

REPEAL OF THE FEDERAL TAX DEDUCTION
FOR ALIMONY:
An Opportunity to Review`
the Pennsylvania Formula
for Spousal Support/Alimony Pendente Lite

Submitted to:
Supreme Court of Pennsylvania

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Points of view expressed in this document are those of the author and do not necessarily represent the official position of the Domestic Relations Procedure Rules Committee. The author is responsible for any errors and omissions.

EXECUTIVE SUMMARY

In 2017, Congress reformed federal tax code. Although the major change was lower tax rates, it also repealed the federal tax deduction for alimony orders established after December 31, 2018. The deduction applies to alimony, spousal support and alimony pendente lite (APL). Orders established on or before December 31, 2018 may continue to take a deduction for federal taxes.

State statute directs the Supreme Court to set spousal support guidelines. Given changes in federal tax code and other reasons, this paper focuses on whether the formulas for spousal support/alimony pendente lite (APL) provided in Pa.R.C.P. 1910.16-1, *et seq* should be changed; and, if so, what components of the formula should be changes. The formulas are:

- 30 percent of the difference between the obligor's monthly net income and the obligee's monthly net income when there are dependent children; and
- 40 percent of the difference between the obligor's monthly net income and the obligee's monthly net income when there are no dependent children.

A caveat to this report is that it does not include a legal analysis of spousal support/APL, rather it focuses on the mechanics of the spousal support formula and how it affects the amount of spousal support/APL.

Impact of Tax Reform

Based on an analysis of 20 case scenarios, there are several findings. The repeal of the alimony deduction increases the federal income tax liability in most scenarios. It has a larger impact when the obligee has no income than when the obligee has income. The impact is also larger for obligors in higher tax brackets. The exceptions— that is, situations where the obligor has lower federal income tax liability after the repeal of the alimony deduction— occur when there is a narrow gap in the parties' incomes. This is because the spousal support is smaller. The tax savings from the reduced tax rates (as much as a four-percentage point reduction) is more than the tax savings from the spousal support deduction.

The repeal of the alimony deduction also affects obligees receiving spousal support because they no longer have to pay federal taxes on it. This generally results in lower federal income taxes although those with no income or low income have no or negligible change: their federal income tax continues to be zero or negligible.

Is Another Formula Appropriate?

To consider whether another spousal support formula may be more appropriate for Pennsylvania, Pennsylvania's spousal support formulas are compared to spousal support formulas in other jurisdictions and economic evidence when available. Mathematical logic to also used to assess spousal support formulas. Through this analysis, six components of a spousal support formula were identified: gross or net income base; whether child support or spousal support is calculated first; whether spousal support of the current action is deducted/subtracted from the obligor's/obligee's income used to

calculate child support; the percentages of obligor and obligee income used in the formula, whether there are two formulas and the criteria for using one formula over another; and whether there is a cap or limitation imposed on the spousal support formula.

The income basis of the formula. Most formulas rely on gross income. In those jurisdictions with spousal support formulas, gross income is also the income basis of their child support guidelines. Pennsylvania and only two other jurisdictions are known to have net-income based spousal support formulas. There are pros and cons to both gross and net income. There is no overwhelming reason for Pennsylvania to change its income basis.

Whether child support or spousal support should be calculated first. Pennsylvania is the only jurisdiction known to calculate child support first. Further, Pennsylvania is the only jurisdiction known to deduct child support of the current action from income used to determine spousal support. In contrast, most jurisdictions calculate spousal support first without any consideration of child support of the current action, then calculate child support with an income deduction/addition for spousal support paid/received. A strength of the Pennsylvania approach is that child support is unchanged even if spousal support changes. A limitation is that child support is not calculated based on the actual income available to each party.

Whether spousal support paid/received of the current action is subtracted/added to income available for child support. As mentioned above, Pennsylvania does not provide for this. Most jurisdictions do provide for it. The reason for providing for it is it is the actual income available to support the children. One compromise would be to neither deduct child support from the current action from income used to calculate spousal support and not deduct spousal support from the current action from income used to calculate child support.

Parameters/Percentages of the formula. There is not the same level of economic data to guide spousal support formulas as there is for child support guidelines. Most state child support guidelines, including the Pennsylvania guidelines, relate to how much it actually costs to raise a child.

Economic data find that the minimum needs of one person is about \$1,000 to about \$2,000 per month. There is no economic evidence in percentage form other than studies that measure the economic consequence of divorce or what an individual living alone needs to retain the standard of living that individual realized in a two-adult household. The results from those studies vary due to differences in methodology and data sets: the decline in economic status among women is usually around 30 to 40 percent. The decline in economic status among men is estimated to be less. Similarly, the percentage of marital income needed to maintain the same standard of living when single is estimated to be less for men than woman. Generally, woman need about 70-80 percent of marital income to maintain the same standard of living once single.

These findings partially justify applying a different percentage to each party's income in the spousal support formula. For example, an alternative to 30 percent of the difference in spousal support income would be:

25% of the obligor's net income – 30% of the obligee's net income

Another possible justification for applying unequal percentages to each party's income, specifically a higher percentage to the obligee is to compensate for the change in federal tax liability. The percentage is lower for the obligor because of the increased federal income tax liability and higher for the obligee because of the reduced federal income tax liability. Further, applying a higher percentage to the obligee's income is common among most spousal support formulas. It also has the result of zeroing out the spousal support award when the obligee's income available for spousal support is slightly less than the obligor's income available for spousal support (*e.g.*, spousal support is zero when the obligee's income is about 75 percent or more of the obligor's income.) Another option is to reduce the percentage for parties without children from 40 percent to 35 percent. This would more than offset the impact of the repeal of the federal income deduction for alimony.

Criteria for applying formula. Only three jurisdictions (including Pennsylvania) are known to have two different formulas for parties with and without children. The economic basis for this is arguable. The limited economic evidence, however, does suggest a percentage point difference of 10 percent or less is appropriate. (The difference in Pennsylvania's 40 percent, which is applied to parties without children, and Pennsylvania's 30 percent, which is applied to the parties with children is 10 percent.) Another reason some jurisdictions have two formulas is to recognize income differences; that is, lower income obligees may be in more need of spousal support to meet their basic needs than higher income obligees.

Caps and other adjustments or limitations. Some jurisdictions apply caps (*e.g.*, spousal support cannot exceed 40 percent of the parties' combined income). These are useful if the formula applies different percentages of income to the obligor's income and obligee's income.

Recommended Next Steps

The Committee may want to review the impact that the repeal of the federal income deduction for spousal support has on spousal support amounts, child support amounts and federal income tax liability. (These are shown in graphical comparisons of case scenarios in Exhibits 3 and 4 and Appendix D).

The Committee may also want to assess each of the components of the spousal support individually to determine which option is the most appropriate for Pennsylvania. Even if a change is not warranted, assessing each component is a way to review the appropriateness of Pennsylvania's current spousal support formulas.

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SECTION 1: INTRODUCTION AND PURPOSE OF STUDY

In 2017, Congress reformed the federal tax code by passing The Tax Cuts and Jobs Act (P.L. 115-97). It includes the repeal of the deduction for alimony for federal taxes beginning with orders established after December 31, 2018. The deduction applies to alimony, spousal support and alimony pendente lite (APL). Orders established on or before December 31, 2018 may continue to take a deduction for federal taxes, while new orders for alimony/spousal support/APL would not be eligible for the federal income tax deduction.

State statute (as shown in Exhibit 1) directs the Supreme Court to set spousal support guidelines.

Exhibit 1: State Statute Directing Supreme Court to set a Spousal Support Guidelines

23 Pa.C.S. §4322 (a) Statewide guidelines. –Child and spousal support shall be awarded pursuant to a Statewide guideline as established by general rule by the Supreme Court, so that person similarly situated shall be treated similarly. The guideline shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guideline shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention. The guideline so developed shall be reviewed at least once every four years.

This paper focuses on whether the formulas for spousal support/alimony pendente lite (APL) provided in Pa.R.C.P. 1910.16-1, *et seq* should be changed; and, if so, what components of the formula should be changed. formulas are:

- 30 percent of the difference between the obligor's monthly net income and the obligee's monthly net income when there are dependent children; and
- 40 percent of the difference between the obligor's monthly net income and the obligee's monthly net income when there are no dependent children.

The final calculation may consider many other factors provided in Pa.R.C.P. 1910.16-1, *et seq* (*e.g.*, a spouse occupying the marital home). Appendix A provides excerpts of Pa.R.C.P. 1910.16-1, *et seq* where spousal support or APL is mentioned. This paper does not address Pennsylvania's permanent alimony formula. In Pennsylvania, the formulas for spousal support/APL differs from the formula for permanent alimony. Permanent alimony is addressed in Pennsylvania statute (23 Pa. C.S.A. § 3702), and Pa.R.C.P. 1920.1 *et seq*. As shown in Appendix B, permanent alimony considers many more factors (*i.e.*, duration of the marriage) than spousal support/APL.

ORGANIZATION OF REPORT

The remainder of this report consists of four sections:

- Summary of spousal formulas in other jurisdictions;
- Impact of the repeal of alimony deduction in federal tax code in Pennsylvania;
- Possible revisions to the Pennsylvania spousal support/APL formula; and
- Conclusions and recommended next steps.

The appendices include:

- Appendix A: Excerpts of Pa.R.C.P. 1910.16-1, *et seq* where spousal support or APL is mentioned;
- Appendix B: The Pennsylvania statute (23 Pa. C.S.A. § 3702) that addresses alimony;
- Appendix C: Table comparing characteristics of spousal support/APL formulas in selected jurisdictions; and,
- Appendix D: Detailed documentation of the calculation of the impact of federal tax change.

There are several limitations to this report. Among other things, it does not include a legal analysis of spousal support/APL or discuss the pros and cons of spousal support/APL.

SECTION 2: OVERVIEW OF EXISTING FORMULAS IN OTHER JURISDICTIONS

There are many publications identifying spousal support/APL formulas used throughout the United States. For example, in the early 2000s, a report that summarized spousal support formulas in other jurisdictions was published by a committee reviewing and making a recommendation for New Mexico.¹ The American Academy of Matrimonial Lawyers (AAML) also studied approaches in various jurisdictions when they developed their recommended formula that was published in 2007.²

Most states and local jurisdictions do not provide a formula to determine spousal support/APL in state statute or rule. Instead, most states use their alimony provisions, which are similar to those of Pennsylvania, to determine temporary spousal support. When formulas are provided, they are usually advisory. Spousal support formulas at the county level (which are typically set in county rule) are more common than at the state level, but still rare. For example, California does not have a spousal support formula, but five of its counties do. Even though a jurisdiction may not provide a formula in statute or rule, many jurisdictions have precedent or case law. For example, a purported formula in New Jersey is 33 percent of the difference in the gross incomes of the spouses.³

Exhibit 2 provides a summary of the spousal support formulas identified in this study. A more detailed comparison of these formulas is provided in Appendix C. Also, Section 4 compares the major components of the formula (*e.g.*, gross or net income basis and whether child support or spousal support is calculated first).

To be clear, spousal support formula do not have an economic basis similar to the economic basis of child support formulas/schedules. The vast majority of state child support formulas/schedules, including the Pennsylvania child support schedule, relate to economic evidence on the cost of raising children. The underlying premise is that child support guidelines should relate to how much it costs to raise children. In contrast, the underlying premises of spousal support are more complex, and do not have a straight forward relationship to economic data. For example, a 2008 article identified three common rationales for alimony.⁴

- Compensation for loss of human capital due to one party's non-market tasks during the marriage (*e.g.*, loss of earning capacity as a result of decisions about the work/non-market tasks for the family that were made during the marriage).

¹ [New Mexico] Statewide Alimony Guideline Committee. (2006). *Alimony Guidelines and Commentaries*. Retrieved from https://nmfinanciallaw.com/wp-content/uploads/2015/10/Revised_Alimony_Guidelines.pdf

² See Appendix A (The AAML Commission Recommendations) in Kisthardt, Mary Kay. (June 2008). "Re-thinking Alimony: The AAML's Consideration for Calculating Alimony, Spousal Support or Maintenance." *Journal of the American Academy of Matrimonial Lawyers*.

³ The Law Office of Jeff Henninger. (n.d.) *How is Alimony Calculated?* Retrieved from njalimonylawfirm.com/how-is-alimony-calculated.

⁴ Kisthardt, Mary Kay. (June 2008). "Re-thinking Alimony: The AAML's Consideration for Calculating Alimony, Spousal Support or Maintenance." *Journal of the American Academy of Matrimonial Lawyers*.

- Unrealized gain from the marriage (*i.e.*, marital residuals) similar to the compensation that a partner in a law firm would receive for work in progress. To this end, compensation is sharing of the post-dissolution income.
- Marital contributions to the career asset of the other spouse. To this end, compensation is based on the marital contribution to the future income stream; and, also stops when that career asset no longer has a financial value (*e.g.*, it may stop when the career spouse retires).

Exhibit 2: Comparison of Spousal Support Formulas in Selected Jurisdictions

American Academy of Matrimonial Lawyers 2007 Recommendation ⁵	30% of the payor's gross income minus 20% of the payee's gross income (not to exceed 40% of combined gross)
Santa Clara County, CA ⁶	40% of the net income of the payor minus 50% of the net income of the payee
Colorado ⁷	<p><i>If the maintenance award is deductible for federal income tax purposes by the payer and taxable income to the recipient</i></p> <p>40% of the combined parties' combined monthly adjusted gross income minus the lower income party's monthly adjusted gross income</p> <p><i>If the maintenance award is not deductible for federal income tax purpose by the payer and taxable income to the recipient and</i></p> <ul style="list-style-type: none"> • <i>the monthly adjusted gross income of the parties is \$10,000 or less</i> <p>The formula is 80% of the above</p> <ul style="list-style-type: none"> • <i>and the monthly adjusted gross income of the parties is more than \$10,000 but not more than \$20,000</i> <p>The formula is 75% of the above</p>
Illinois ⁸	33 1/3% of the payor's net annual income minus 25% of the payee's net annual income (not to exceed 40% of combined net)
Johnson County, KS ⁹	<p><i>If there are no children</i></p> <p>Payor's gross monthly income multiplied by 0.30 Minus Recipient's gross monthly income multiplied by 0.50</p> <p><i>If there are children for whom child support is paid</i></p> <p>Payor's gross monthly income multiplied by 0.28 Minus Recipient's gross monthly income multiplied by 0.58</p>

⁵Jackson, L.J. (Feb. 2012). "Alimony Arithmetic: More States Are Looking at Formulas to Regulate Spousal Support." *ABA Journal*. Retrieved from

http://www.abajournal.com/magazine/article/alimony_arithmetic_more_states_are_looking_at_formulas_to_regulate_spousal .

⁶The Superior Court of California: County of Santa Clara. (n.d.) *Local Family Rule 3*. Retrieved from

http://www.sccourt.org/court_divisions/family/family_rules/family_rule3.shtml#D .

⁷ Colorado House Bill 1385 (2018). Retrieved from <https://leg.colorado.gov/bills/hb18-1385> .

⁸ *Illinois Senate Bill 2289* (2018). Retrieved from

<http://www.ilga.gov/legislation/BillStatus.asp?DocTypeID=SB&DocNum=2289&GAID=14&SessionID=91&LegID=108578> .

⁹ RS Law Attorney. (n.d.) Spousal Support. Retrieved from <https://rslawkc.com/spousal-support-kansas/> .

Massachusetts¹⁰	30 to 35 percent of the difference between the parties' gross incomes
New Mexico¹¹	Same as Johnson County, KS
New York¹²	<i>Payor's income less than \$184,000 per year and child support will be paid for children of the marriage and the maintenance payor is the noncustodial parent</i> 20% of Maintenance Payor's Income¹³ Minus 25% of Maintenance Payee's Income
	<i>Payor's income greater than \$184,000 year</i> 30% of Maintenance Payor's Income Minus 20% of Maintenance Payee's Income (capped at 40% of combined income)
Pennsylvania	<i>With Dependent Children</i> 30% obligor's monthly net income minus obligee's net monthly income
	<i>Without Dependent Children</i> 40% obligor's monthly net income minus obligee's net monthly income
Fairfax County, VA¹⁴ (Temporary support)	<i>If there are no children</i> Payor's gross monthly income multiplied by 0.30 Minus Recipient's gross monthly income multiplied by 0.50
	<i>If there are children for whom child support is paid</i> Payor's gross monthly income multiplied by 0.28 Minus Recipient's gross monthly income multiplied by 0.58

¹⁰ Mass.gov. (n.d.) *How the court determines alimony*. Retrieved from <https://www.mass.gov/service-details/how-the-court-determines-alimony>.

¹¹ [New Mexico] Statewide Alimony Guideline Committee. (2006). *Alimony Guidelines and Commentaries*. Retrieved from https://nmfinanciallaw.com/wp-content/uploads/2015/10/Revised_Alimony_Guidelines.pdf

¹² New York State Unified Courts (n.d.) *The Law – Divorce Resources*. Retrieved from <https://www.nycourts.gov/divorce/MaintenanceChildSupportTools.shtml>.

¹³ New York subtracts FICA an N.Y.C. or Yonkers tax but not federal income tax or state income tax.

