



IMPUTED INCOME IN DIVORCE

A BALANCED APPROACH FOR
BOTH SPOUSES





Divorce settlements often hinge on determining each spouse's financial resources. When one spouse has a limited or no recent work history, courts utilize "imputed income" – estimating their earning potential based on education, experience, and job market realities. This white paper explores the role of imputed income in divorce settlements, considering both the paying spouse's (typically higher earner) and the stay-at-home spouse's perspectives.

IMPUTED INCOME

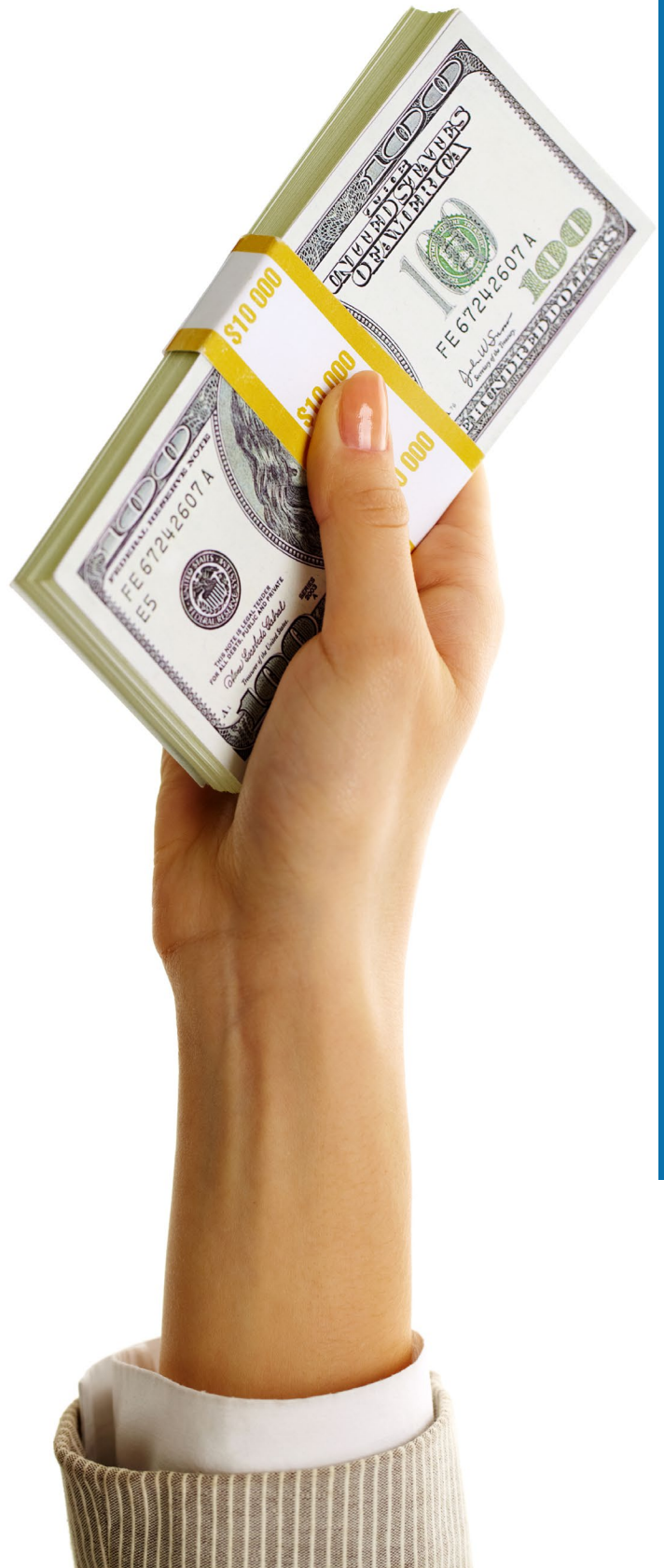
In a divorce settlement, imputed income is basically estimated income a court assigns to a spouse. This matters because it's used to calculate things like child support and alimony.

The court might impute income if a spouse seems to be earning less than they could be on purpose. This could be by voluntarily quitting a job, working part-time when qualified for full-time, or even a self-employed person taking a low salary.

By considering earning capacity, not just actual earnings, the court aims for a fairer support amount that reflects what the spouse could be contributing.

