



Income Documentation and Verification in Family Court Matters

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In divorce matters, income documentation and verification is a team effort of the attorney and a forensic accountant, working together to uncover possible misrepresentations or honest errors by a spouse. The methodologies used by the accounting expert must be in coordination with the discovery process and at a cost-effective level that is justified by the income and assets involved.

In terms of finances, marital dissolution disputes involve two core issues:

- The value of assets in the marital estate to be split
- Income available for support

The asset issue involves identifying all assets, determining the ownership of those assets (separate vs. community property) and the value of the assets. The valuation of the assets becomes a complex, and expensive, issue if a business is involved.

The income issue, which is the focus of this article, only becomes difficult if one side in the dispute decides to either hide compensation or make outright false representations regarding their income and expenses. The suspicion that this has occurred is the most common reason forensic accountants are retained to assist in a family court matter.

Key Documentation

Family court is one of the few places where personal income tax returns can be obtained in the course of litigation. Additionally, both parties are required to submit asset/debt and income/expense disclosures to the court. It is common to find that the information on the court disclosures do not match the information on the individual income tax returns. There are a number of reasons this could be true but it usually indicates it is time to bring in an accounting expert to interpret the information.

An experienced forensic accountant will know pretty quickly what documents can be, and should be, obtained to resolve the matter. The scope and scale of the document request list will be driven by the complexity of the marital estate. If there is a closely-held business generating most of the income, then the requested documents will be fairly substantial.

The most common set of requested documents are bank statements for all checking and other cash-equivalent accounts. The purpose of obtaining bank statements is to determine the cash flow available to the marital estate. This means that transfers between accounts must be eliminated. Once the true cash flow has been determined, then a reconciliation can be attempted between the income reported to the court (I&E Disclosure) and the banking records as well as a reconciliation between the tax returns and the banking records. This type of triangulation often either exposes errors or misstatements or identifies that additional information is needed.

Further Complexities

In some cases, the marital financial structure is complex and may even be partially hidden from view. In a family court matter there are significant levels of emotion and personal angst. These factors often motivate a higher level of outright misrepresentation than is found in other litigation contexts. When the forensic accountant is involved in a such a case, the cost of forensic work must be balanced with the expected benefit of the additional investigation. One question is always asked in these types of matters – “Has your spouse applied for a loan recently?” If the answer to this question is affirmative the path to a faster resolution may have been exposed.



When a borrower applies for a loan, the motivation is to show as much income as possible. When that borrower prepares their tax return, the motivation is to show as little income (less tax) as possible. When the borrower/taxpayer files for divorce and are in the position to pay alimony and/or child support, their motivation is often to show as little income (less support required) as possible.

A very effective and efficient method to resolve the financial matters in many family court cases is often to obtain loan applications (prepared by the same person who signed the income tax returns submitted to the court and who signed the financial disclosures submitted to the court). If they all line up, there is great confidence that the numbers are accurate. If, however, the loan applications show much more income than the other court disclosures, it puts the "other side" in a position to explain which set of numbers are the right numbers. It can be difficult to explain in open court that either the litigant committed loan fraud (false or misleading application), tax fraud (filing false tax returns) or perjury (filing false statements with the court).

Seek Expert Help

As can be seen, the value of a qualified forensic accountant can be immeasurable in family court matters that involve questions of income. In order to improve the attorney's case, it is important to seek the advice of an accountant who is experienced in handling various scenarios and all types of complexities.

About the author:

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