¹⁴ Livesay and Myers. (n.d). *Spousal Support. in Virginia*. Retrieved from <https://www.livesaymyers.com/divorce-lawyers/spousal-support/>.

Jurisdictions that Have Modified Formulas Due to Repeal of Federal Deduction

Colorado and Illinois are the only jurisdictions with spousal support/APL formulas that are known to have made changes to accommodate the repeal of the alimony deduction for federal income tax purposes. Illinois switched from a gross-income based formula to the after-tax income formula shown in Exhibit 2. Colorado, which is a gross-income based formula, reduced its formula by a factor of 75 or 80 percent depending on the income level. Those changes are also shown in Exhibit 2. Colorado also increased the amount of spousal support that would be deducted/added to the income of the party paying spousal support/party receiving spousal support if that spousal support was set after December 31, 2018, hence would not be tax deductible or subject to taxes. Colorado increases that spousal support by 125 percent. This means, for example, that if the obligor pays \$100 per month in spousal support (for an order that was established January 2, 2019), \$125 is subtracted from the obligor's income when determining the child support order. Similarly, if the obligee receives \$100 per month in spousal support (for an order that was established January 2, 2019), \$125 is added to the obligee's income when determining the child support order.

Both states provide for the usage of the old formula in older cases where the spousal support is still tax deductible for the parent paying it and taxable income to the parent receiving it.

SECTION 3: IMPACT OF REPEAL OF ALIMONY (SPOUSAL SUPPORT/APL) DEDUCTION

This section examines the impact of the repeal of the federal income deduction for alimony. Although Pennsylvania calculates its child support and spousal support/APL using after-tax income, the case scenarios start from gross income to capture the impact of the tax changes.

There are layers to the federal income change that make examination of the pre-/post-repeal of the alimony deduction more complicated.

- The major change in federal income tax most pertinent to spousal support/APL is the repeal of the income deduction for alimony payments. Consideration of this alone, should increase the federal tax owed by the party paying alimony, and decrease the federal tax owed by the party receiving alimony since alimony will no longer be considered taxable income for new orders beginning in 2019.
- The reduction in the federal income tax rate, however, offsets this somewhat for the party paying alimony; that is, their federal income tax rate is lower due to federal tax reform.
- For the party receiving alimony, both the repeal of the alimony deduction (hence the repeal of alimony being taxable) and the reduction of the federal income tax rate, increase the after-tax income of the party receiving alimony.
- However, if the party receiving alimony was also the party claiming the children as an exemption in 2017, that exemption was eliminated as part of tax reform. This could negate some of the positive impacts described above.

CASE SCENARIOS

Case scenarios are used to examine the impact of changes due to the repeal of the alimony deduction. For ease of reading, it is assumed that the husband is the higher earner, the wife is the lower earner; and if there are children, the children are in the custody of the wife. This is consistent with statistics that find four percent of those owing alimony are women,¹⁵ and 80 percent of custodial parents are women.¹⁶ Nonetheless, the number of women owing spousal support is growing, the proportion of custodial parents who are fathers is increasing, and the wage gap between males and females has been narrowing.¹⁷

Ten case scenarios are used to examine the impact.

- A.1 Husband gross income = \$3,500,¹⁸ Wife's gross income = \$0;

¹⁵ Pinsker, Beth. (Nov. 17, 2015) "Breadwinning Women Are Driving Alimony Reform." *Time*. Retrieved from <http://time.com/money/4116161/alimony-reform-spousal-support/>.

¹⁶ Grall, Timothy. (Jan. 2018). *Custodial Mothers and Fathers and Their Child Support: 2015*. U.S. Census Bureau Current Population Reports. <https://www.census.gov/content/dam/Census/library/publications/2018/demo/P60-262.pdf>

¹⁷ Graf, Nikki, Brown, Anna, and Paten, Eileen, (April 2018). *The Narrowing, but Persistent, Gender Gap in Pay*. Pew Research Center. Retrieved from <http://www.pewresearch.org/fact-tank/2018/04/09/gender-pay-gap-facts/>.

¹⁸ Approximate median earnings of Pennsylvania male workers age 25 or older whose highest education attainment is some college or associate's degree. (Source 2016 U.S. Census American Community Survey).

- A.2 Husband gross income = \$3,500, Wife's gross income = \$2,500;¹⁹
- B.1 Husband gross income = \$7,200²⁰, Wife's gross income = \$0;
- B.2 Husband gross income = \$7,200, Wife's gross income = \$2,500;
- B.3 Husband gross income = \$7,200, Wife's gross income = \$5,000;²¹
- C.1 Husband gross income = \$10,000, Wife's gross income = \$0;
- C.2 Husband gross income = \$10,000, Wife's gross income = \$2,500;
- C.3 Husband gross income = \$10,000, Wife's gross income = \$5,000;
- C.4 Husband gross income = \$10,000, Wife's gross income = \$7,500; and
- D.1 Husband gross income = \$10,000, Wife's gross income = \$0.

For each case scenario, there is one calculation for parties without children and another calculation for parties with children. In all, 20 case scenarios are considered.

The information and steps used to calculate the net-income equivalents using the gross incomes in the case scenario, spousal support and child support are described in Appendix D. This includes a detailed discussion of how 2017 and 2019 taxes were calculated. The year 2017 is used because tax reform resulted in changes in federal tax rates in 2018 but provided a year delay in the change in the alimony deduction.

The major steps are:

- Step 1: Calculate after-tax income of each party assuming their tax status is married filing separately if there are no common children or head-of-household with one child if the wife has custody of the child. For the calculation of federal income taxes, it is assumed that the party takes the standard deduction and does not itemize.
- Step 2: Calculate child support if applicable and deduct it from net income. Child support is calculated from the Pennsylvania child support guidelines using the net incomes calculated in Step 1. There are no adjustments to income available for child support, no adjustments for additional expenses such as work-related child care expenses, and no adjustments for shared custody.
- Step 3: Apply the spousal support formula.
- Step 4: Recalculate the federal tax liability in 2017, applying the federal income deduction for spousal support or unallocated spousal/child support when there are children. This step is no longer necessary for 2019 because spousal support is no longer deducted from the obligated party's income and no longer considered taxable income of the party receiving it.

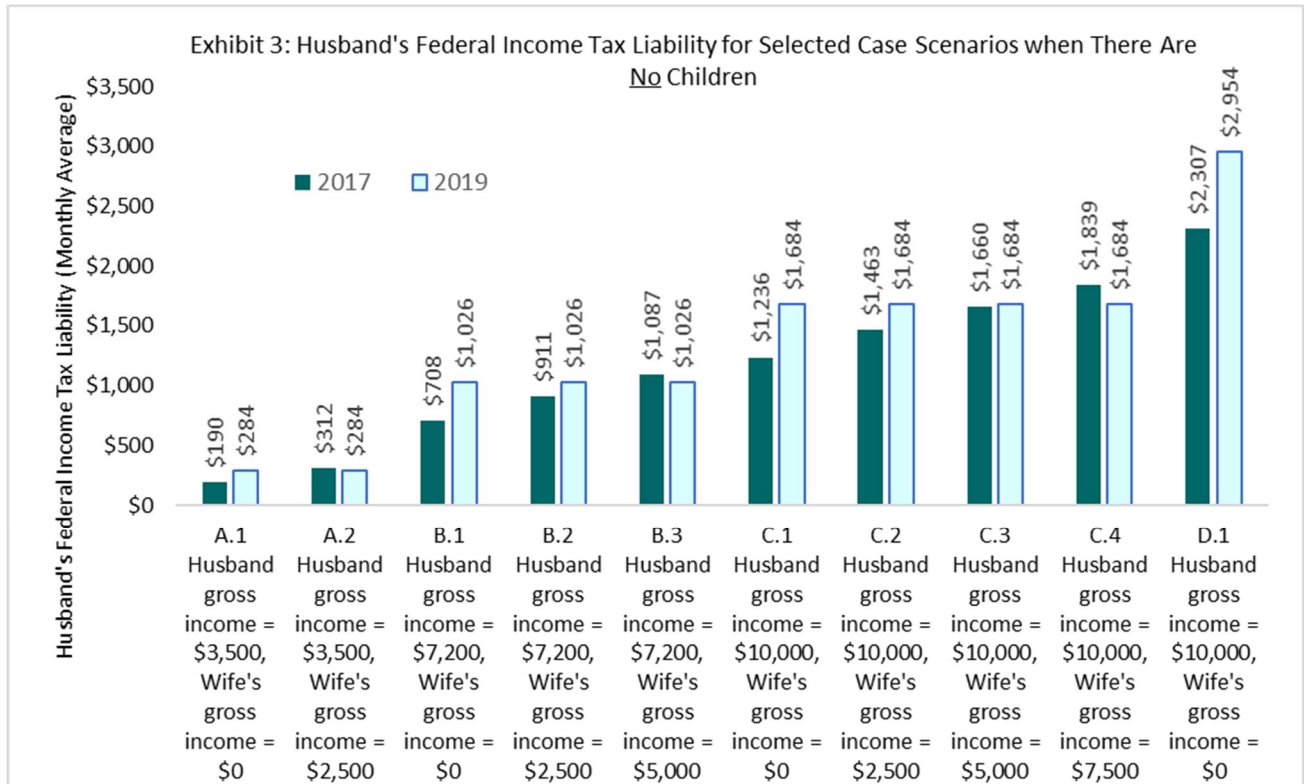
¹⁹ Approximate median earnings of Pennsylvania female workers age 25 or older whose highest education attainment is some college or associate's degree. (Source 2016 U.S. Census American Community Survey).

²⁰ Approximate median earnings of Pennsylvania male workers age 25 or older whose highest education attainment is a graduate or professional degree. (Source 2016 U.S. Census American Community Survey)

²¹ Approximate median earnings of Pennsylvania female workers age 25 or older whose highest education attainment is a graduate or professional degree. (Source 2016 U.S. Census American Community Survey).

Changes in the Husband's Federal Income Tax Liability

Exhibit 3 shows the federal income tax liability for the husband for each case scenario assuming no children for 2017 and 2019.²² As explained in Appendix D, federal income tax liability is converted from an annual amount to be consistent with monthly income used to calculate spousal support or child support. Exhibit 4 is similar to Exhibit 3 except there is one child for whom child support is calculated. In turn, it is assumed that spousal support and child support are unallocated, hence both are deducted from the obligated parent's income when determining taxes. Both child support and spousal support are considered taxable income for the party receiving them.

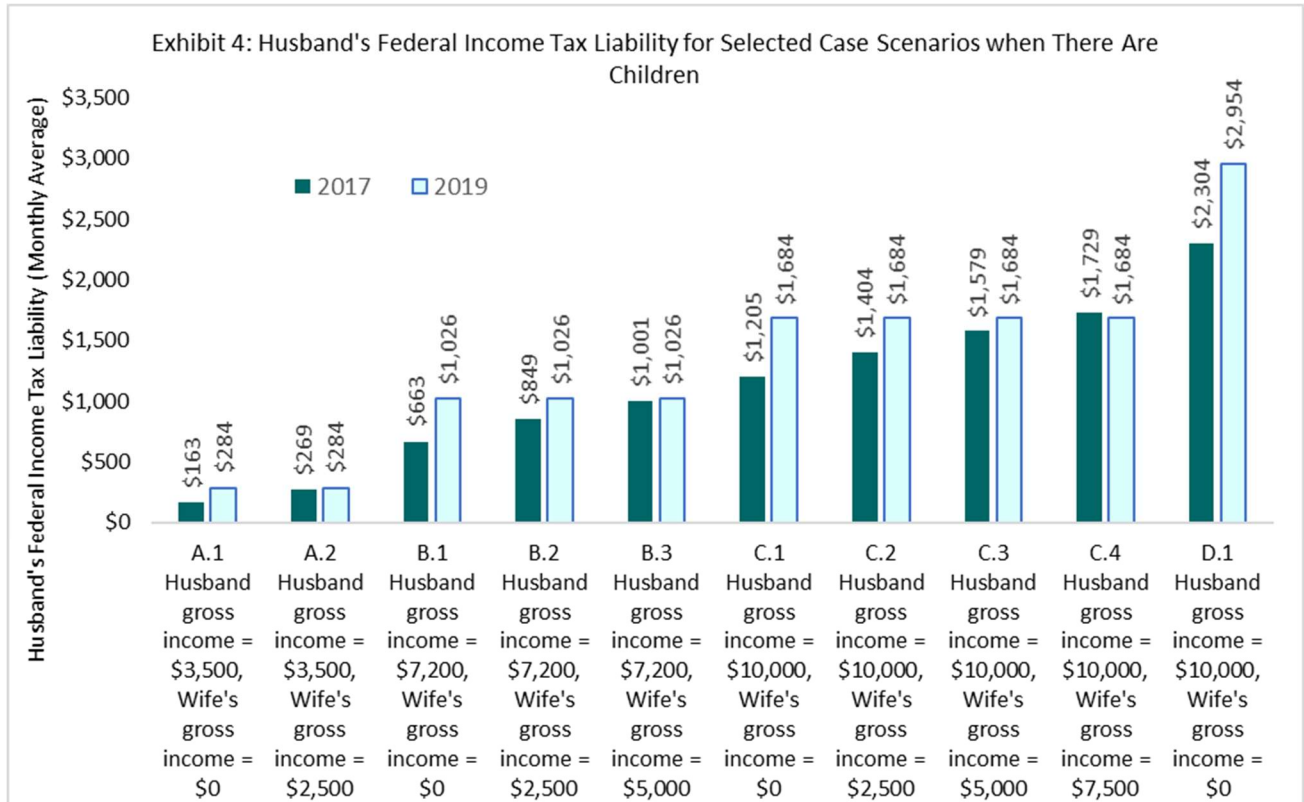


Except for four case scenarios, the husband's federal income tax liability is more in 2019 than 2017. The increased federal income tax liability is due to the repeal of the alimony deduction. The increase is larger when the husband has more income (hence more income tax liability) and when the wife has no to little income (hence would receive a larger spousal support/APL award under the spousal support support/APL formula).

The four exceptions (Case A.2 for spousal support only, Case B.3 for spousal support only and Case C.4 for both spousal support only and the child support/spousal support case) involve circumstances in which the wife's net income as a percentage of the husband's income was 69 to 80 percent. The

²² As explained in Appendix D, the IRS has not published 2019 1040 forms, so 2018 IRS 1040 forms are used adding the assumption that spousal support is no longer tax deductible to the obligated party and no longer considered taxable income to the receiving party.

consequence of the narrow income gap is a lower spousal support order, that in turn, results in a smaller deduction from income than in situations where the wife has less income. In these cases involving parties with close incomes, the tax savings from the alimony deduction are less than the reduction in taxes due to the lowering of tax rates. For example, in case C.4, the husband's tax liability was substantially reduced because he was in the 28 percent tax bracket in 2017 and is in the 24 percent tax bracket in 2019.



Changes in the Wife's Federal Income Tax Liability, Spousal Support, and Child Support

As shown in Appendix D (Tables D.5 and D.6), the party receiving spousal support realizes a substantial reduction in federal income tax liability for every case except the lowest income case (A.1). The reduction in federal income tax liability is several hundred dollars per month in many of the scenarios.

Also shown in the same tables of Appendix D, spousal support and child support generally increase. This is because the reduced tax rates leave more net income available for support. The increase in spousal support in spousal support only cases ranges from \$12 to \$268 per month. This exacerbates the effect of the repeal of the alimony deduction and further leaves the parent owing support with less income available for his own spending. Among cases in which both child support and spousal support are ordered, the impact is smaller. One reason is because the spousal support formula when there are no

children is substantially more than the spousal support formula when there are children (*i.e.*, 10 percentage points more) and is also substantially more than the child support amount (which is calculated through a different method, but roughly results in about 14 to 20 percent of the obligated parent's net income).

LIKELIHOOD AND FREQUENCY OF CASE SCENARIOS

Information from the Pennsylvania Child Support Program automated system (PACSES) that is used to track and manage child support cases informs the likelihood and frequency of spousal support/APL in child support cases. A limitation to the PACSES data is that it does not include all cases in Pennsylvania. The primary purpose of state automated systems is to track IV-D cases.²³

- There are 19,660 PACSES cases with alimony, spousal support, or APL.²⁴
- Among those with PACSES alimony/spousal support/APL orders, 31 percent have current orders only, 15 percent have both current orders and arrears orders, and 54 percent have arrears orders only.
- For those with non-zero current orders:
 - The minimum current order is \$1 per month;
 - The maximum current order is \$47,879 per month;
 - The average current order is \$992 per month;
 - The median current order is \$600 per month;
 - 24 percent are more than \$1,000 per month; and
 - 4 percent are more than \$5,000 per month.

Typically, the arrears order is set at 10 percent of the current order for alimony/spousal support/APL, but can be more or less than 10 percent. For those with arrears orders:

- The minimum arrears order is \$1 per month;
- The maximum arrears order is \$15,000 per month;
- The average arrears order is \$110 per month; and
- The median arrears order is \$50 per month.

Other PACSES data also informs the incidence and amount of spousal support/APL in Pennsylvania. Pennsylvania's 2016 child support guidelines review included a random sample of child support orders established or modified in 2013 or 2014.²⁵ Some also have spousal support/APL combined with the child

²³IV-D stands for Title IV-D of the Social Security Act that enables state/local child support programs. They also track some non-IV-D cases that pay through a state disbursement system but do not use all IV-D enforcement remedies.

