

Imputation of Income: Rebalancing the Support Scales

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*Money is like love; it kills slowly and painfully the one who withholds it, and enlivens the other who turns it on his fellow man.
(Kahlil Gibran)*

When one or both spouses in a divorce fail to properly account for their income and expenses or pursue unemployment or underemployment in an attempt to inflate or deflate their or the other's support obligations, the concept of imputed income can serve to be a great equalizer, rebalancing the marital financial scales. Imputed income can have significant financial consequences for both parties involved. The party against whom imputation is sought may be required to pay higher child support or spousal maintenance, while the party seeking imputation may potentially receive increased financial support.

Through the imputation of income, courts can ensure that the proper amount of support is awarded, even in instances where the financial disclosure provided is deemed unreliable or suspect.

Imputed income refers to the potential income that a court assigns to a party in a divorce case, even if they are not currently earning that amount or are unemployed. In New York, imputed income can have significant implications for determining child support and spousal maintenance.

Under New York law, imputed income is based on a number of factors, including a party's health, age, and the availability of job opportunities. The Court will strive to be fair and equitable in its determination, taking into account the individual circumstances of each case.

This means that the Court will consider such as the party's education, job experience, skills, and prevailing wage levels in their field when determining an appropriate income to impute. The goal is to ensure that individuals do not intentionally reduce their income to avoid their financial obligations in a divorce.

It is important to note that imputed income is not automatic and must be proven by the party seeking it. The Court will carefully consider the evidence presented, including testimony from expert witnesses, to determine whether imputation is appropriate in each case.

Examples Of Situations Where Imputed Income May Be Applied

Where there is voluntary unemployment or underemployment: If one party voluntarily quits their job or takes a lower-paying job without a valid reason, the court may impute income based on their previous earnings or their earning capacity.

When education or training opportunities are rejected: If one party refuses education or training opportunities that could

improve their earning potential, the Court may impute income based on what they could have earned with that additional education or training.

Where there is an intentional reduction of income: If one party intentionally reduces their income by working fewer hours, taking a lower-paying job, or refusing promotions, the Court may impute income based on their previous earning levels or what they could earn with reasonable effort.

When there is unreported or hidden income: If one party attempts to hide or underreport their income to avoid financial obligations, the Court may impute income based on evidence of their true earning capacity.

Where questionable Financial Records are produced. If a spouse's financial records lack credibility or are incomplete.

When a party or the parties are living above one's/their means. If expenses exceed presented income.

Where there is a reliance on the generosity of strangers. If a spouse receives gifts from or has ordinary expenses paid by third parties or

When there are complicated business structures present. If a spouse appears to have used their business(es) to disguise income.

Real-Life Examples Where Income Was Imputed to a Party

K. v. K.: The expenses listed on each party's Statement of Net Worth (\$96,624 annually for the wife and \$102,636 annually for the husband) far exceeded their respective earnings, and there was no indication that their expenses were not timely being paid. Indeed, both parties acknowledged receiving substantial financial support from their family members. Thus, the Court concluded that the parties' financial resources were greater than their self-reported incomes.

H. v. B.: \$45,000 of income was imputed to the husband based on a brokerage agreement he signed identifying his income as \$50,000 per year, documentation showing he held an ownership interest in a trucking business, and the testimony of his ex-wife who worked in the trucking business and had personal knowledge of the company's payroll.

N. v. K.: \$46,609 of income was imputed to the husband "based upon his prior income, his training, his choice to pursue only part-time employment, and his current living arrangement, in which he did not pay rent."

S. v. S.: Income of \$78,000 per year was imputed to the wife based on evidence at trial that showed she could earn that sum due to her degree and her nurse practitioner license, which was further supported by facts adduced at trial and expert testimony.

DV. v. D.: \$100,000 of income was imputed to the husband where the expenses he listed in his Statement of Net Worth far exceeded his income as reported on his tax returns, and he lived in a two-bedroom apartment in a luxury apartment building. In addition, after his job for 12 years at a "major bank" was eliminated, he did not demonstrate that he "diligently sought new employment commensurate with his qualifications and experience."

G. v. G.: \$151,000 of income was imputed to a wife based on rental income she received from separate property investments and her access to over \$500,000 in trust assets that were her separate property.

Conclusion

In conclusion, imputed income in New York divorce cases is a legal concept that aims to ensure fairness and prevent individuals from intentionally reducing their income to avoid financial obligations. It is important to consult with a qualified family law attorney who can provide personalized advice based on your individual circumstances if you have questions or concerns about imputed income in your divorce case.