



Divorce by the numbers

Description

How spousal support works, and what factors are considered

By Alice Popovici

Allan and Denise are high school sweethearts who married when they were 18 and 20 respectively. Denise always wanted to be a writer while Allan was great with numbers, and so he became an executive accountant. After over 20 years of marriage, Allan and Denise have one child born of their marriage, Alex, who was just 10 when Allan decided to end his marriage with Denise.

Throughout their marriage, Denise was the primary caregiver for Alex and worked part-time on her freelance writing. She didn't earn much of an income, so her financial contributions to the household expenses were minimal. Allan on the other hand was able to become a high ranking executive, mainly because he was able to work more hours than Denise. Which also meant that Allan rarely saw Alex and that his main focus had always been his career. Currently, Allan's annual income is over \$200,000, whereas Denise only made \$15,000 this past year with her freelance writing.

The goal of spousal support is to divide the financial consequences of divorce, limit the financial difficulties and ensure that support is provided to the spouse who needs it until he or she becomes economically self-sufficient.

Denise found out that Allan has been having an affair with his co-worker, Emily, for over a year now. Distraught and depressed, she realized how financially dependent she had become on Allan, and uncertain of what her future holds. Allan told her that the separation was a direct result of her lack of emotional involvement and commitment to the relationship. Allan still denies his affair with Emily, yet he continues to make worrisome comments to Denise.

For example, he once asked her, "How can you just stay home all day? Shouldn't you be working full-time by now?" and "I can't support you forever—you have to earn an income at some point." Denise became increasingly worried as she heard more comments like this. She did not know where she would end up financially.

Does Denise have to return to work right away? Can she continue staying home as she and Allan had previously decided? How will she become financially independent after being dependent for such a long period of time?



Read on to find out what happens.

What factors are considered in these circumstances?

Denise and Allan's marriage is considered to be a long-term marriage and this becomes an important factor in determining spousal support, especially in regards to the length of time that support shall be paid. Other factors include: Allan's ability to pay spousal support, Denise's need for financial support, Denise and Allan's respective roles during their marriage, and the impact of the spouse who cared for the child or maintained the household. The goal of spousal support is to divide the financial consequences of divorce, limit the financial difficulties and ensure that support is provided to the spouse who needs it until he or she becomes economically self-sufficient.

How does spousal support get paid?

There are two ways in which spousal support can be paid. An ex-spouse can either make periodic payments (ex. \$1,000 per month), or make one lump sum payment (ex. \$100,000). The second option provides for what is called a "clean-break" separation, allowing both parties to move on and cut all ties with each other. This option is more appropriate when one of the ex-spouses requires some equity to restart his or her life.

Do I pay tax on the spousal support I receive?

When spousal support is paid periodically (weekly, monthly etc.), payments are deductible by the one who pays the support, and are taxable (meaning it is considered as income) for the party receiving the support payments. On the other hand, when spousal support is paid by way of a lump sum payment, there are no tax consequences. The lump sum is not tax deductible nor considered as taxable income for the ex-spouse.

When can an application for spousal support be made ?

As soon as Allan declares his intent to divorce her, Denise can ask that he continue supporting her financially. If Allan refuses to do so, Denise can make an application before the court in order to request financial support from Allan. Can Denise get spousal support if she already receives child support? Yes. There are specific rules about the way in which spousal support is calculated if there is an existing child support order. However, one does not prevent the payment of the other.

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