²⁴ The extract of PACSES data did not note whether the order was for alimony, spousal support, or APL. The level of effort to pull that information is unknown by the author.

²⁵ Venohr, Jane. (2016). *2015–2016 Pennsylvania Child Support Guidelines Review: Economic Review and*

support order. Based on a random sample, 13 percent of new Pennsylvania child support orders and 8 percent of modified child support orders involved cases in which the alimony/spousal support/APL is combined with the child support order.

The sample of 2013/2014 cases also provides some indication of the incomes of the parties.

- *The custodial parent had no income.* This was the situation for 24 percent of new child support orders and 15 percent of modified child support orders. The caveat to this finding is the government child support caseload tends to be lower income and have a larger percentage of current and former public assistance cases. In other words, the percentage of custodial parents with no income is likely to be overstated.
- *The custodial parent has income but it a lot less than the noncustodial parent's income.* This was the situation for 37 percent of new child support orders and 40 percent of modified orders. These cases may have spousal support/APL ordered.
- *The incomes of the custodial parent and noncustodial parent were about equal.* This was the situation for 23 percent of new orders and 24 percent of modified orders. These cases would not likely to be eligible for spousal support/APL.
- *The income of the custodial parent was substantially more than the income of the noncustodial parent.* This is the situation for 16 percent of new orders and 21 percent of modified orders. In these situations, the custodial parent may receive child support but owe spousal support/APL.

According to the federal Office of Child Support Enforcement, there were 370,018 cases covering 496,245 children in the 2017 Pennsylvania child support program caseload.²⁶ In contrast, the U.S. Census Bureau counts 2,674,845 Pennsylvania children in 2016.²⁷ Although state data on the precise count are not available, the U.S. Census Bureau finds that nationally, 27 percent of all children under 21 years old lived in families with only one of their parents while the other parent lived elsewhere.²⁸ Non-government (*i.e.*, private) child support cases are more likely to include parties with higher income and involve parents who are or were married. In other words, the information from PACSES is a snapshot, but certainly does not capture the entire count of or necessarily statistically representative of all Pennsylvania child support, spousal support, APL, and alimony cases.

Analysis of Case File Data. Report to the Pennsylvania Department of Human Services. Harrisburg, PA. Retrieved from <http://www.pacourts.us/assets/uploads/Resources/Documents/2015%202016%20Pennsylvania%20Child%20Support%20Guide%20lines%20Review%20Economic%20Review%20and%20Analysis%20of%20Case%20File%20Data%20-%20005119.pdf?cb=b3603>.

²⁶ Federal Office of Child Support Enforcement. (2018). *Report to Congress, Preliminary 2017*, Federal Office of Child Support Enforcement, Washington, DC. Retrieved from

https://www.acf.hhs.gov/sites/default/files/programs/css/fy_2017_preliminary_data_report.pdf

²⁷ U.S. Census. *2016 American Community Survey* [online]. Retrieved from <https://factfinder.census.gov>

²⁸ Grall, Timothy. (2018). "Custodial Mothers and Fathers and Their Child Support: 2015," Current Population Reports, P60-262, U.S. Census Bureau, Washington, DC. Retrieved from <https://www.census.gov/content/dam/Census/library/publications/2018/demo/P60-262.pdf>.

Another source of data for the entire state of Pennsylvania is the 2016 U.S. Census American Community Survey.²⁹ It finds that wives do not work outside the home and are not searching for outside work in 23 percent of Pennsylvania married-couple families with children under age 18. The comparable percentage of husbands is 6 percent. In 2006, 27 percent of wives did not work outside the home and were not searching for outside work. In 2006, the comparable percentage of husbands was 6 percent. The decline in non-working wives illustrates that spousal support/APL may be less common over time. Other Census data that informs spousal support/APL is the closing gap in wages between females and males. In 2010, the median earnings of Pennsylvania female workers 25 years or older earned 66 percent of the median earnings of Pennsylvania male workers 25 years or older. That ratio has increased to 69 percent in 2016. There are no readily available data on wage gaps between divorcing husbands and wives.

In 2017, there were about 33,000 divorces and annulments in Pennsylvania.³⁰ There are no readily available data on how many had alimony, spousal support, or APL ordered; and when ordered, the amount of the order and for how many years the order is in effect. The count is also limited because it does not include legal separations. Inclusion of legal separations would raise the number of cases in which spousal support/APL could be ordered.

CBS NEWS reports that about 600,000 taxpayers nationwide claimed a deduction for alimony paid, summing to nearly \$12.3 billion.³¹ Another cited statistic is that 15 percent of divorce cases nationally are awarded alimony.³²

²⁹ U.S. Census, *American Community Survey*. Retrieved from <http://census.gov>.

³⁰ Pennsylvania Department of Health. (May 2018). *Marriage and Divorce Statistics 2017*. Retrieved from http://www.statistics.health.pa.gov/HealthStatistics/VitalStatistics/MarriageDivorce/Documents/Marriage_Divorce_2017.pdf

³¹ Martin, Ray (Nov. 29, 2017). "4 popular deductions the GOP tax plan would end." *CBSNews*. <https://money.cnn.com/2017/12/15/pf/taxes/alimony-tax-bill/index.html>.

³² Garrison, Marsha (2001) "The Economic Consequences of Divorce, Would Adoption of the ALI Principles Improve Current Support." *Duke Journal of Gender Law & Policy*, Vol8:119.

SECTION 4: POSSIBLE ALTERNATIVES TO CURRENT SPOUSAL SUPPORT/APL FORMULAS

One alternative to the Pennsylvania spousal support/APL formulas would be to adopt the formula(s) of another jurisdiction. Appendix D and Appendix E provide comparisons of Pennsylvania's formulas to those of Santa Clara County, California and Illinois since they are the only formulas from other jurisdictions based on net income. Santa Clara and Illinois use the same formula for parties with and without children.

Appendix D compares 12 case scenarios for parties with children. Appendix E compares 12 case scenarios for parties without children.

- Both the Santa Clara formula and Illinois formula are not consistently more or less than the Pennsylvania formula regardless whether there are children.
 - *When the spousal support obligee has no income.* Regardless whether there are children, the Illinois formula produces spousal support amounts less than the Pennsylvania formula, whereas the Santa Clara produces the same amount as the Pennsylvania formula for parties with no children.
 - *When the income difference between the parties is small.* Regardless, whether there are children, the Illinois formula produces spousal support amounts more than the Pennsylvania formulas, whereas the Santa Clara formula produces amounts less than the Pennsylvania formulas.

Besides the Santa Clara formula and the Illinois formula, the comparisons consider the following alternative formula:

25% of the obligor's income – 30% of the obligee's income

This formula (*i.e.*, the 25%-30% formula shown above) narrows the gap caused by the repeal of alimony deduction in federal income tax code for the scenarios when the parties have children. Yet, the 25%-30% formula significantly decreases spousal support when the parties have no children. When the parties have no children, a formula using 35 percent of the income narrows the gap, however, does not have the large reductions that the 25%-30% formula has for parties with no children.

The rest of this section explores whether there is a rational basis for changing the Pennsylvania formula. It does so by dissecting the components of a spousal support formula and analyzing each component separately. The six components are summarized below.

- *The income basis of the formula.* Most jurisdictions base their formula on gross income, which is consistent with the income basis of their child support guidelines.
- *Whether child support is deducted or added to income to determine the amount of spousal support.* In other words, is spousal support calculated before child support. Pennsylvania is the only jurisdiction to calculate child support first.
- *Whether spousal support paid/received is subtracted/added to income available for child support.* This is the converse to the above. It is not an issue to Pennsylvania because Pennsylvania calculates

child support first. In other jurisdictions, however, this is an issue. Most jurisdictions subtract or add spousal support actually paid or received. However, jurisdictions are mixed whether they include the spousal support of the current action.

- *Criteria for applying formula.* In particular, this is an issue for jurisdictions that have more than one formula for spousal support. For example, Pennsylvania has a formula for parties without minor children and another formula for parties with minor children. Other jurisdictions also have different formulas for different income ranges.
- *Parameters of the formula.* All of the formulas essentially can be converted to the difference in a percentage of the obligor's income and a percentage of the obligee's income. For example, the Pennsylvania spousal support formula for parties with minor children can be rewritten as:

30% of the obligor's income – 30% of the obligee's income .

This is rewritten as:

X% of the obligor's income – Y% of the obligee's income .

The Pennsylvania formula assigns the same percentage to X and Y. Other jurisdictions do not.

- *Caps and other adjustments or limitations.* Some jurisdictions impose a cap on spousal support (e.g., cannot exceed 40% of parties combined income).

Pennsylvania's Approach

Pennsylvania's spousal support and child support guidelines rely on net income.

Approach of Other Jurisdictions

Most jurisdictions rely on gross income as the basis for their spousal support formulas. Santa Clara and Illinois are the only net-income based spousal support formulas. Illinois just switched from a gross-income base to a net-income base to accommodate federal tax reform.

Another exception is New York's definition of income. It is purposely in between a gross and net income definition. FICA (social security and Medicare) and N.Y.C. and Yonkers income tax are deducted from income for purposes of applying the New York spousal support formula or child support guidelines; however, federal and state income tax are not. This was a compromise made almost 30 years ago when New York policymakers were debating on whether to use gross or net income.

Economic and Mathematical Considerations

Families and individuals base their expenditure decisions on spendable income; that is, after-tax income. To this end, it makes sense to relate the spousal support formula to after-tax income (net income).

On the other hand, due to the federal income tax bracket structure, this results in adjustments in percentages to the formulas that account for tax rate. This is illustrated in Exhibit 5 that converts the New Mexico/Johnson County formula for parties without children into net income formulas. To be clear, in 2017, there were seven tax brackets: 10 percent, 15 percent, 25 percent, 28 percent, 33 percent, 35 percent and 39.6 percent. Tax reform changed those tax brackets to: 10 percent, 12 percent, 22 percent, 24 percent, 32 percent, 35 percent, and 37 percent. In addition to federal income tax, there is FICA (which is 7.65% for those with gross incomes less than \$10,700 per month) and Pennsylvania income tax (3.06%).

Exhibit 5: Illustration of How Gross-Income Formulas Result in a Net Income Formula that Increases as the Obligor’s Income Increases

Case A: Obligor Gross Income = \$10,000 per month (24% federal income tax bracket)
 Obligee Gross Income = \$2,500 per month (12% federal income tax bracket)

After federal and state income tax and FICA, spendable income to gross income ratios are 72% and 83%, respectively.

Using the New Mexico/Johnson County formula for parties without children.

$$0.30 \times \text{Payor's gross monthly income} - 0.50 \times \text{Recipient's gross monthly income} =$$

$$0.30 \times \$10,000 \text{ (gross)} - 0.50 \times \$2,500 \text{ (gross)} = \$1,750$$

The New Mexico/Johnson County formula can be rewritten as a percentage of net income using the ratio of spendable income after taxes to gross income (72 and 83 percent, respectively)

$$0.30/0.72 \text{ Payor's net monthly income} - 0.50/0.83 \text{ Recipient's net monthly income} =$$

41.4% of Payor's net monthly income - 60.2% Recipient's net monthly income

Case B: both parents are in the 12% income tax bracket

$$0.30/0.83 \text{ Payor's net monthly income} - 0.50/0.83 \text{ Recipient's net monthly income} =$$

36.1% of Payor's net monthly income - 60.2% Recipient's net monthly income

Case C: both parents are in the 24% income tax bracket

$$0.30/0.72 \text{ Payor's net monthly income} - 0.50/0.72 \text{ Recipient's net monthly income} =$$

41.4% of Payor's net monthly income - 69.4% Recipient's net monthly income

In effect, the percentage of net income assigned to spousal support becomes larger the higher the income of the obligated party under a gross-income based formula. The impact on the increasing percentage to the recipient’s income is more complicated. If only the percentage assigned to the recipient’s income is considered, the higher the tax bracket, the higher percentage of recipient net monthly income is subtracted. This may be the desirable policy outcome: that is, as the recipient has more income the amount of spousal support needed diminishes. On the other hand, what may matter more is the ratio of the payor’s percentage to the recipient’s percentage. Under the Pennsylvania formula, the parties must have at least equal incomes available for the spousal support formula to result in a zero order. In contrast, the recipient’s net income must be at least 69 percent of the payor’s income in Case C for spousal support to be zero.³³ For Case B (where both parties are in the lowest income bracket) and Case C (where both parties are in the middle class bracket), the zero-out threshold

³³ To illustrate this consider the scenario where payor’s net income is \$10,000 and the recipient’s net income is \$6,900. Application of the net-income based formula would result in 41.4% X 10,000 – 0.60.2% X \$6,900 = \$4,140 - \$4,154 = -\$14. This does not result in zero exactly because of roundoff error.

is 60 percent for both scenarios. In other words, under the New Mexico/Johnson County formula, the parties do not have to have equal income before the spousal support formula zeros out.

A related issue is that the income available for spousal support in Pennsylvania excludes child support paid of the current action. In the situation where the spousal support obligee and the child support obligee is the same party and child support is received, this means the obligee actually can have less income than the obligor for the spousal support to zero out.³⁴ This is discussed in more detail in the subsection on deductions to income available for spousal support and child support.

Pros and Cons of Gross- or Net Income Basis

Exhibit 6: Pros and Cons of Gross- or Net- Income Basis		
	Pros	Cons
Net Income	<ul style="list-style-type: none"> • Basis of current spousal support/APL and child support formulas • Consistent with spendable income, which is the income base from which expenditure decisions are made 	<ul style="list-style-type: none"> • Cannot account for itemized tax differences among parties (<i>e.g.</i>, parties have equal incomes but one is renter and the other is a homeowner paying mortgage interest)
Gross Income	<ul style="list-style-type: none"> • Used by most states • Results in lower income obligors paying a smaller proportion of their after-tax income in spousal support and higher income obligors paying a larger proportion of their after-tax income in spousal support 	<ul style="list-style-type: none"> • Tax impact is not transparent (see discussion surrounding Exhibit 4) • Tax changes produce unintended changes in spendable income

Conclusion

There is no overwhelming reason to switch to a gross income basis.

³⁴ Specifically, the obligee would need to have income equal to the obligor income plus 30 percent of the spousal support/APL amount paid for the spousal support calculation to zero out. This can be a nominal amount unless the spousal support award is large.

Pennsylvania's Approach

Pennsylvania calculates child support first.

Approach of Other Jurisdictions

Besides Pennsylvania, all other jurisdictions and the AAML recommends formulas calculate spousal support first. The precedent for calculating spousal support first is not clear. It was not clearly stated in the recommendations of the 1983-87 National Child Support Guidelines Project that comprised a blue ribbon panel of diverse experts and stakeholders to develop recommendations for state child support guidelines.³⁵ Nonetheless, one of the prototype child support guidelines in the Project's final report shows spousal support paid being deducted from income available for child support.

Economic and Mathematical Considerations

Which is calculated first only matters if one is subtracted from the other for purposes of calculating the other. In other words, if child support of the current action is deducted from income available for spousal support, it matters; and if spousal support of the current action is deducted from income available for child support, it matters. When child support is calculated first under the Pennsylvania child support guidelines it will result in a higher order for child support than if spousal support is calculated first and subtracted from income available for child support. The total owed in child support and spousal support will also be more if child support is calculated first.³⁶ If the Pennsylvania child support guidelines, however, were based on a flat percentage of net income, it would not matter which was calculated first, the total owed in child support and spousal support would be the same regardless.

³⁵ Robert G. Williams (September 1987). *Development of Guidelines for Child Support: Advisory Panel Recommendations and Final Report*. Report to the Federal Office of Child Support Enforcement by the National Center for State Courts, Grant No. 18-P-20003.

³⁶ This is because the basic obligations in the Pennsylvania child support schedule increases with income at a decreasing rate (e.g., the obligations increases by \$12 per month for each \$50 in additional net income at low incomes and \$3 per month for each \$50 in additional net incomes at high incomes). In all, child support orders as a percentage of net income vary by the number of children, income, and consideration of other factors (e.g., work-related child care expenses, the self-support reserve, and shared-custody adjustment). If there are no other factors, the percentage of net income is about 25 percent at the lowest income and decreases to about 11 percent of net income at the highest income considered in the schedule for one child. The comparable percentages for two children are 36 and 15 percent.

Pros and Cons of Calculating Child Support First

Exhibit 7: Pros and Cons of Calculating Child Support First		
	Pros	Cons
Calculate child support first	<ul style="list-style-type: none">• Pennsylvania's current approach• Does not require the re-calculation of child support when temporary spousal support is replaced by alimony order	<ul style="list-style-type: none">• Inconsistent with premise of income shares; that is, each parent is responsible for his or her prorated share of income
Calculate spousal support first	<ul style="list-style-type: none">• Consistent with other jurisdictions• Can consider the amount of spousal support received as income available for child support	<ul style="list-style-type: none">• Need to recalculate child support if the amount of spousal support changes and spousal support considered income available for child support

Conclusion

The Committee may want to consider a neutral approach: not deducting child support from the current action from income used to calculate spousal support and not deducting spousal support from the current income from income used to calculate child support. This would level the playing field between child support and spousal support and have nominal impact on the current rule and practice.

