

Spousal support and 'the number'



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By
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When a public accountant's best business client aged 45 and over first sits down with Andrew Feldstein, the first question is usually, "what's my number?"

'The number' is the years of spousal support a higher income-earning ex-spouse would be mandated by law to pay to a lower earning ex-spouse in the event of a separation or divorce.

Over the past two decades, I've often turned to Feldstein, principal of Feldstein Family Law Group, which has offices throughout the Greater Toronto Area, for guidance in researching articles on the intricacies of Canadian family law.

Throughout Canada it is very clear: marriage and common law cohabitation are not just personal relationships, but under Canadian law are treated as business relationships/partnerships.

"When a relationship breaks down, the individual who has the higher income or assets, in most cases, has to pay the other support payments," Feldstein points out. Despite the fact there are no legislated guidelines for spousal support, the courts in many provinces and territories will follow the Spousal Support Advisory Guidelines (SSAG) which produce a range for the amount and duration of spousal support.

However, Canadian law does set a number of factors that must be taken into account before spousal support is awarded.

Through his two-plus decades of practice in family law, Feldstein has found that spousal support is based on considerations such as the income and assets belonging to each spouse, which include the awarded assets given to the spouses as a result of the divorce, the needs of the person who is asking for support payments and how much the other can afford to pay. Each spouse's current and future earning potential is also taken into account, along with the ability of the spouse requesting alimony to become self-supporting at some future date.

Usually when an age 45-plus successful client asks him the 'what's my number' question, what they really want to know is how long and how much will they be mandated by law to pay spousal support based on the length of time they have been in the spousal partnership. As our lesson continued Feldstein felt the best way to illustrate how a judge might rule on the issue of spousal support was to use three examples.

Example I

Romeo and Juliet were married 17 years before they legally separated. Romeo is a 50-year-old Chartered Accountant and partner at his CA firm earning \$250,000 of salary and bonuses, and Juliet is age 47 and a part-time wedding planner with a T4 income of \$25,000 per year. They have two dependent children aged 15 and 17 who live with Juliet. Currently, Romeo pays Juliet child support of \$3,152 per month according to the Child Support Guidelines.

In this example, Feldstein says an individual in Romeo's circumstance can expect to pay his ex-spouse in spousal support between \$4,306 and \$5,594 per month (with a midpoint of \$4,924 per month) for a period to be determined between 8.5 to 17 years from the date of separation.

Example II

Roselyn, age 57 and Harvey, age 55, have been married eight years. Roselyn is a successful lawyer and a well-known television personality earning \$400,000 per year. Harvey has taken a sabbatical from working for the past few years and has made attempts at writing his first novel. He has had no income from this endeavour as of yet.

According to Feldstein, if entitlement to spousal support is established, Roselyn will find herself having to pay her ex-spouse Harvey spousal support in an amount to be determined between \$4,000 and \$5,333 per month (with a midpoint of \$4,667 per month) for an indefinite period.

Example III

Our last example is about Ashton and Demi, who have been married for 16 years with two young children aged eight and six. Ashton is 36 years old and has been a stay-at-home dad with no income, while Demi has built a very successful Internet consulting business earning \$1 million per year. The children now live with Ashton and he is the custodial parent for both children.

Feldstein says in this scenario we can expect Demi will have to pay Ashton child support of \$11,702 per month, according to the Child Support Guidelines.

If entitlement to spousal support is established, in addition to any child support to be paid, Demi would have to pay her ex-husband Ashton spousal support in an amount to be determined between \$23,365 and \$27,449 per month (with a midpoint of \$25,405 per month) for a period to be determined between eight to 16 years from the date of separation, according to the SSAG in addition to Child Support. However, the SSAG is not automatic for incomes over \$350,000 and the higher the income the less applicable are the

SSAG, and as such Demi would most likely pay less than the above amount.

Other considerations that Feldstein notes in examples one and three, where monthly payments of child support are made, these payments are non-tax deductible expenses for the payor spouses Romeo and Demi, and are tax-free for the payee ex-spouses Juliet and Ashton, while spousal support is taxable for all three recipient ex-spouses and is a tax-deductible expense for all three payor ex-spouses, if made pursuant to a written separation agreement or court order.

Conclusion

As this lesson drew to a close, Feldstein reminded me that the Spousal Support Advisory Guidelines are available to help separ-

ating spouses get a rough estimate of spousal support to be paid. As an addendum to that, it is a wise move to always consult with a qualified legal expert to help with making this process as amicable as possible, and to understand what a potential payor ex-spouse has to prepare themselves to budget for in the event that their spousal relationship ends.

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Best to schedule harder work in morning

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Inc., a Toronto-based executive search firm.

"The late afternoon, in particular, may not be a good time to hold brainstorming sessions or take on highly challenging projects," he noted. "Many professionals are more energetic in the morning and may become tired by the time the afternoon rolls around."

That's certainly the impression they've left with their bosses. A survey of senior managers released this summer by Accountemps, a staffing services firm headquar-

tered in Menlo Park, California, found that the late afternoon is the most common time for workers to hit a wall.

Thirty-seven per cent of managers surveyed said 4 p.m. to 6 p.m. is the least productive time of day for employees. Coming in second was 2 p.m. to 4 p.m., according to 28 per cent of respondents.

Energy also dips, and increases, according to the day of the week. "Mondays are busy because there are typically more meetings scheduled and people are often catching up from being out of the office over the weekend," noted Gooley.

"By Tuesday, employees are more focused on day-to-day activities and hit peak performance. Productivity often wanes as the weekend nears and employees become distracted by future plans outside of the office."

To get the most out of your day, Gooley recommends tackling challenging projects when you're freshest — usually earlier in the day. Accountants can also motivate themselves, he noted. "Keep a to-do list to remain focused, and check items off as they're completed. If you're struggling to focus, take a quick break and work on something new."

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