

## **Spousal Support in Michigan**

When a couple separates or divorces in Michigan the court may order one spouse to continue to provide financial support to the other. Generally this support, known popularly as alimony but more precisely termed as spousal support, is intended for a spouse who, due to years of financial dependence, is otherwise unable to maintain a standard of living comparable to that enjoyed during marriage. Traditionally, this was meant as a way to care for those stay-at-home mothers who sacrificed their own professional opportunities to care for the family. Today, though, spousal support has shed traditional constraints and can be extended in any number of circumstances.

### **Factors In Awarding Spousal Support**

In Michigan, spousal support, like child support, is largely governed by formulas set by state law. However, unlike child support, the recommendation from the spousal support formula is far from the last word on the subject and is subject to a host of other factors that are difficult to quantify in the formula. These include the past relationship of the parties, including any domestic violence; the length of the marriage; the spouses age and the ability to work; prior standard of living; the present financial situation of the parties, including the property division provided in the divorce judgment; and any other factors required by equity.

Generally, the most important factor is the length of the marriage, as spousal support is generally unavailable in short-term marriages, or those lasting seven years or less. Almost as important is the past relationship of the parties in that, stay-at-home spouses are more likely to receive spousal support, and in greater amounts, than a working professional would. Of surprisingly lesser importance to the court tends to be the party's current ability to work.

### **Tax Implications**

It is important to know, for anyone ordered to pay spousal support, is that these payments are generally deductible on the payer's tax returns and taxable on the recipient. While it is little consolation to anybody who would rather not pay support, one can at least take solace in the fact that the spousal support may very well place the payer in a lower tax bracket. However, while spousal support is generally deductible, there are complex rules that govern when these payments are indeed deductible. For further information it is wise to look to a tax professional for guidance.

### **Transitional v. Permanent Spousal Support**

There are essentially two types of spousal support in Michigan: permanent and transitional. Permanent is exactly as it would seem to be, lasting until the death of the payer or the recipient. Transitional, by contrast, is more limited in duration and is only intended to ease a spouse from dependency to independence as he or she gains job skills, furthers his or her education, or other professional opportunities.

In recent history permanent support is the exception, rather than rule, generally reserved for long term marriages with an older spouse who never worked during the marriage. Rather, the law is geared towards providing transitional support, though the length of the transition, and therefore the duration of the spousal support, will vary based upon the circumstances of the given case.

### **Modification**

In general, spousal support is modifiable for all the same reasons that child support may be modified, such as change in need or ability to pay. However, if the spousal support was specifically exclaimed in the divorce judgment as being non-modifiable, then absent fraud or unilateral mistake, the support will not be modifiable.

While the *amount* of the support may be modifiable, based on need or ability to pay, generally the only grounds for modification of the *duration* of the support are death, remarriage of the recipient, or limited instances of co-habitation by a recipient that would amount to remarriage.

### **Calculation of Support**

Unlike child support, which is set by formula under Michigan and largely adhered to by the court, the spousal support formula is only one piece of the puzzle. While the formula can make an initial recommendation, based upon the income of the parties, their education, ability to work and length of marriage, the principles of equity frequently require deviating from this recommendation. Because the formula does not account for the relative debt of the parties and the division of marital property it can best be viewed as a guide, striving towards predictability, even if it never provides it.

**Warning**

As always, nothing in this article can replace legal advice by a licensed attorney.

MCL 552.23

552.13

552.28 (modification)

Sparks v. Sparks, 485 NW2d 893 (1992) (FACTORS)

IRC 215, IRC 71

Ackerman v. Ackerman, 414 NW2d 919 (1987)