Pennsylvania's Approach

Child support paid is calculated from net income to determine the spousal support/APL amount. This includes child support of the current action. Child support income, however, is not added to the income of the parent receiving it.

Approach of Other Jurisdictions

As shown in detail in Appendix C, jurisdictions are mixed on income deductions/additions for spousal support paid/received from the income used to determine the child support order.

- The most common adjustment is deducting spousal support paid for a preexisting order. All of the jurisdictions consider it.
- Only a few jurisdictions (Santa Clara, Massachusetts, and Pennsylvania) do not deduct spousal support paid for the current action.
- The same jurisdictions that do not deduct spousal support of the current action from income used to determine child support do not add the receipt of spousal support of the current action to the income used to determine child support.

The American Academy of Matrimonial Lawyers recommended consistency with the state definition of income.

Colorado has a unique approach for spousal support paid/received that is not deductible/non-taxable due to tax reform. It subtracts/adds 125 percent of the spousal support. This adjustment approximates the federal tax liability. For spousal support paid/received that is deductible/taxable, 100 percent of the spousal support paid is subtracted/added.

Economic and Mathematical Considerations

This issue overlaps with the discussion on whether child support or spousal support/APL should be calculated first. On the one hand, whatever is calculated first is larger because it considers more income. On the other hand, as discussed earlier, expenditure decisions are made from spendable income. If the objective is a certain level of expenditures on the children, child support should be calculated with all income available to that party. This means subtracting spousal support paid and adding spousal support received to income available for child support.

Pros and Cons

Exhibit 8: Pros and Cons of Deducting/Adding Spousal Support to Income Available for Child Support

	Pros	Cons
Subtracting spousal support of the current proceeding from income used to determine child support	<ul style="list-style-type: none"> It is income available for child support 	<ul style="list-style-type: none"> Inconsistent with PA's current rule and practice May require re-calculation of child support once alimony is finalized Inextricably links child support and spousal support
Adding spousal support of the current proceeding to income used to determine child support	<ul style="list-style-type: none"> It is income available for child support 	<ul style="list-style-type: none"> Inconsistent with PA's current rule and practice May require re-calculation of child support once alimony is finalized Inextricably links child support and spousal support
Colorado's approach using 125% for spousal support no longer deductible/non-taxable	<ul style="list-style-type: none"> Simple solution to repeal of alimony deduction in federal taxes 	<ul style="list-style-type: none"> Actual federal tax liability may be more or less than 25% Will lose meaning over time or when and if tax reform expires
Subtracting child support of the current proceeding from income used to determine spousal support	<ul style="list-style-type: none"> It is PA's current rule and practice It is income available for spousal support Produces higher child support order than if spousal support was subtracted from income used for child support 	<ul style="list-style-type: none"> Inextricably links child support and spousal support

Conclusion

The Committee may want to consider a neutral approach: not deducting child support from the current action from income used to calculate spousal support and not deducting spousal support from the current income from income used to calculate child support. This would level the playing field between child support and spousal support and have nominal impact on the current rule and practice.

FORMULA PARAMETERS INCLUDING PERCENTAGE OF EACH PARTY'S INCOME

Most state child support formulas relate to economic evidence on child-rearing expenditures. The evidence finds that child-rearing expenditures vary by the number of children and income. In contrast, the premise of most spousal support guidelines stems from a range of principles, including compensation for loss employability/income potential due to focusing on working inside the home to unrealized gain from the marriage to marital contributions to the career asset of the other spouse.³⁷ The mathematical basis of most spousal support formulas, including Pennsylvania, is mostly historical precedent.³⁸

Pennsylvania's Approach

The Pennsylvania formula is very similar to the formulas of other jurisdictions. It is based on a sharing of the differences of incomes of the parties. It is not equal sharing (*i.e.*, 50 percent), but rather somewhat less: 40 percent when there are no children and 30 percent when there are children.

Approach of Other Jurisdictions

As shown in Appendix C, all of the formulas essentially can be converted to the difference in a percentage of the obligor's income and a percentage of the obligee's income. For example, the Pennsylvania spousal support formula for parties with minor children can be rewritten as:

30% of the obligor's income – 30% of the obligee's income

This is rewritten generically as:

X% of the obligor's income – Y% of the obligee's income

Where X and Y vary by jurisdiction.

- *Jurisdictions that use the same percentage for X and Y (i.e., the obligor's income and the obligee's income).* Johnson County, Kansas; Massachusetts, and Pennsylvania use the same percentage for X and Y. Johnson County uses 25 percent of gross income and Massachusetts uses not more than 30-35 percent of gross income. When these gross percentages are translated to net percentages they are similar to Pennsylvania percentages and vary with the income tax bracket of the party.

³⁷ Kisthardt, Mary Kay. (June 2008). "Re-thinking Alimony: The AAML's Consideration for Calculating Alimony, Spousal Support or Maintenance." *Journal of the American Academy of Matrimonial Lawyers*.

³⁸ Kisthardt (2008) traces the history of alimony and finds it relates alimony to the wife's claim of dower, where courts used the traditional one-third of the property standard.

- *Jurisdictions that use a higher percentage for Y (the obligee's income).* Santa Clara County, California; Colorado, New Mexico, New York, and Fairfax County, Virginia apply a higher percentage to the obligee's income. Santa Clara is the only formula in this group that applies it to net income. Its formula is 40 percent of the obligor's net income minus 50 percent of the obligee's net income. The other formulas are gross-income based and vary from using 20 to 40 percent as the percentage applied to the obligor's gross income and 25 to 60 percent as the percentage applied to the obligee's income. When translated to a net-income basis, these percentages would be larger and would vary depending on the income tax bracket of the party.
- *Jurisdictions that use a lower percentage for Y (the obligee's income).* The Illinois formula, the New York formula for high incomes, and the formula recommended by the AAML apply a lower percentage to the obligee's income. The difference in the percentage applied to the obligor's income and the obligee's income is about 8 percentage points in the Illinois formula and 10 percentage points in the New York and AAML formula. The Illinois formula is based on net income, while the New York and AAML formula are based on gross income.

Economic and Mathematical Considerations

The economic and mathematical considerations are broken down into three subsections: impact of using different percentages in the spousal support formula and cost of living; impact of using different percentages in the spousal support formula; and percentages to compensate for the changes due to federal repeal of the alimony deduction.

Impact of Using Different Percentages for Obligor's Income and Obligee's Income

Applying different percentages to the obligor's income and obligee's income affects at what income there is a zero spousal support order. (It is assumed that if the formula results in a negative amount that it would be considered a zero spousal support order.)

- *Impact of Applying the Same Percentage.* The Pennsylvania formulas result in a zero spousal support order when the parties' incomes available for spousal support are equal.³⁹
- *Impact of Applying a Higher Percentage to Obligee Income.* The Santa Clara formula, which applies a higher percentage to obligee income, results in a zero spousal support order when the obligee's income is 80 percent or more of the obligor's income. In other words, the Santa Clara formula implicitly presumes that a 20 percent gap in income (or less) is acceptable. It does not require equal income of the parties before the spousal support amount is zero.

³⁹ As discussed earlier, since child support of the current action is subtracted from the obligor's income this can tip the scale in cases where child support is paid and the child support obligee and spousal support obligee are the same party. For example, if the obligor's net income available for child support is \$4,000 per month and the obligee's net income available for child support is \$3,500, using the child support schedule only, the child support order for one child would be \$650 per month. When the child support order is subtracted from the obligor's net income to determine the amount of the spousal support award, the obligor has \$3,350 in income available for spousal support, which is less than the obligee's income available for spousal support

- *Impact of Applying a Lower Percentage to Obligee income.* The Illinois formula results in a zero spousal support amount when the obligee's income is 133 percent or more of the obligor's income.

Cost of Living

As discussed earlier, there is no study on the cost of a spouse living alone comparable to the economic evidence on child-rearing expenditures that form the basis of state guidelines. The economic evidence on child-rearing expenditures considers what proportion of the parties' combined income is devoted to child-rearing expenditures. Cost of living studies for one person are not usually expressed as a percentage. For example, the federal poverty guidelines for one person is \$1,012 net per month.⁴⁰ Another measure of minimum needs is the "self-sufficiency standard," which was developed by a professor at the University of Washington through funding from the Ford Foundation. She finds that a single person living in Pennsylvania in 2012 needs to earn about \$17,000 to \$26,000 per year to be self-sufficient.⁴¹ This suggests that spousal support guidelines that produce thousands of dollars in spousal support are not unreasonable particularly if the obligee has no income.

Other economic studies that may inform how much the percentages in spousal support formulas should be are economic studies of "equivalence scales," which is an economic tool used to adjust for family size. In particular, equivalence scales are often used to adjust for family size to compare poverty rates across countries. These types of studies are not abundant, often dated, and some are conducted in another country. Their major findings and relevance to spousal support formulas are summarized below.

- One of the most widely cited statistics in the 1980s was by Lenore Weitzman, who wrote a book entitled, *The Divorce Revolution*. In her book, she reported that women had a 73 percent decline in their economic status following divorce. It was suggested that she may have reported the reciprocal of her estimate (*i.e.*, rather the percentage would be 37 percent).⁴² Weitzman has also conceded she probably made an error. Her finding was corrected by a 1988 study to be about 33 percent.⁴³ A 1996 study corrected it to 27 percent decline rather than the 73 percent decline experienced by women following a divorce.⁴⁴ The 1996 study also corrected her finding on the economic decline experienced by men from Weitzman's estimate of 42 to 10 percent.

Implications to spousal support formulas. Although not a mathematical translation, the 27 to 37 percent decline in the economic status of women resonated with policymakers, as reflected in the 30-40 percent range of many spousal support formulas.

⁴⁰ U.S. Department of Health and Human Services. (2018). *U.S. Poverty Guidelines*. Retrieved from <https://aspe.hhs.gov/poverty-guidelines>

⁴¹ Center for Women's Welfare. (2012) *Overlooked and Undercounted: How the Great recession Impacted Household Self-Sufficiency in Pennsylvania*. 83. Retrieved from <http://www.selfsufficiencystandard.org/sites/default/files/selfsuff/docs/PA2012.pdf>

⁴² The reciprocal is 1/0.73, which 137% and 100% subtracted.

⁴³ Hoffman, S.D. and Duncan, G.J. (1988) "What are the economic consequences of divorce?" *Demography*. 25(4):641-5.

⁴⁴ Lee, Felicia. (May 9, 1996). "Influential Study on Divorce's Impact Is Said to Be Flawed." *New York Times*. Retrieved from <https://www.nytimes.com/1996/05/09/garden/influential-study-on-divorce-s-impact-is-said-to-be-flawed.html> .

- An undated Organization for Economic Co-operation Development (OECD) publication lists the equivalence scales for various household sizes using four different methodologies.⁴⁵ It implies that one adult needs 50 to 71 percent of what was spent in a two-adult household.⁴⁶

Implications to spousal support formulas. Using the highest percentage (71 percent), the study implies that if the objective were to maintain the standard of living of the obligee, that the spousal support should be set at 71 percent of the obligor's income minus 29 percent of the obligee's income. The limitation to this is that it does not consider the standard the living of the obligor. For both parties to retain the same standard of living, they would need 142 percent of their combined income (two times 71%). If the policy premise is both reduce their standard of living equally, the formula would be 36 percent of the obligor's income minus 65 percent of the obligee's income. Usage of the other estimated percentages would result in lower percentages.

- A 2013 study developed a new methodology to estimate equivalence scales and used Canada data to test it. It found that women need 83 percent of the marital income to be equally well off when single and men need 63 percent of the marital income to be equally well off when single.⁴⁷

Implications to spousal support formulas. The implication is that assigning more than 50 percent of the combined income to the wife may be appropriate.

- An Italian study found that the cost of a single person living alone in a household is almost 80 percent of the cost of a childless couple.⁴⁸ The relative high cost of the single person is due to fixed costs such as rent that would be shared in a couple situation.

Implications to spousal support formulas. This study could be used to suggest that the Santa Clara percentages are appropriate because effectively the obligee must have at least 80 percent of the obligor's income for the Santa Clara formula to produce a zero order. Limitations to this study are that it did not consider U.S. household data and it is eight years old.

- Another study used Dutch data to analyze "equivalence scales" to determine an adjustment for family size among equally well-off families. It found that the "housewife" counts for 1.28 of the weight for an equivalence scale of 2.74 of a standard of family.⁴⁹ In contrast, the husband" accounts for 0.91. In other words, the wife's needs are about 40 percent more than the husband's needs. The study also found that a four-person family needs about 17 percent compensation for a second

⁴⁵ Organisation for Economic Co-operation and Development. (n.d.) *OECD Project on Income Distribution and Poverty*. <http://www.oecd.org/eco/growth/OECD-Note-EquivalenceScales.pdf>

⁴⁶ The simplest methodology is the per capita approach that implies that each household member costs the same as the other. It suggests one person needs 50 percent of two persons needed. The Oxford scale suggest the comparable percentage is 59 percent, the OECD modified scale suggest 67 percent, and the square-root scale suggests 71 percent. The other methodologies vary in their technical assumptions about economies of scale in consumption and other factors.

⁴⁷ Browning, Martin, Chiappori, Pierre-Andre' and Lewbel, Arthur. (May 2013) Estimating Consumption Economies of Scale, Adult Equivalence Scales, and Household Bargaining Power. *The Review of Economic Studies*, p. 33. Retrieved from <https://academic.oup.com/restud/article-abstract/80/4/1267/1584142?redirectedFrom=fulltext> .

⁴⁸ Menon, M. and Perali F. (2010) "Econometric Identification of the Cost of Maintaining a Child, *Centre for Household, Income, Labour and Demographic Economics*.

⁴⁹ Kapteyn, Arie, and Van Praag, Bernard. (1976) "A new Approach to the Construction of Family Equivalence Scales." *European Economic Review* 7.

child if the wife works and only 8 percent if the wife stays home. The same study found that education and urbanization also influence compensation needed to equalize the standard of living of households.

Implication to spousal support formulas. This study could be used to justify the larger “weight” on the obligee in the Illinois formula (*i.e.*, under the Illinois formula, the obligee must have at least 133% of the obligor income before spousal support becomes zero). The study also has implications to adjustments for the presence of children. Pennsylvania reduces the percentage from 40 to 30 percent when there are children. The finding about the difference in the compensation needs of family when the wife works inside or outside the home (which is about 9 percent) could be used to justify the 10 percent drop in the spousal support formula used by Pennsylvania when there are minor children (*i.e.* from 40%to 30%). The last finding about education and urbanization justify consideration of other factors when determining spousal support. Limitations to this study are that it did not consider U.S. household data and it is very old study.

Compensating for Changes in Spendable Income

The obligated party’s loss in after-tax income due to the repeal of the alimony deduction is less than 1 percent to 6 percent in the spousal support only cases. This suggests that to compensate the obligated party, the percentage in the spousal support only formula should be reduced from 40 percent to 34 to 39 percent of the obligated party’s net income. Since the party receiving support realizes a gain in after-tax income, it is appropriate to assign a higher percentage to their income. For example, the formula for spousal support only could be 35 percent of the obligor’s net income minus 42 percent of the obligee’s net income.

Pros and Cons

The pros and cons consider whether the percentages of incomes of the parties in the formula should vary. They do not consider what percentage of income should be assigned to spousal support. As identified in the research summaries, there is considerable variation in the economic evidence of what a household of one person needs to maintain the standard of living experienced living in a two-person household. Those studies, nonetheless, suggest that percentages used in current formula percentages are within range of these studies. Due to differences in methodologies and data sets, the empirical evidence cannot suggest a precise percentage being more appropriate than another.

Exhibit 9: Pros and Cons of Formula Percentages

	Pros	Cons
Same Percentage for both Parties	<ul style="list-style-type: none">• What Pennsylvania currently uses	<ul style="list-style-type: none">• Does not consider the needs of the obligee (e.g., a high-income obligee needs less than a low-income obligee)
Higher Percentage for Obligee	<ul style="list-style-type: none">• Obligee income does not have to be at least equal to the obligor income to zero out spousal support	<ul style="list-style-type: none">• Requires a policy decision to accept this premise
Lower Percentage for Obligee	<ul style="list-style-type: none">• Obligee income has to be more than obligor income to zero out spousal support	<ul style="list-style-type: none">• Requires a policy decision to accept this premise

Conclusion

The Committee may want to consider a net income formula where the percentage of obligee income subtracted is higher than the percentage of obligor income taken to calculate spousal support. An example of such a formula is shown below.

$$25\% \text{ of the obligor's net income} - 30\% \text{ of the obligee's net income .}$$

Another option is to reduce the percentage for parties without children from 40 percent to 35 percent. The rationale for that adjustment is results in a small change that offsets the change in federal income tax.

Pennsylvania's Approach

Pennsylvania has two different formulas: one for parties with no minor children for whom child support is ordered; and the other for parties with minor children for whom child support is ordered.

Approach of Other Jurisdictions

Only two other jurisdictions have different formulas for parties based on whether they have children: New Mexico and Fairfax County. Actually, New Mexico adapted its formula from Fairfax County. Another reason that jurisdictions use two formulas is to account for income differences. Colorado and New York have a spousal support formula for lower incomes and a spousal support formula for higher incomes. Both of these states base their spousal support formula on gross income.

