who has legitimate expenses that are incurred to help him earn a living. These expenses often appear on Lines 207 to 233 of his tax return for things like “Union Dues”, “Business Investment Loss”, “Carrying Charges and Interest Expenses”, “Exploration and Development Expenses” and “Other Employment Expenses” (which would likely be further broken down at the end of the tax return under “Statement of Employment Expenses”). Take a look at the payor’s Net Income set out on line 236 of his tax return and see if it differs from line 150 and if so, see if any of the expenses qualify under Schedule III (and if you are not sure don’t guess, ask your client or his accountant what the expenses are for).

If the deductions for the items in the previous paragraph are large and you act for the Recipient, be sure and request an explanation, breakdown and documentary proof of exactly what these expenses were for. The payor must have provided his accountant with something justifying the expense and the amounts claimed.

The most practical tip I can give you regarding salaried employees is to read and know Schedule III of the Federal Child Support Guidelines.

**Summary for Salaried Employees:**

- Don’t just assume that the Line 150 income is the correct figure (especially if you act for the payor)
- Look to Schedule III for various deductions/adjustments that your client may be entitled to:
  - Actual Dividends received (not the grossed up amounts)
  - Sales, travel or motor vehicle travel expenses