THE CHALLENGE OF IMPUTED INCOME

Accurately estimating a stay-at-home spouse's earning capacity can be challenging. John, for instance, a successful business owner, might argue his ex-wife Sarah, who stayed home raising their children for the past decade, can easily re-enter the workforce at her pre-marriage salary. This could significantly reduce the amount of spousal support Sarah receives. However, factors like a long absence from the workforce, outdated skills, and childcare responsibilities can significantly impact her immediate earning potential. Conversely, Jane, a stay-at-home mom facing divorce from her high-earning doctor husband, might struggle to convince the court that re-entry at an entry-level position would be a significant financial step down from her pre-marriage lifestyle.





THE ROLE OF VOCATIONAL EXPERTS

Vocational experts can provide valuable insights for both parties in a divorce settlement involving imputed income. Here's how their expertise benefits each side:

Challenges For the Higher-Earner (Typically the Spouse with Higher Income):

- A vocational expert can analyze the job market and assess the stay-at-home spouse's transferable skills gained through homemaking and child-rearing. For example, the expert might find that Sarah's experience managing a household budget translates well to bookkeeping or financial management skills.
- This analysis can help establish a realistic imputed income that reflects Sarah's potential earning capacity, not necessarily her pre-marriage salary as a marketing manager. Expert testimony in court can be persuasive, potentially leading to a fairer spousal support arrangement that considers both parties' long-term financial situations. Let's say without the expert, the court imputes a low income of \$2,000 per month for Sarah. John might have to pay significantly more in spousal support based on this figure. Hiring the vocational expert costs \$10,000 or more, but if the expert successfully argues for a higher imputed income of, say, \$4,000 per month, the savings on spousal support over a year would far outweigh the cost of the expert.



Challenges For the Stay-at-Home Spouse:

- A vocational expert can evaluate the challenges of re-entering the workforce after a significant gap. This might involve assessing the need for training or education to update skills and increase earning potential over time. In Jane's case, the expert might recommend a refresher course in her pre-divorce field of graphic design, alongside childcare options that allow for flexible work hours.
- They can create a realistic re-entry plan that considers these challenges and factors in childcare responsibilities. This plan might involve a phased approach to returning to full-time work, allowing Jane to adjust and manage her new reality.
- Expert testimony can advocate for a higher initial spousal support reflecting Jane's current earning potential as an entry-level graphic designer, with adjustments over time as her income increases through skill development and experience. For instance, the expert testimony could argue for a more realistic \$3,000 per month initial support, with a potential future increase as Jane gains experience. The difference of \$2,000 per month can significantly ease Jane's financial burden during this transition. Even after factoring in the expert's fees (let's say \$10,000 or more), Jane gains significant financial security in the long run.

BENEFITS OF USING A VOCATIONAL EXPERT

Hiring a vocational expert can provide significant advantages for both parties in a divorce settlement:

- **Reduced Conflict:** Expert evidence can lead to a more objective assessment, minimizing emotional arguments about earning potential.
- **Fairer Settlements:** Accurate imputed income calculations promote fair financial arrangements for both spouses. For John, this might mean a more balanced spousal support arrangement that considers Sarah's future earning potential. For Jane, it ensures her immediate financial needs are met while acknowledging her ability to increase her income over time.
- **Long-Term Security:** Re-entry plans consider the stay-at-home spouse's future earning potential, aiding long-term financial stability for Jane as she transitions back into the workforce.





CONSIDERATIONS AND LIMITATIONS

- **Cost:** Hiring a vocational expert incurs fees, but the long-term financial benefits often outweigh the initial cost, especially when a significant reduction or increase in spousal support is at stake. As demonstrated in the examples above, the potential savings from a more favorable spousal support arrangement can easily cover the expert's fees.
- **Limited Scope:** Expert opinions are just one element of the judge's decision. Other factors like marital assets and debts will also be considered.
- **Accuracy of Predictions:** Their estimates are based on averages and may not reflect a spouse's unique circumstances.
- **Legal Representation:** Consulting with experienced family law attorneys is crucial for navigating the legalities of imputed income and spousal support, ensuring all relevant factors are presented to the court in the context of your specific state's laws.
- **Length of Marriage:** In long marriages, there's an expectation of spousal support to maintain the standard of living established during the marriage.
- **Division of Assets:** The overall property division can influence the need for spousal support, even if imputed income is used.
- **Child Custody Arrangements:** The primary caregiver's earning capacity may be impacted by childcare responsibilities, and the judge will consider that.




CONCLUSION

Imputed income can be a contentious issue in divorce settlements. Considering both sides' perspectives and utilizing a vocational expert's expertise can lead to a more objective assessment and a fairer financial outcome for all parties involved. Remember, this white paper provides general information, and seeking legal advice from qualified professionals is vital for navigating the specific complexities of your divorce case.




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