Economic and Mathematical Considerations

The economic basis for including two different formulas for parties with and without children is arguable. The economic argument against having two separate formulas is the children's needs are adequately addressed in the child support guidelines. The economic argument for having two separate formulas is that there is some economies of scale realized by adding an adult to the cost of the children. The challenge of this is there no empirical data that analyzes it that way: starting from how much is spent on children, how much more is spent when an adult is added; and how, does it differ from what is needed by one adult to maintain the standard of living that adult realized in a two-adult household. There is empirical evidence on equivalence scales that adjusts for the number of children (*e.g.*, two children cost about 150% more than the cost of one child, and three children cost about 187 percent of the cost of one child, and so forth). This could be combined with empirical evidence finding that adults generally cost more than children. The end result could be used to realign the percentages in the formula with children and the formula without children.

The justification for having a different formula for higher income obligees would be a policy decision (*e.g.*, if the obligee's income is at least 200 percent of the federal poverty guidelines for one person, a lower formula applies).

Pros and Cons

Exhibit 10: Pros and Cons of More than One Formula for Spousal Support

	Pros	Cons
One Formula	Simple	Less tailored to the circumstances of the case
Two Formulas	Each formula can be more tailored to the circumstance of the case (e.g., with children compared to without children and different income levels)	More complicated, particularly those that differ due to income

Conclusion

The Committee may want to consider downsizing to one formula or adopting two or more formulas using an income criterion (e.g., one formula applies to lower income and the other formula applies to higher incomes).

CAPS AND OTHER QUANTITATIVE CONSIDERATIONS

Pennsylvania’s Approach

Pennsylvania does not specifically have a cap.

Approach of Other Jurisdictions

The AAML recommendation, Illinois, and New York caps spousal support at 40 percent of the parties’ combined income. Illinois also provides a cap of 50 percent of the payor’s net income. Colorado provides that its formula does not apply to combined gross incomes of more than \$240,000 per year, and Illinois provides that its formula does not apply to combined gross incomes of more than \$500,000 per year. New York also provides a low-income adjustment for incomes below \$16,386 per year.

Economic and Mathematical Considerations

Situations in which the current Pennsylvania spousal support formulas would result in more than 40 percent of the parties’ combined income are not contemplated.

Pros and Cons

Exhibit 11: Pros and Cons of Caps

	Pros	Cons
Percentage Cap	<ul style="list-style-type: none">• Appropriate when different percentages are applied to the obligor’s and obligee’s income	<ul style="list-style-type: none">• Probably unnecessary if Pennsylvania retains its current formula
Income Cap	<ul style="list-style-type: none">• Provides more discretion to high income cases	<ul style="list-style-type: none">• Complicates formula• No obvious rationale basis for determining what the income cap would be

Conclusion

The Committee may want to contemplate situations in which a cap (say 40 percent of the parties’ combined income) would be appropriate as well as an income threshold is appropriate. One situation in which a percentage cap is appropriate is if the Committee recommends a formula where different percentages are applied to the obligor’s and obligee’s income.

SECTION 5: CONCLUSIONS AND NEXT STEPS

The first question is whether a change to the Pennsylvania spousal support formulas is warranted.

Should the Pennsylvania spousal support formulas be adjusted to compensate for the changes due to the elimination of the alimony deduction?

Even if the answer is “no” or “need additional information,” it may be useful for the Committee to reflect on each component of the spousal support formula to determine what is most appropriate for Pennsylvania. In other words, this is another way that the Committee can assess whether changes are appropriate. The six components described in detail in Section 4 are listed below along with the conclusion for that component.

- *The income basis of the formula.* The Committee may want to reconfirm that the appropriate income basis of the spousal support formula is net income, not gross income.
- *Whether child support is deducted or added to income to determine the amount of spousal support.*
- *Whether spousal support paid/received is subtracted/added to income available for child support.* The Committee may want to consider a neutral approach: not deducting child support from the current action from income used to calculate spousal support and not deducting spousal support from the current action from income used to calculate child support. This would level the playing field between child support and spousal support and have nominal impact on the current rule and practice.
- *Criteria for applying formula.* The Committee may want to consider downsizing to one formula or adopting two or more formulas using an income criterion (*e.g.*, one formula applies to lower income and the other formula applies to higher incomes).
 - *Parameters of the formula.* The Committee may want to consider a net income formula where the percentage of obligee income subtracted is higher than the percentage of obligor income taken to calculate spousal support. An example of that type of formula is: 25% of the obligor’s net income – 30% of the obligee’s net income. Unequal percentages with a smaller percentage applied to the obligor’s net income and a larger percentage applied to the obligee’s net income can also compensate for some of the increase in the obligor’s federal income tax liability and decrease in the obligee’s federal income tax liability due to repeal of the alimony deduction. Another option is to reduce the percentage for parties without children from 40 percent to 35 percent.
- *Caps and other adjustments or limitations.* The Committee may want to contemplate situations in which a cap (say 40% of the parties’ combined income) would be appropriate as well as an income threshold is appropriate. One situation in which a percentage cap is appropriate is if the Committee recommends a formula where different percentages are applied to the obligor’s income and obligee’s income.

APPENDIX A: EXCERPTS OF P.A.R.C.P. 1910.16-1, ET SEQ MENTIONING SPOUSAL SUPPORT/APL

Rule 1910.3. Parties. Obligor. Obligee.

Explanatory Comment—2011

A new category has been added in subdivision (a) to allow a party who may not have primary custody of the parties' child or who may owe a duty of support to a spouse to initiate a support action in which an appropriate order may be entered. In some cases, the obligor may want to start **paying spousal support or alimony pendente lite** to the obligee as soon as possible to avoid the accumulation of retroactive arrears, but § 71 of the Internal Revenue Code provides that payments to a spouse or ex-spouse must be pursuant to an order or a divorce or separation instrument to receive alimony tax treatment. Thus, any payments made prior to the entry of a support order will not be deductible by the obligor. This provision is intended to allow an obligor to commence the process by which he or she may pay support earlier.

Rule 1910.16-1. Amount of Support. Support Guidelines.

(b) *Amount of Support.* The amount of support (child support, **spousal support or alimony pendente lite**) to be awarded pursuant to the procedures under Rules 1910.11 and 1910.12 shall be determined in accordance with the support guidelines which consist of the guidelines expressed as the child support schedule set forth in Rule 1910.16-3, the formula set forth in Rule 1910.16-4 and the operation of the guidelines as set forth in these rules.

(c) *Spousal Support and Alimony Pendente Lite.*

- (1) Orders for **spousal support and alimony pendente lite** shall not be in effect simultaneously.

Explanatory Comment—2010

G. *Spousal Support and Alimony Pendente Lite.* Subdivision (c) has been amended to require the court to consider the duration of the marriage in determining the duration of a spousal support or alimony pendente lite award. The language was moved from Rule 1910.16-5 which deals with deviation. The primary purpose of this provision is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

Rule 1910.16-2. Support Guidelines. Calculation of Monthly Net Income.

Generally, the amount of support to be awarded is based upon the parties' monthly net income.

(a) *Monthly Gross Income.* Monthly gross income is ordinarily based upon at least a six-month average of all of a party's income. The term "income" is defined by the support law, 23 Pa.C.S.A. § 4302, and includes income from any source. The statute lists many types of income including, but not limited to:

...

- (7) **alimony** if, in the discretion of the trier of fact, inclusion of part or all of it is appropriate; and...

Official Note

Since the reasons for ordering payment of **alimony** vary, the appropriateness of including it in the recipient's gross income must also vary. For example, if the obligor is paying \$1,000 per month in alimony for the express purpose of financing obligee's college education, it would be inappropriate to consider that alimony as income from which the obligee could provide child support. However, if **alimony** is intended to finance the obligee's general living expenses, inclusion of the **alimony** as income is appropriate.

(c) *Monthly Net Income.*

- (1) Unless otherwise provided in these rules, the court shall deduct only the following items from monthly gross income to arrive at net income:

...

(E) **alimony** paid to the other party.

- (2) In computing a spousal support or alimony pendente lite obligation, the court shall deduct from the obligor's monthly net income all of his or her child support obligations and any amounts of **spousal support, alimony pendente lite** or **alimony** being paid to former spouses.

Rule 1910.16-3.1. Support Guidelines. High Income Cases.

(b) *Spousal Support and Alimony Pendente Lite.* In cases in which the parties' combined monthly net income exceeds \$30,000, the trier of fact shall apply the formula in Part IV of Rule 1910.16-4(a) as a preliminary analysis in calculating spousal support or alimony pendente lite. In determining the amount and duration of the final spousal support or alimony pendente lite award, the trier of fact shall consider the factors in Rule 1910.16-5 and shall make findings of fact on the record or in writing.

Explanatory Comment—2010

New Rule 1910.16-3.1 is intended to bring all child support cases under the guidelines and treat similarly situated parties similarly. Thus, high income child support cases no longer will be decided pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). Economic data supports the amounts in the basic child support schedule up to combined net incomes of \$30,000 per month. Above that amount, economic data is not readily available. Thus, for cases in which the parties' combined net monthly income is above \$30,000, the formula first applies a fixed percentage to calculate the amount of support. The formula is an extrapolation of the available economic data to higher income cases. **Spousal support and alimony pendente lite** awards in high income cases are preliminarily calculated pursuant to the formula in Part IV of Rule 1910.16-4(a). However, in both high income child support and **spousal support/alimony pendente lite** cases, the trier of fact is required to consider the factors in Rule 1910.16-5 before entering a final order and to make findings of fact on the record or in writing. Pursuant to Rule 1910.11(c)(2), in all high income cases, the parties must submit an Income Statement and the Expense Statement at Rule 1910.27(c)(2)(B) to enable the trier of fact to consider the factors in Rule 1910.16-5.

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation, Formula.

(a) The following formula shall be used to calculate the obligor's share of basic child support, either from the schedule in Rule 1910.16-3 or the formula in Rule 1910.16-3.1(a), as well as **spousal support and alimony pendente lite** obligations. In high income cases, Part IV shall be used as a preliminary analysis in the calculation of spousal support or alimony pendente lite obligations:

PART IV. SPOUSAL SUPPORT OR APL

With Dependent Children

14. Obligor's Monthly Net Income (line 4)	_____
15. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations , if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2))	_____
16. Less Obligees' Monthly Net Income (line 4)	_____
17. Difference	_____
18. Less Obligor's Total Monthly Child Support Obligation Without Part II Substantial or Shared Custody Adjustment (Obligor's line 10 plus line 12f)	_____
19. Difference	_____
20. Multiply by 30%	x _____
21. AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	.30 _____

Without Dependent Children

22. Obligor's Monthly Net Income (line 4)	_____
23. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations , if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2))	(_____)
24. Less Obligees' Monthly Net Income (line 4)	(_____)
25. Difference	_____
26. Multiply by 40%	x _____
27. PRELIMINARY AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	.40 _____
28. Adjustments for Other Expenses (see Rule 1910.16-6)	_____
29. TOTAL AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	_____

Official Note

In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support.

(3) When calculating a combined child support and **spousal or alimony pendente lite obligation** and one or more children reside with each party, the court shall offset the obligor's **spousal** and child support obligation with the obligee's child support obligation and award the net difference to the obligee as **spousal** and child support. If one or more of the children resides with each party then, in calculating the **spousal support or alimony pendente lite obligation**, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to **pay spousal support or alimony pendente lite** (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support the children, the guideline amount of **spousal support or alimony pendente lite** shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of **spousal support or alimony pendente lite**, and awarding the net difference either to the non-custodial parent as **spousal support/alimony pendente lite** or to the custodial parent as child support as the circumstances warrant.

The calculation is a five-step process. First, determine the **spousal support obligation** of the custodial parent to the non-custodial parent based upon their net incomes from the formula **for spousal support** without dependent children. Second, recalculate the net income of the parties assuming the payment of the **spousal support**. Third, determine the child support obligation of the non-custodial parent for the children who are the subjects of the support action. Fourth, determine the recomputed support obligation of the custodial parent to the non-custodial parent by subtracting the non-custodial parent's child support obligation from Step 3 from the original support obligation determined in Step 1. Fifth, because the first step creates **additional tax liability** for the recipient non-custodial parent and **additional tax deductions** for the payor custodial parent and the third step involves an offset of the child support owed by the non-custodial parent against the **spousal support or alimony pendente lite** owed by the custodial parent, only that **reduced amount will be taxable**. Therefore, upon application of either party, the trier of fact may consider as a deviation factor the ultimate **tax effect** of the calculation.

(f) *Allocation. Consequences.*

(1) An order awarding both spousal and child support may be unallocated or state the amount of support allocable to the spouse and the amount allocable to each child. Each order shall clearly state whether it is allocated or unallocated even if the amounts calculated for child and **spousal support** are delineated on the order. However, Part IV of the formula provided by these rules assumes that an order will be unallocated. Therefore, if the order is to be allocated, the formula set forth in this rule shall be utilized to determine the amount of support allocable to the spouse. If allocation of an order utilizing the formula would be inequitable, the court shall make an appropriate adjustment. Also, if an order is to be allocated, an adjustment shall be made to the award giving consideration to the federal income tax consequences of an allocated order as may be appropriate under the circumstances. No consideration of federal income tax consequences shall be applied if the order is unallocated or the order for the **spousal support or alimony pendente lite** only.

Subdivision (e) governs **spousal support** obligations when the custodial parent owes **spousal support**. It has not been amended, other than to update the example to be consistent with the new schedule at Rule 1910.16-3.

Explanatory Comment—2005

In subdivision (f), the guidelines continue to presume that the order will be unallocated for tax purposes. However, new language has been added to subsection (f)(1), and a new Note has been inserted, to clarify that an obligor's tax savings from payment of a **spousal support order** or an unallocated order for a spouse and child should not be considered in calculating the obligor's available net income for support purposes. Subsection (3) is intended to insure **alimony tax treatment** of unallocated orders pursuant to § 71 of the Internal Revenue Code. Rule 1910.19(d) provides that all **spousal support and alimony pendente lite orders** terminate upon the death of the payee. Termination of a charging order does not affect arrears existing at that time. Subsection (4) provides for administrative allocation of the order in two instances: 1) when the obligor defaults on the order and it becomes necessary to collect support by intercepting any income tax refunds that may be due and payable to obligor; and 2) when the obligor defaults and the order must be registered in another state under the Uniform Interstate Family Support Act (UIFSA). As the Note indicates, this administrative allocation is not intended to affect the tax consequences of the unallocated order.

Rule 1910.16-5. Support Guidelines. Deviation.

(a) *Deviation.* If the amount of support deviates from the amount of support determined by the guidelines, the trier of fact shall specify, in writing or on the record, the guideline amount of support, and the reasons for, and findings of fact justifying, the amount of the deviation.

Official Note

The deviation applies to the amount of the support obligation and not to the amount of income.

(b) *Factors.* In deciding whether to deviate from the amount of support determined by the guidelines, the trier of fact shall consider:

... .

(8) in a **spousal support or alimony pendente lite** case, the duration of the marriage from the date of marriage to the date of final separation; and

Explanatory Comment—2005

Rule 1910.16-5 sets forth the factors for deviation from the presumptive amount of support. Subdivision (c) and subsection (b)(8) permit the court to consider the length of the marriage in determining the amount and duration of a spousal support or alimony pendente lite award. The primary purpose of these provisions is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

Explanatory Comment—2010

The provisions of subdivision (c), which provided that the court must consider the duration of the parties' marriage in determining the duration of an award of **spousal support or alimony pendente lite**, were moved to new Rule 1910.16-1(c)(2). The duration of the marriage, from the date of marriage to the date of final separation, remains a factor to consider in determining whether or not deviation from the amount of the award is warranted.

Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation. Allocation of Additional Expenses.

Official Note

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, alimony pendente lite and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award. If the obligor is occupying the marital residence and the mortgage payment exceeds 25% of the obligor's monthly net income (less any amount of **spousal support, alimony pendente lite or** child support the obligor is paying), the court may make an appropriate downward adjustment in the obligor's support obligation. This rule shall not be applied after a final resolution of all outstanding economic claims. For purposes of this subdivision, the term "mortgage" shall include first mortgages, real estate taxes and homeowners' insurance and may include any subsequent mortgages, home equity loans and any other obligations incurred during the marriage which are secured by the marital residence.

APPENDIX B: STATE STATUTE ON ALIMONY (23 PA. C.S.A. § 3701-3702)

CHAPTER 37 ALIMONY AND SUPPORT

§ 3701. Alimony.

(a) General rule.--Where a divorce decree has been entered, the court may allow alimony, as it deems reasonable, to either party only if it finds that alimony is necessary.

(b) Factors relevant.--In determining whether alimony is necessary and in determining the nature, amount, duration and manner of payment of alimony, the court shall consider all relevant factors, including:

- (1) The relative earnings and earning capacities of the parties.
 - (2) The ages and the physical, mental and emotional conditions of the parties.
 - (3) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
 - (4) The expectancies and inheritances of the parties.
 - (5) The duration of the marriage.
 - (6) The contribution by one party to the education, training or increased earning power of the other party.
 - (7) The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child.
 - (8) The standard of living of the parties established during the marriage.
 - (9) The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment.
 - (10) The relative assets and liabilities of the parties.
 - (11) The property brought to the marriage by either party.
 - (12) The contribution of a spouse as homemaker.
 - (13) The relative needs of the parties.
 - (14) The marital misconduct of either of the parties during the marriage. The marital misconduct of either of the parties from the date of final separation shall not be considered by the court in its determinations relative to alimony, except that the court shall consider the abuse of one party by the other party. As used in this paragraph, "abuse" shall have the meaning given to it under section 6102 (relating to definitions).
 - (15) The Federal, State and local tax ramifications of the alimony award.
 - (16) Whether the party seeking alimony lacks sufficient property, including, but not limited to, property distributed under Chapter 35 (relating to property rights), to provide for the party's reasonable needs.
 - (17) Whether the party seeking alimony is incapable of self-support through appropriate employment.
- (c) Duration.--The court in ordering alimony shall determine the duration of the order, which may be for a definite or an indefinite period of time which is reasonable under the circumstances.
- (d) Statement of reasons.--In an order made under this section, the court shall set forth the reason for its denial or award of alimony and the amount thereof.
- (e) Modification and termination.--An order entered pursuant to this section is subject to further order of the court upon changed circumstances of either party of a substantial and continuing nature whereupon the order may be modified, suspended, terminated or reinstated or a new order made. Any further order shall apply only to payments accruing subsequent to the petition for the requested relief. Remarriage of the party receiving alimony shall terminate the award of alimony.
- (f) Status of agreement to pay alimony.--Whenever the court approves an agreement for the payment of alimony voluntarily entered into between the parties, the agreement shall constitute the order of the court and may be enforced as provided in section 3703 (relating to enforcement of arrearages).
- (Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Mar. 24, 1998, P.L.204, No.36, eff. imd.)

1998 Amendment. Act 36 amended subsec. (b)(14).

1997 Amendment. Act 58 amended subsec. (b).

Cross References. Section 3701 is referred to in section 3703 of this title.

§ 3702. Alimony pendente lite, counsel fees and expenses.

In proper cases, upon petition, the court may allow a spouse reasonable alimony pendente lite, spousal support and reasonable counsel fees and expenses. Reasonable counsel fees and expenses may be allowed pendente lite, and the court shall also have authority to direct that adequate health and hospitalization insurance coverage be maintained for the dependent spouse pendente lite.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Mar. 24, 1998, P.L.204, No.36, eff. imd.)

APPENDIX C: COMPARISONS OF SPOUSAL SUPPORT FORMULAS

Exhibit C.1 provides a tabular comparison of spousal support formulas of selected jurisdictions and the spousal support formula recommend by The American Academy of Matrimonial Lawyers.⁵⁰ The jurisdictions are Santa Clara County, California; Colorado; Illinois, Johnson County, Kansas, Massachusetts, New Mexico, New York, Pennsylvania, and Fairfax County, Virginia.

The columns in the table compare the following.

- *The income basis of the formula.* Most jurisdictions base their formula on gross income, which is consistent with the income basis of their child support guidelines.
- *Whether child support is deducted or added to income to determine the amount of spousal support.* In other words, is spousal support calculated before child support. Pennsylvania is the only jurisdiction to calculate child support first.
- *Whether spousal support paid/received is subtracted/added to income available for child support.* This is the converse to the above. It is not an issue to Pennsylvania because Pennsylvania calculates child support first. In other jurisdictions, however, this is an issue. Most jurisdictions subtract or add spousal support actually paid or received. However, jurisdictions are mixed whether they include the spousal support of the current action.
- *Criteria for applying formula.* In particular, this is an issue for jurisdictions that have more than one formula for spousal support. For example, Pennsylvania has a formula for parties without minor children and another formula for parties with minor children. Other jurisdictions also have different formulas for different income ranges.
- *Same percentage applied to each party?* All of the formulas essentially can be converted to the difference in a percentage of the obligor's income and a percentage of the obligee's income. For example, the Pennsylvania spousal support formula for parties with minor children can be rewritten as:

30% of the obligor's income – 30% of the obligee's income .

Generically, this can be rewritten as

X% of the obligor's income – Y% of the obligee's income .

⁵⁰ Willick, Marshal S. (2014) A Universal Approach to Alimony. *Journal of the American Academy of Matrimonial Lawyers*. Vol. 27. No 153. 2014-15. Page 197.

The Pennsylvania formula assigns the same percentage to X and Y. Other jurisdictions do not.

- *% of Obligor income.* This is the X% amount.
- *% of Obligee income subtracted.* This is the Y% amount.
- *Caps and other adjustments or limitations.* Some jurisdictions impose a cap on spousal support (e.g., cannot exceed 40% of parties' combined income).

Exhibit C.1: Comparison of Spousal Support Formulas of Selected Jurisdictions and as Recommended by the American Academy of Matrimonial Lawyers								
Jurisdiction	Income Basis	When determining spousal support is child support deducted/added?	When determining child support is alimony, spousal support, & maintenance deducted/added?	Criterion when more than 1 Formula	Same percentage applied to each party?	Formula: X% of obligor income – Y% obligee income ⁵¹		Caps or Other Adjustments or Limitations
						% obligor income	% obligee income	
American Academy of Matrimonial Lawyers 2007 Recommendation ⁵²	gross	No. Spousal support is calculated before child support	Depends on state definition of income	N.A.	No	30%	20%	<ul style="list-style-type: none"> • Cannot exceed 40% of the parties' combined income
Santa Clara County, CA ⁵³	net	No. Spousal support is calculated before child support	<ul style="list-style-type: none"> • No, spousal support of current action not added. • Yes, spousal support of current action deducted. • Tax effect of spousal support shall not be considered.⁵⁴ 	Formula applies to temporary spousal support	No	40%	50%	

⁵¹ The spousal support formulas can be translated into this format: X% of obligor income – Y% of obligee income. For example, the AAML formula is 30% of the payor's gross income minus 20% of the payee's gross income.

⁵² Jackson, L.J. (February 2012). "Alimony Arithmetic: More States Are Looking at Formulas to Regulate Spousal Support." *ABA Journal*. Retrieved from http://www.abajournal.com/magazine/article/alimony_arithmetic_more_states_are_looking_at_formulas_to_regulate_spousal.

⁵³ The Superior Court of California: County of Santa Clara. (n.d.) *Local Family Rule 3*. Retrieved from http://www.scscourt.org/court_divisions/family/family_rules/family_rule3.shtml.

⁵⁴ California Family Code Section 4059.

Exhibit C.1: Comparison of Spousal Support Formulas of Selected Jurisdictions and as Recommended by the American Academy of Matrimonial Lawyers

Jurisdiction	Income Basis	When determining spousal support is child support deducted/added?	When determining child support is alimony, spousal support, & maintenance deducted/added?	Criterion when more than 1 Formula	Same percentage applied to each party?	Formula: X% of obligor income – Y% obligee income ⁵¹		Caps or Other Adjustments or Limitations
						% obligor income	% obligee income	
Colorado ⁵⁵	gross	Pre-existing orders but not those of the current action	Yes, spousal support actually paid/received deducted or added	Maintenance is deductible for tax purposes	No	40%	60% ⁵⁶	<ul style="list-style-type: none"> If results in negative number, the amount is \$0.
		Pre-existing orders but not those of the current action, preexisting spousal orders are multiplied by 1.25	Yes, 125% of spousal support actually paid/received deducted or added	<ul style="list-style-type: none"> Not deductible for tax purposes combined income of \$10,000/mo or less 	No	32%	40% ⁵⁷	Formula does not apply to adjusted gross incomes more than \$240,000
				<ul style="list-style-type: none"> Not deductible combined income of \$10,001-\$20,000/mo 	No	30%	37.5% ⁵⁸	
Illinois ⁵⁹	net ⁶⁰	No, maintenance from current proceeding cannot be deducted	<ul style="list-style-type: none"> Yes, maintenance received added Maintenance paid subtracted if using individualized method and not using standardized net 	New formula due to repeal of federal income tax deduction	No	33.33%	25%	<ul style="list-style-type: none"> Applies to combined gross income less than \$500,000/yr Provides for deviation if combined maintenance and child support obligation exceeds 50% of the payor’s net income

⁵⁵ Colorado House Bill 1385 (2018). Retrieved from <https://leg.colorado.gov/bills/hb18-1385>.

⁵⁶ The formula is actually stated as 40% of the parties’ combined, monthly adjusted income minus the lower income party’s monthly adjusted gross income. What is in Exhibit 3 is mathematically the same.

⁵⁷ Actual formula is 40% of higher income party minus 50% of higher income party adjusted by 80%. The amount in Exhibit 3 is mathematically equivalent.

⁵⁸ Actual formula is 40% of higher income party minus 50% of higher income party adjusted by 75%. The amount in Exhibit 3 is mathematically equivalent.

⁵⁹ Illinois Senate Bill 2289 (2018). Retrieved from <http://www.ilga.gov/legislation/BillStatus.asp?DocTypeID=SB&DocNum=2289&GAID=14&SessionID=91&LegID=108578>.

⁶⁰ Net income excludes maintenance payments in the pending proceedings.

Exhibit C.1: Comparison of Spousal Support Formulas of Selected Jurisdictions and as Recommended by the American Academy of Matrimonial Lawyers

Jurisdiction	Income Basis	When determining spousal support is child support deducted/added?	When determining child support is alimony, spousal support, & maintenance deducted/added?	Criterion when more than 1 Formula	Same percentage applied to each party?	Formula: X% of obligor income – Y% obligee income ⁵¹		Caps or Other Adjustments or Limitations
						% obligor income	% obligee income	
	gross ⁶¹			eligible for federal income tax deduction	No	30%	20%	• Limit is 40% of combined income
Johnson County, KS ⁶²	gross	Not mentioned	Yes, including those of current proceeding	Difference in income \$50,000/yr or less ⁶³	Yes	25%	25% ⁶⁴	
Massachusetts ⁶⁵	gross	Not clear ⁶⁶	<ul style="list-style-type: none"> • Yes, added but not from party of this order • No, not subtracted 		Yes	Not more than 30-35% ⁶⁷	Not more than 30-35%	
New Mexico ⁶⁸	gross	No	Yes, the actual amount paid or received	No children for whom support is paid	No	30%	50%	
				There are children for whom support is paid		28%	58%	

⁶¹ For any order of unallocated maintenance and child support entered before January 1, 2019 that is modified December 31, 2019, payment shall continue to retain the same tax treatment for federal income tax purposes unless agreed to by the parties. The formula is 30% of the payor’s gross annual income minus 20% of the payee’s gross income for those orders entered before January 1, 2019 that continue to be eligible for the federal income deduction unless parties consent to something other.

⁶² RS Law Attorney. (n.d.) Spousal Support. Retrieved from <https://rslawkc.com/spousal-support-kansas/>.

⁶³ If the difference is more than \$50,000, it is 25% for the first \$50,000 and 22% of the remaining difference.

⁶⁴ The percentages actually apply to the difference.

⁶⁵ Mass.gov. (n.d.) *How the court determines alimony*. Retrieved from <https://www.mass.gov/service-details/how-the-court-determines-alimony>.

⁶⁶ The Commonwealth of Massachusetts Trial Court Executive Office of the Trial Court. (2017) *Child Support Guidelines*. P. 14.

<https://www.mass.gov/files/documents/2017/09/01/2017-child-support-guidelines.pdf>

⁶⁷ Actually, worded not to exceed 30 to 35 percent of the difference.

⁶⁸ [New Mexico] Statewide Alimony Guideline Committee. (2006). *Alimony Guidelines and Commentaries*. Retrieved from https://nmfinanciallaw.com/wp-content/uploads/2015/10/Revised_Alimony_Guidelines.pdf

Exhibit C.1: Comparison of Spousal Support Formulas of Selected Jurisdictions and as Recommended by the American Academy of Matrimonial Lawyers

Jurisdiction	Income Basis	When determining spousal support is child support deducted/added?	When determining child support is alimony, spousal support, & maintenance deducted/added?	Criterion when more than 1 Formula	Same percentage applied to each party?	Formula: X% of obligor income – Y% obligee income ⁵¹		Caps or Other Adjustments or Limitations
						% obligor income	% obligee income	
New York ⁶⁹	gross	No	Yes, any paid including from/to party of the current proceeding	Child support to be paid to payee	No	20%	25%	<ul style="list-style-type: none"> • Limit of 40% of combined less payee’s income. • Limit to incomes of \$184,000 per year or less. • Provides a low-income adjustment for incomes below \$16,389
				Child support not to be paid to payee		30%	20%	
Pennsylvania	net	Yes, including from/to party of proceeding	Yes, but not from /to party of the current proceeding	Dependent children	Yes	30%	30%	
	net			No dependent children		40%	40%	
Fairfax County, VA ⁷⁰ (Temporary support)	gross	No ⁷¹	Yes, any paid including from/to party of the current proceeding ⁷²	Minor children in common	No	28%	58%	
	gross			No minor children in common		30%	50%	

⁶⁹ New York State Unified Courts (n.d.) *The Law – Divorce Resources*. Retrieved from <https://www.nycourts.gov/divorce/MaintenanceChildSupportTools.shtml>.

⁷⁰ Livesay and Myers. (n.d). *Spousal Support. in Virginia*. Retrieved from <https://www.livesaymyers.com/divorce-lawyers/spousal-support/>.

⁷¹ Ibid.

⁷² Commonwealth of Virginia Va. Code § 20-108.2 Child Support Worksheet. Retrieved from <http://www.courts.state.va.us/forms/district/dc637.pdf>

APPENDIX D: DETAILED CALCULATION OF TAXES AND SUPPORT

This Appendix details the calculation of income available for support and federal tax liability. The calculations are stepped out and summarized in six tables.

- Table D.1 converts each party’s gross income into net income available for child support (if there are children) and spousal support using 2017 tax rates.
- Table D.2 is the 2019 counterpart to Table D.1
- Table D.3 calculates the husband’s federal tax liability after spousal support/APL or unallocated support (the sum of spousal support/APL and child support) if there are children using 2017 tax rates.
- Table D.4 is the wife’s counterpart to Table D.3.
- Table D.5 summarizes the changes in net income, spousal support, and federal tax liability from 2017 to 2019 when the parties have no children.
- Table D.6 is the counterpart to Table D.5 when there are children.

The calculations compare 2017 and 2019 amounts. 2018 is not considered because it includes the new federal tax rates, the deduction/addition of alimony for federal tax purposes is not in effect yet.

The term, “husband” is used for the higher earner. The term “wife” is used for the lower earner. It is assumed the wife has custody of any children. The terminology is used to add clarity to the calculation.

It is recognized that either the wife or husband could be the higher earner and that the husband may also have custody of the children.

COLUMNS IN TABLE D.1: 2017 INCOME AVAILABLE FOR SUPPORT

Columns A-B consider the following case scenarios.

Case Scenarios		
Case	Husband’s Gross Income	Wife’s Gross Income
A.1	\$3,500 ⁷³	\$0
A.2	\$3,500	\$2,500 ⁷⁴
B.1	\$7,200 ⁷⁵	\$0
B.2	\$7,200	\$2,500
B.3	\$7,200	\$5,000 ⁷⁶
C.1	\$10,000	\$0
C.2	\$10,000	\$2,500
C.3	\$10,000	\$5,000
C.4	\$10,000	\$7,500
D.1	\$15,000	\$0

⁷³ Approximate median earnings of Pennsylvania male workers age 25 or older whose highest education attainment is some college or associate’s degree. (Source 2016 U.S. Census American Community Survey).

⁷⁴ Approximate median earnings of Pennsylvania female workers age 25 or older whose highest education attainment is some college or associate’s degree. (Source 2016 U.S. Census American Community Survey).

⁷⁵ Approximate median earnings of Pennsylvania male workers age 25 or older whose highest education attainment is a graduate or professional degree. (Source 2016 U.S. Census American Community Survey)

⁷⁶ Approximate median earnings of Pennsylvania female workers age 25 or older whose highest education attainment is a graduate or professional degree. (Source 2016 U.S. Census American Community Survey).

Gross income is used to examine the tax effect. It is not possible to show the tax effect using net income even though the Pennsylvania child support guidelines and spousal support/APL formula are based on net income.

Column C converts the monthly incomes to annual incomes. This is done to ease the calculation of taxes, which uses annual income.

Column D notes the tax filing status. If there are no children, it is assumed that each party files separately but is still married. If there are children, it is assumed that the party with custody of the children claims the children as an exemption.

Column E and F are from the 2017 IRS Form 1040.⁷⁷ Each party claims himself or herself as a federal exemption. The wife also claims the child so claims an additional federal exemption.

The combination of the standard deduction and the federal exemption is slightly more than the total withholding allowance used by employers. As a result, calculating net income using this method results in slightly more net income available for support than using the IRS withholding formula.

Column G is calculated based on IRS 1040 instructions.

Column H is the federal income tax. It is calculated from the 2017 IRS 1040 Tables.⁷⁸ It is assumed that neither party itemizes.

Column I divides the amount in Column H by 12 since child support is calculated using monthly income.

Column J notes the federal income tax bracket.

Column K calculates FICA using the 2017 FICA formula provided in the 2017 Employer Income Tax Withholding Guide.⁷⁹

Column L calculates state tax rate at 3.07% of gross income based on Pennsylvania Form 40 and the instructions. It is assumed there are no income deductions or adjustments.⁸⁰

Column M subtracts the federal income tax liability, the FICA liability, and the state income tax liability from gross income to arrive at a net income available for support. This is an annual amount.

⁷⁷ Retrieved from: <https://www.irs.gov/pub/irs-pdf/f1040.pdf> .

⁷⁸ Retrieved from <https://www.irs.gov/pub/irs-pdf/i1040tt.pdf> .

⁷⁹ Retrieved from https://www.irs.gov/pub/irs-pdf/p15_17.pdf .

⁸⁰ Pennsylvania Personal Income Tax Instructions and Form PA-40. Retrieved from https://www.revenue.pa.gov/FormsandPublications/FormsforIndividuals/PIT/Documents/2017/2017_pa-40in.pdf and https://www.revenue.pa.gov/FormsandPublications/FormsforIndividuals/PIT/Documents/2017/2017_pa-40.pdf .

Column N converts Column M to a monthly amount.

COLUMNS IN TABLE D.2: 2019 INCOME AVAILABLE FOR SUPPORT

Columns A-D are the same as the columns in Table D.1.

Column E is from the 2018 IRS 1040 form for estimated taxes (IRS Form 1040-ES).⁸¹ The conventional 2018 IRS 1040 is not available yet. The IRS usually releases IRS 1040 forms in December of each year. 2019 information is not available yet. The IRS may use the 2018 amounts for 2019 or adjust them for inflation.

Column F. Tax reform eliminated the deduction for exemptions.

Column G is calculated based on IRS 1040-ES instructions.

Column H is the federal income tax. It is calculated from the 2018 IRS 1040-ES instructions that is referred to in Column E. It assumes neither party itemizes or has additional adjustments.

Column I divides the amount in Column H by 12 since child support is calculated using monthly income.

Column J notes the federal income tax bracket.

Column K calculates FICA using the 2018 FICA formula provided in the 2018 Employer Income Tax Withholding Guide.⁸² The IRS does not usually release the FICA formula until the December before the new calendar year.

Column L uses the same assumption for Table D.1. This assumes that the state income tax rate will not change in 2019.

Column M subtracts the federal income tax liability, the FICA liability, and the state income tax liability from gross income to arrive at a net income available for support. This is an annual amount.

Column N converts Column M to a monthly amount.

⁸¹ Retrieved from <https://www.irs.gov/pub/irs-pdf/f1040es.pdf> .

⁸² Retrieved from <https://www.irs.gov/publications/p15> .

COLUMNS IN TABLE D.3: FEDERAL TAX LIABILITY OF THE HUSBAND

Table D.3 is similar to Table D.1 but takes the calculation a step further in order to measure the change in the federal income tax due to the repeal of the alimony deduction. The net income amounts in Table D.1 were derived to calculate the 2017 child support order and/or the spousal support order. If both child support and spousal support are to be ordered, child support is calculated first; then, deducted from the income of the parent obligated to pay child support before spousal support is calculated.

To avoid another set of tables, spousal support and child support are actually calculated in Tables D.5 and D.6 and linked to this table. Spousal support is deductible from income. When both spousal support and child support are ordered, both are deductible from income because spousal support and child support are unallocated.

Columns A-D are the same as the columns in Table D.1 and Table D.2.

Columns E and F are the same as the columns in Table D.1

Column G is monthly spousal support. It is included here because it affects the federal income tax liability, but it is calculated in other tables. The spousal support calculation differs depending on whether there are children. When there are no children, the amount is from Table D. 5 Column F; specifically, it is 40% of the difference of husband's net income in Column D and the wife's net income in Column E of Table D.5. For parties with children, the calculations for both child support and spousal support are made in Table D.6. For child support, the income that the husband has for child support is in Column D and the income that the wife has for child support is in Column E of Table D.6. For spousal support when there are children, the husband's income available for spousal support is his net income shown in Column D of Table D.6 minus the child support order shown in Column F of Table D.6.

Column H is monthly child support. It is included here because it affects the federal income tax liability, but it is calculated in another table. For those with children, child support is calculated in Column F, Table D.6. Child support is calculated assuming no additional adjustments to income, additional expenses such as child care, no timesharing, and no other adjustments. Essentially, it is a straight application of the child support table.

Column I is 2017 federal taxable income; specifically, it is gross income minus the 2017 federal standard deduction, 2017 federal exemptions, spousal support and any child support.

Column J is the federal income tax. It is calculated from the 2017 IRS 1040 Tables.⁸³ It is assumed that neither party itemizes.

Column K divides the amount in Column H by 12 since child support is calculated using monthly income.

⁸³ Retrieved from <https://www.irs.gov/pub/irs-pdf/i1040tt.pdf>.

Column L notes the federal income tax bracket.

COLUMNS IN TABLE D.4: FEDERAL TAX LIABILITY OF THE WIFE

Table D.4 is the wife's counterpart to Table D. 3.

Columns A-D are the same as the columns in Table D.1. Table D.2, and Table D.3.

Columns E and F are the same as the columns in Table D.1

Column G is monthly spousal support. It is the same as Column G in Table D.3

Column H is monthly child support. It is the same as Column H in Table D.3

Column I is 2017 federal taxable income, so gross income minus the 2017 federal standard deduction and 2017 federal exemptions *plus* spousal support and any child support.

Column J is the federal income tax. It is calculated from the 2017 IRS 1040 Tables.⁸⁴ It is assumed that neither party itemizes.

Column K divides the amount in Column H by 12 since child support is calculated using monthly income.

Column L notes the federal income tax bracket.

COLUMNS IN TABLE D.5: CHANGE IN FEDERAL TAX LIABILITY WHEN THERE ARE NO CHILDREN

The first cluster of rows shows the amounts in 2017, the middle cluster shows the amounts in 2019 and the last cluster shows the difference.

Columns A-C are the same as the columns in Table D.1. Table D.2, Table D.3 and Table D.4.

Column D is the husband's net income used to calculate spousal support. It is calculated in column N of Table D.1 for 2017 and Table D.2 for 2019. It is used to show the change in net income due to tax reform. Generally, this increases the income available for support.

Column E is the wife's counterpart to Column D.

⁸⁴ Retrieved from <https://www.irs.gov/pub/irs-pdf/i1040tt.pdf> .

Column F is monthly spousal support. It is 40% of the difference of the net income amounts in Columns D and E.

Column G is the husband's federal income tax liability. For 2017, it is based on Column K in Table D.3. For 2019, it is based on Column I in Table D.2. For 2017, it considers the income deduction for spousal support. For 2019, there is no income deduction for spousal support.

Column H is the husband's federal income tax bracket.

Column I is the wife's counterpart to Column G. It is the wife's federal income tax liability. For 2017, it is based on Column K in Table D.4. For 2019, it is based on Column I in Table D.2. For 2017, spousal support is taxable income. For 2019, spousal support is not taxable income.

Column J is the wife's federal income tax bracket.

COLUMNS IN TABLE D.6: CHANGE IN FEDERAL TAX LIABILITY WHEN THERE ARE CHILDREN

This is the counterpart to Table D.5 when there are children.

Columns A-C are the same as the columns in Table D.1, Table D.2, Table D.3 and Table D.4.

Column D is the husband's net income used to calculate child support. It is calculated in column N of Table D.1 for 2017 and column N of Table D.2 for 2019.

Column E is the wife's net income used to calculate child support. It is calculated in column N of Table D.1 for 2017 and column N of Table D.2 for 2019.

Column F. Child support is calculated assuming no additional adjustments to income, no additional expenses such as child care, no timesharing, and no other adjustments. Essentially, it is a straight application of the child support schedule. It is calculated using each party's income as shown in Columns D and E.

Column G. Is the husband's income available for spousal support. It is his net income (shown in Column D) minus child support (shown in Column F).

Column H is spousal support. It is 30 percent of the difference in the husband's income available for child support (Column G) and the wife's income (Column E).

Column I is the husband's federal income tax liability. For 2017, it is based on Column K of Table D.3. For 2019, is based on Column I of Table D.2. For 2017, it considers the income deduction for spousal support. For 2019, there is no income deduction for spousal support.

Column J is the husband's federal income tax bracket.

Column K is the wife's counterpart to Column G. It is the wife's federal income tax liability. For 2017, it is based on Column K of Table D.4. For 2019, is based on Column I of Table D.2. For 2017, spousal support is taxable income. For 2019, spousal support is not taxable income.

Column L is the wife's federal income tax bracket.

TABLE D.1: CALCULATING 2017 INCOME AVAILABLE FOR CHILD SUPPORT

Col.	A	B	C	D	E	F	G	H	I	J	K	L	M	N
	Case Scenario	Monthly Gross Income	Annual Gross Income	Filing Status	Fed. Std Deduction (IRS 1040 line 40)	Fed. Exemptions (IRS 1040 line 42)	Fed. Taxable Income (1040 IRS line 43)	Federal Income Taxes	Monthly Average Federal Tax	Federal Income Tax Rate	FICA (7.65% for incomes up to \$127,200/yr)	2017 PA State Tax (3.07%)	Annual After-Tax Income Available for Support (Col C - Col H - Col K - Col L)	Monthly After-Tax Income Available for Support (Col M divided by 12)
Husband	A.1	\$3,500	\$42,000	Married, filing separately	\$6,350	\$4,050	\$31,600	\$4,278	\$357	15%	\$3,213	\$1,289	\$33,220	\$2,768
	A.2	\$3,500	\$42,000	Married, filing separately	\$6,350	\$4,050	\$31,600	\$4,278	\$357	15%	\$3,213	\$1,289	\$33,220	\$2,768
	B.1	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$76,000	\$14,745	\$1,229	25%	\$6,610	\$2,652	\$62,393	\$5,199
	B.2	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$76,000	\$14,745	\$1,229	25%	\$6,610	\$2,652	\$62,393	\$5,199
	B.3	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$76,000	\$14,745	\$1,229	25%	\$6,610	\$2,652	\$62,393	\$5,199
	C.1	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$109,600	\$24,130	\$2,011	28%	\$9,180	\$3,684	\$83,006	\$6,917
	C.2	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$109,600	\$24,130	\$2,011	28%	\$9,180	\$3,684	\$83,006	\$6,917
	C.3	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$109,600	\$24,130	\$2,011	28%	\$9,180	\$3,684	\$83,006	\$6,917
	C.4	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$109,600	\$24,130	\$2,011	28%	\$9,180	\$3,684	\$83,006	\$6,917
	D.1	\$15,000	\$180,000	Married, filing separately	\$6,350	\$4,050	\$169,600	\$43,577	\$3,631	33%	\$10,493	\$5,526	\$120,405	\$10,034
Wife with No Children	A.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	A.2	\$2,500	\$30,000	Married, filing separately	\$6,350	\$4,050	\$19,600	\$2,478	\$207	15%	\$2,295	\$921	\$24,306	\$2,026
	B.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	B.2	\$2,500	\$30,000	Married, filing separately	\$6,350	\$4,050	\$19,600	\$2,478	\$207	15%	\$2,295	\$921	\$24,306	\$2,026
	B.3	\$5,000	\$60,000	Married, filing separately	\$6,350	\$4,050	\$49,600	\$8,145	\$679	25%	\$4,590	\$1,842	\$45,423	\$3,785
	C.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	C.2	\$2,500	\$30,000	Married, filing separately	\$6,350	\$4,050	\$19,600	\$2,478	\$207	15%	\$2,295	\$921	\$24,306	\$2,026
	C.3	\$5,000	\$60,000	Married, filing separately	\$6,350	\$4,050	\$49,600	\$8,145	\$679	25%	\$4,590	\$1,842	\$45,423	\$3,785
	C.4	\$7,500	\$90,000	Married, filing separately	\$6,350	\$4,050	\$79,600	\$15,737	\$1,311	25%	\$6,885	\$2,763	\$64,615	\$5,385
	D.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
Wife with Children	A.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	A.2	\$2,500	\$30,000	Head of Household & 1 Child	\$9,350	\$8,100	\$12,550	\$1,258	\$105	15%	\$2,295	\$921	\$25,526	\$2,127
	B.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	B.2	\$2,500	\$30,000	Head of Household & 1 Child	\$9,350	\$8,100	\$12,550	\$1,258	\$105	15%	\$2,295	\$921	\$25,526	\$2,127
	B.3	\$5,000	\$60,000	Head of Household & 1 Child	\$9,350	\$8,100	\$42,550	\$5,719	\$477	25%	\$4,590	\$1,842	\$47,849	\$3,987
	C.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	C.2	\$2,500	\$30,000	Head of Household & 1 Child	\$9,350	\$8,100	\$12,550	\$1,258	\$105	15%	\$2,295	\$921	\$25,526	\$2,127
	C.3	\$5,000	\$60,000	Head of Household & 1 Child	\$9,350	\$8,100	\$42,550	\$5,719	\$477	25%	\$4,590	\$1,842	\$47,849	\$3,987
	C.4	\$7,500	\$90,000	Head of Household & 1 Child	\$9,350	\$8,100	\$72,550	\$12,396	\$1,033	25%	\$6,885	\$2,763	\$67,956	\$5,663
	D.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0

TABLE D.2: CALCULATING 2019 INCOME AVAILABLE FOR CHILD SUPPORT

Col.	A	B	C	D	E	F	G	H	I	J	K	L	M	N
	Case Scenario	Monthly Gross Income	Annual Gross Income	Filing Status	Federal Std Deduction (2018 IRS 1040-ES)	Fed. Exemptions	Fed. Taxable Income	Fed Income Taxes(2018 1040-ES)	Monthly Average Federal Tax	Federal Income Tax Rate	FICA (7.65% for incomes up to \$128,400/yr)	PA State Tax (3.07%)	Tax Income Available for Support (Col C - Col H-Col K - Col L)	Monthly After-Tax Income Available for Support
Husband	A.1	\$3,500	\$42,000	Married, filing separately	\$12,000	\$0	\$30,000	\$3,410	\$284	12%	\$3,213	\$1,289	\$34,088	\$2,841
	A.2	\$3,500	\$42,000	Married, filing separately	\$12,000	\$0	\$30,000	\$3,410	\$284	12%	\$3,213	\$1,289	\$34,088	\$2,841
	B.1	\$7,200	\$86,400	Married, filing separately	\$12,000	\$0	\$74,400	\$12,308	\$1,026	22%	\$6,610	\$2,652	\$64,830	\$5,403
	B.2	\$7,200	\$86,400	Married, filing separately	\$12,000	\$0	\$74,400	\$12,308	\$1,026	22%	\$6,610	\$2,652	\$64,830	\$5,403
	B.3	\$7,200	\$86,400	Married, filing separately	\$12,000	\$0	\$74,400	\$12,308	\$1,026	22%	\$6,610	\$2,652	\$64,830	\$5,403
	C.1	\$10,000	\$120,000	Married, filing separately	\$12,000	\$0	\$108,000	\$20,210	\$1,684	24%	\$9,180	\$3,684	\$86,927	\$7,244
	C.2	\$10,000	\$120,000	Married, filing separately	\$12,000	\$0	\$108,000	\$20,210	\$1,684	24%	\$9,180	\$3,684	\$86,927	\$7,244
	C.3	\$10,000	\$120,000	Married, filing separately	\$12,000	\$0	\$108,000	\$20,210	\$1,684	24%	\$9,180	\$3,684	\$86,927	\$7,244
	C.4	\$10,000	\$120,000	Married, filing separately	\$12,000	\$0	\$108,000	\$20,210	\$1,684	24%	\$9,180	\$3,684	\$86,927	\$7,244
	D.1	\$15,000	\$180,000	Married, filing separately	\$12,000	\$0	\$168,000	\$35,450	\$2,954	32%	\$10,571	\$5,526	\$128,454	\$10,704
Wife with No Children	A.1	\$0	\$0	Married, filing separately	\$12,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	A.2	\$2,500	\$30,000	Married, filing separately	\$12,000	\$0	\$18,000	\$1,970	\$164	12%	\$2,295	\$921	\$24,815	\$2,068
	B.1	\$0	\$0	Married, filing separately	\$12,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	B.2	\$2,500	\$30,000	Married, filing separately	\$12,000	\$0	\$18,000	\$1,970	\$164	12%	\$2,295	\$921	\$24,815	\$2,068
	B.3	\$5,000	\$60,000	Married, filing separately	\$12,000	\$0	\$48,000	\$6,500	\$542	22%	\$4,590	\$1,842	\$47,069	\$3,922
	C.1	\$0	\$0	Married, filing separately	\$12,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	C.2	\$2,500	\$30,000	Married, filing separately	\$12,000	\$0	\$18,000	\$1,970	\$164	12%	\$2,295	\$921	\$24,815	\$2,068
	C.3	\$5,000	\$60,000	Married, filing separately	\$12,000	\$0	\$48,000	\$6,500	\$542	22%	\$4,590	\$1,842	\$47,069	\$3,922
	C.4	\$7,500	\$90,000	Married, filing separately	\$12,000	\$0	\$78,000	\$13,100	\$1,092	22%	\$6,885	\$2,763	\$67,253	\$5,604
	D.1	\$0	\$0	Married, filing separately	\$12,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
Wife with Children	A.1	\$0	\$0	Head of Household & 1 Child	\$18,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	A.2	\$2,500	\$30,000	Head of Household & 1 Child	\$18,000	\$0	\$12,000	\$1,200	\$100	10%	\$2,295	\$921	\$25,584	\$2,132
	B.1	\$0	\$0	Head of Household & 1 Child	\$18,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	B.2	\$2,500	\$30,000	Head of Household & 1 Child	\$18,000	\$0	\$12,000	\$1,200	\$100	10%	\$2,295	\$921	\$25,584	\$2,132
	B.3	\$5,000	\$60,000	Head of Household & 1 Child	\$18,000	\$0	\$42,000	\$4,768	\$397	12%	\$4,590	\$1,842	\$48,800	\$4,067
	C.1	\$0	\$0	Head of Household & 1 Child	\$18,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0
	C.2	\$2,500	\$30,000	Head of Household & 1 Child	\$18,000	\$0	\$12,000	\$1,200	\$100	10%	\$2,295	\$921	\$25,584	\$2,132
	C.3	\$5,000	\$60,000	Head of Household & 1 Child	\$18,000	\$0	\$42,000	\$4,768	\$397	12%	\$4,590	\$1,842	\$48,800	\$4,067
	C.4	\$7,500	\$90,000	Head of Household & 1 Child	\$18,000	\$0	\$72,000	\$10,388	\$866	22%	\$6,885	\$2,763	\$69,964	\$5,830
	D.1	\$0	\$0	Head of Household & 1 Child	\$18,000	\$0	\$0	\$0	\$0	0%	\$0	\$0	\$0	\$0

TABLE D.3: HUSBAND'S FEDERAL TAX LIABILITY IN 2017

Col.	A	B	C	D	E	F	G	H	I	J	K	L
	Case Scenario	Monthly Gross Income	Annual Gross Income	Filing Status	Federal Std Deduction (IRS 1040 line 40)	Fed. Exemptions IRS 1040 line 42)	Spousal Support (from Table D.5, Col F without children & Table D.6, Col. H with children)	Child Support (from Table D.6, Col F)	Fed. Taxable Income (Col C - Col E - Col F - 12xCol G - 12 xCol H)	Federal Income Taxes	Monthly Average Federal Tax	Federal Income Tax Rate
Husband with No Children	A.1	\$3,500	\$42,000	Married, filing separately	\$6,350	\$4,050	\$1,107	\$0	\$18,312	\$2,283	\$190	15%
	A.2	\$3,500	\$42,000	Married, filing separately	\$6,350	\$4,050	\$297	\$0	\$28,035	\$3,738	\$312	15%
	B.1	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$2,080	\$0	\$51,043	\$8,495	\$708	25%
	B.2	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$1,270	\$0	\$60,765	\$10,933	\$911	25%
	B.3	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$566	\$0	\$69,212	\$13,045	\$1,087	25%
	C.1	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$2,767	\$0	\$76,398	\$14,833	\$1,236	25%
	C.2	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$1,957	\$0	\$86,120	\$17,557	\$1,463	28%
	C.3	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$1,253	\$0	\$94,567	\$19,923	\$1,660	28%
	C.4	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$613	\$0	\$102,244	\$22,070	\$1,839	28%
	D.1	\$15,000	\$180,000	Married, filing separately	\$6,350	\$4,050	\$4,013	\$0	\$121,438	\$27,683	\$2,307	33%
Husband with Children	A.1	\$3,500	\$42,000	Married, filing separately	\$6,350	\$4,050	\$633	\$658	\$16,107	\$1,953	\$163	15%
	A.2	\$3,500	\$42,000	Married, filing separately	\$6,350	\$4,050	\$26	\$556	\$24,623	\$3,228	\$269	15%
	B.1	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$1,259	\$1,003	\$48,857	\$7,958	\$663	25%
	B.2	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$665	\$854	\$57,763	\$10,183	\$849	25%
	B.3	\$7,200	\$86,400	Married, filing separately	\$6,350	\$4,050	\$129	\$783	\$65,062	\$12,008	\$1,001	25%
	C.1	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$1,724	\$1,170	\$74,870	\$14,458	\$1,205	25%
	C.2	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$1,123	\$1,046	\$83,568	\$16,843	\$1,404	28%
	C.3	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$594	\$948	\$91,087	\$18,943	\$1,579	28%
	C.4	\$10,000	\$120,000	Married, filing separately	\$6,350	\$4,050	\$106	\$902	\$97,507	\$20,749	\$1,729	28%
	D.1	\$15,000	\$180,000	Married, filing separately	\$6,350	\$4,050	\$2,577	\$1,445	\$121,341	\$27,651	\$2,304	33%

TABLE D.4: WIFE'S FEDERAL TAX LIABILITY IN 2017

Col.	A	B	C	D	E	F	G	H	I	J	K	L
	Case Scenario	Monthly Gross Income	Annual Gross Income	Filing Status	Federal Std Deduction (IRS 1040 line 40)	Fed. Exemptions IRS 1040 line 42)	Spousal Support (from Table D.5, Col F without children & Table D.6, Col. H with children)	Child Support (from Table D.6, Col F)	Fed. Taxable Income (Col C - Col E - Col F + 12* Col G + 12* Col H)	Federal Income Taxes	Monthly Average Federal Tax	Federal Income Tax Rate
Wife with No Children	A.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$1,107	\$0	\$2,888	\$289	\$24	10%
	A.2	\$2,500	\$30,000	Married, filing separately	\$6,350	\$4,050	\$297	\$0	\$23,165	\$3,010	\$251	15%
	B.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$2,080	\$0	\$14,557	\$1,720	\$143	15%
	B.2	\$2,500	\$30,000	Married, filing separately	\$6,350	\$4,050	\$1,270	\$0	\$34,835	\$4,758	\$397	15%
	B.3	\$5,000	\$60,000	Married, filing separately	\$6,350	\$4,050	\$566	\$0	\$56,388	\$9,833	\$819	25%
	C.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$2,767	\$0	\$22,802	\$2,958	\$247	15%
	C.2	\$2,500	\$30,000	Married, filing separately	\$6,350	\$4,050	\$1,957	\$0	\$43,080	\$6,508	\$542	15%
	C.3	\$5,000	\$60,000	Married, filing separately	\$6,350	\$4,050	\$1,253	\$0	\$64,633	\$11,895	\$991	25%
	C.4	\$7,500	\$90,000	Married, filing separately	\$6,350	\$4,050	\$613	\$0	\$86,956	\$17,795	\$1,483	25%
D.1	\$0	\$0	Married, filing separately	\$6,350	\$4,050	\$4,013	\$0	\$37,762	\$5,200	\$433	15%	
Wife with Children	A.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$633	\$658	\$0	\$0	\$0	0%
	A.2	\$2,500	\$30,000	Head of Household & 1 Child	\$9,350	\$8,100	\$26	\$556	\$19,527	\$2,261	\$188	15%
	B.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$1,259	\$1,003	\$9,693	\$968	\$81	10%
	B.2	\$2,500	\$30,000	Head of Household & 1 Child	\$9,350	\$8,100	\$665	\$854	\$30,787	\$3,949	\$329	15%
	B.3	\$5,000	\$60,000	Head of Household & 1 Child	\$9,350	\$8,100	\$129	\$783	\$53,488	\$7,621	\$635	25%
	C.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$1,724	\$1,170	\$17,280	\$1,924	\$160	15%
	C.2	\$2,500	\$30,000	Head of Household & 1 Child	\$9,350	\$8,100	\$1,123	\$1,046	\$38,582	\$5,119	\$427	15%
	C.3	\$5,000	\$60,000	Head of Household & 1 Child	\$9,350	\$8,100	\$594	\$948	\$61,063	\$9,521	\$793	25%
	C.4	\$7,500	\$90,000	Head of Household & 1 Child	\$9,350	\$8,100	\$106	\$902	\$84,643	\$15,409	\$1,284	25%
D.1	\$0	\$0	Head of Household & 1 Child	\$9,350	\$8,100	\$2,577	\$1,445	\$30,809	\$3,956	\$330	25%	

TABLE D.5: CHANGE IN FEDERAL TAX LIABILITY: NO CHILDREN

Col.	A	B	C	D	E	F	G	H	I	J
	Case Scenario	Husband's Gross Income	Wife's Gross Income	Husband's Net Income (from Table D.1 for 2017 & Table D.2 for 2019, Col N)	Wife's Net Income (from Table D.1 for 2017 & Table D.2 for 2019, Col N)	Spousal Support (40% of (Col D - Col E))	Husband's Federal Income Tax Liability (Monthly Average from Table D.3, Col K for 2017 and Table D.2 Col I for 2019)	Husband's Federal Income Tax Bracket	Wife's Federal Income Tax Liability (Monthly Average from Table D.4, Col K for 2017 and Table D.2, Col L for 2019)	Wife's Federal Income Tax Bracket
2017	A.1	\$3,500	\$0	\$2,768	\$0	\$1,107	\$190	15%	\$24	10%
	A.2	\$3,500	\$2,500	\$2,768	\$2,026	\$297	\$312	15%	\$251	15%
	B.1	\$7,200	\$0	\$5,199	\$0	\$2,080	\$708	25%	\$143	15%
	B.2	\$7,200	\$2,500	\$5,199	\$2,026	\$1,270	\$911	25%	\$397	15%
	B.3	\$7,200	\$5,000	\$5,199	\$3,785	\$566	\$1,087	25%	\$819	25%
	C.1	\$10,000	\$0	\$6,917	\$0	\$2,767	\$1,236	25%	\$247	15%
	C.2	\$10,000	\$2,500	\$6,917	\$2,026	\$1,957	\$1,463	28%	\$542	15%
	C.3	\$10,000	\$5,000	\$6,917	\$3,785	\$1,253	\$1,660	28%	\$991	25%
	C.4	\$10,000	\$7,500	\$6,917	\$5,385	\$613	\$1,839	28%	\$1,483	25%
	D.1	\$15,000	\$0	\$10,034	\$0	\$4,013	\$2,307	33%	\$433	15%
2019	A.1	\$3,500	\$0	\$2,841	\$0	\$1,136	\$284	12%	\$0	0%
	A.2	\$3,500	\$2,500	\$2,841	\$2,068	\$309	\$284	12%	\$164	12%
	B.1	\$7,200	\$0	\$5,403	\$0	\$2,161	\$1,026	22%	\$0	0%
	B.2	\$7,200	\$2,500	\$5,403	\$2,068	\$1,334	\$1,026	22%	\$164	12%
	B.3	\$7,200	\$5,000	\$5,403	\$3,922	\$592	\$1,026	22%	\$542	22%
	C.1	\$10,000	\$0	\$7,244	\$0	\$2,898	\$1,684	24%	\$0	0%
	C.2	\$10,000	\$2,500	\$7,244	\$2,068	\$2,070	\$1,684	24%	\$164	12%
	C.3	\$10,000	\$5,000	\$7,244	\$3,922	\$1,329	\$1,684	24%	\$542	22%
	C.4	\$10,000	\$7,500	\$7,244	\$5,604	\$656	\$1,684	24%	\$1,092	22%
	D.1	\$15,000	\$0	\$10,704	\$0	\$4,282	\$2,954	32%	\$0	0%
Difference (2019-2017)	A.1	\$3,500	\$0	\$72	\$0	\$29	\$94	-3%	(\$24)	-3%
	A.2	\$3,500	\$2,500	\$72	\$42	\$12	(\$27)	-3%	(\$87)	-3%
	B.1	\$7,200	\$0	\$203	\$0	\$81	\$318	-3%	(\$143)	-3%
	B.2	\$7,200	\$2,500	\$203	\$42	\$64	\$115	-3%	(\$232)	-3%
	B.3	\$7,200	\$5,000	\$203	\$137	\$26	(\$61)	-3%	(\$278)	-3%
	C.1	\$10,000	\$0	\$327	\$0	\$131	\$448	-1%	(\$247)	-4%
	C.2	\$10,000	\$2,500	\$327	\$42	\$114	\$221	-4%	(\$378)	-4%
	C.3	\$10,000	\$5,000	\$327	\$137	\$76	\$24	-4%	(\$450)	-4%
	C.4	\$10,000	\$7,500	\$327	\$220	\$43	(\$155)	-4%	(\$391)	-4%
	D.1	\$15,000	\$0	\$671	\$0	\$268	\$647	-1%	(\$433)	-1%

TABLE D.6: CHANGE IN FEDERAL TAX LIABILITY: UNALLOCATED SUPPORT

Col.	A	B	C	D	E	F	G	H	I	J	K	L
	Case Scenario	Husband's Gross Income	Wife's Gross Income	Husband's Net Income (from Table D.1 for 2017 & Table D.2 for 2019, Col N)	Wife's Net Income (from Table D.1 for 2017 & Table D.2 for 2019, Col N)	Child Support	Husband's Net Income Available for Spousal Support/APL (Col D - Col F)	Spousal Support (30% of (Col G - Col E))	Federal Income Tax Liability (Monthly Average from Table D.3, Col K for 2017 and Table D.2 Col I for 2019)	Husband's Federal Income Tax Bracket	Income Tax Liability (Monthly Average from Table D.4, Col K for 2017 and Table D.2, Col L for 2019)	Wife's Federal Income Tax Bracket
2017	A.1	\$3,500	\$0	\$2,768	\$0	\$658	\$2,110	\$633	\$163	15%	\$0	0%
	A.2	\$3,500	\$2,500	\$2,768	\$2,127	\$556	\$2,212	\$26	\$269	15%	\$188	15%
	B.1	\$7,200	\$0	\$5,199	\$0	\$1,003	\$4,196	\$1,259	\$663	25%	\$81	10%
	B.2	\$7,200	\$2,500	\$5,199	\$2,127	\$854	\$4,345	\$665	\$849	25%	\$329	15%
	B.3	\$7,200	\$5,000	\$5,199	\$3,987	\$783	\$4,417	\$129	\$1,001	25%	\$635	25%
	C.1	\$10,000	\$0	\$6,917	\$0	\$1,170	\$5,747	\$1,724	\$1,205	25%	\$160	15%
	C.2	\$10,000	\$2,500	\$6,917	\$2,127	\$1,046	\$5,871	\$1,123	\$1,404	28%	\$427	15%
	C.3	\$10,000	\$5,000	\$6,917	\$3,987	\$948	\$5,969	\$594	\$1,579	28%	\$793	25%
	C.4	\$10,000	\$7,500	\$6,917	\$5,663	\$902	\$6,015	\$106	\$1,729	28%	\$1,483	25%
	D.1	\$15,000	\$0	\$10,034	\$0	\$1,445	\$8,589	\$2,577	\$2,304	33%	\$330	25%
2019	A.1	\$3,500	\$0	\$2,841	\$0	\$670	\$2,171	\$651	\$284	12%	\$0	0%
	A.2	\$3,500	\$2,500	\$2,841	\$2,132	\$566	\$2,275	\$43	\$284	12%	\$100	10%
	B.1	\$7,200	\$0	\$5,403	\$0	\$1,018	\$4,385	\$1,315	\$1,026	22%	\$0	0%
	B.2	\$7,200	\$2,500	\$5,403	\$2,132	\$878	\$4,525	\$718	\$1,026	22%	\$100	10%
	B.3	\$7,200	\$5,000	\$5,403	\$4,067	\$806	\$4,596	\$159	\$1,026	22%	\$397	12%
	C.1	\$10,000	\$0	\$7,244	\$0	\$1,195	\$6,049	\$1,815	\$1,684	24%	\$0	0%
	C.2	\$10,000	\$2,500	\$7,244	\$2,132	\$1,083	\$6,161	\$1,209	\$1,684	24%	\$100	10%
	C.3	\$10,000	\$5,000	\$7,244	\$4,067	\$979	\$6,265	\$660	\$1,684	24%	\$397	12%
	C.4	\$10,000	\$7,500	\$7,244	\$5,830	\$934	\$6,310	\$144	\$1,684	24%	\$866	22%
	D.1	\$15,000	\$0	\$10,704	\$0	\$1,479	\$9,225	\$2,768	\$2,954	32%	\$0	0%
Difference (2019-2017)	A.1	\$3,500	\$0	\$72	\$0	\$12	\$60	\$18	\$121	-3%	\$0	0%
	A.2	\$3,500	\$2,500	\$72	\$5	\$10	\$63	\$17	\$15	-3%	(\$88)	-5%
	B.1	\$7,200	\$0	\$203	\$0	\$15	\$188	\$56	\$362	-3%	(\$81)	-10%
	B.2	\$7,200	\$2,500	\$203	\$5	\$23	\$180	\$53	\$177	-3%	(\$229)	-5%
	B.3	\$7,200	\$5,000	\$203	\$79	\$23	\$180	\$30	\$25	-3%	(\$238)	-13%
	C.1	\$10,000	\$0	\$327	\$0	\$25	\$302	\$91	\$479	-1%	(\$160)	-15%
	C.2	\$10,000	\$2,500	\$327	\$5	\$37	\$290	\$85	\$281	-4%	(\$327)	-5%
	C.3	\$10,000	\$5,000	\$327	\$79	\$30	\$296	\$65	\$106	-4%	(\$396)	-13%
	C.4	\$10,000	\$7,500	\$327	\$167	\$32	\$294	\$38	(\$45)	-4%	(\$617)	-3%
	D.1	\$15,000	\$0	\$671	\$0	\$34	\$637	\$191	\$650	-1%	(\$330)	-25%