



# Importance of Financial Documents in Family Law Cases

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Corporate Law • Family Law

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# Agenda

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## Mandatory Disclosures: Why they may not be enough?

- Financial Affidavits
- Certificate of Mandatory Disclosures

## Alimony

- Determining Income For Alimony Purposes: Why Is It So Difficult?
- Determining a Spouse's Needs For Alimony Purposes

## Child Support

- Determining Income for Child Support Purposes



# Agenda (Cont'd)

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## **Equitable Distribution**

- Understanding Your Assets and Liabilities for Division
- Appraisals and Valuations
- Protecting Non-Marital Assets
- Recovering Marital Assets

## **Financial Documents and their Importance in Drafting Family Law Agreements**

- Pre and Post Nuptial Agreements
- Marital Settlement Agreements

# Mandatory Disclosures: Why they may not be enough?

- Financial Affidavits
- Certificate of Mandatory Disclosure





# FINANCIAL DISCLOSURES? ME?



## Mandatory Disclosures: Why they may not be enough?

- Limited in time, sometimes good enough for W-2 wage earners with limited assets.
- Tax Returns do not always tell the whole story, especially when a business is involved.
- Employment compensation has become increasingly more complicated.
- More than likely mandatory disclosure will be insufficient in cases where parties used a lot of cash or there is a likelihood of financial gamesmanship or divorce planning that has occurred

- Determining Income For Alimony Purposes:  
Why Is It So Difficult?

# Determining Income For Alimony Purposes







## Alimony: Determining Income For Alimony Purposes Why Is It So Difficult?

FL. Stat. 61.046(8) “Income” means any form of payment to an individual, regardless of source, including, but not limited to:

wages, salary, commissions and bonuses, compensation as an independent contractor, worker’s compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trusts, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. United States Department of Veterans Affairs disability benefits and reemployment assistance or unemployment compensation, as defined in chapter 443, are excluded from this definition of income except for purposes of establishing an amount of support.

# Determining Income For Alimony Purposes

Other reasons why determining income is so hard:

Tax Returns: What they don't say is often more important than what they do say

Employment Compensation: How much did you make? Income vs. Cash Flow

“Divorce Poverty” and we are back to the Wolf On Wall Street or Madoff like behavior.







## Determining A Spouse's Needs for Alimony Purposes:

- This can be tricky. This is an area which is heavily litigated. As you can probably imagine, most of the time, the payor of Alimony believes that the other spouse, the payee can now live on peanuts. Vacations, what? Food, what? House, what? Alimony, what?
- On the flip side, often the payee spouse now believes that he or she once lived in Versailles and had twenty maids and would like to maintain that lifestyle.

# Determining Income For Child Support Purposes





# Determining Income For Child Support Purposes:

**61.30(1)(c)(2)** Income shall be determined on a monthly basis for each parent as follows:(a) Gross income shall include, but is not limited to, the following:

1. Salary or wages.
2. Bonuses, commissions, allowances, overtime, tips, and other similar payments.
3. Business income from sources such as self-employment, partnership, close corporations, and independent contracts. “Business income” means gross receipts minus ordinary and necessary expenses required to produce income.
4. Disability benefits.
5. All workers’ compensation benefits and settlements.
6. Reemployment assistance or unemployment compensation.
7. Pension, retirement, or annuity payments.
8. Social security benefits.
9. Spousal support received from a previous marriage or court ordered in the marriage before the court.
10. Interest and dividends.
11. Rental income, which is gross receipts minus ordinary and necessary expenses required to produce the income.
12. Income from royalties, trusts, or estates.
13. Reimbursed expenses or in-kind payments to the extent that they reduce living expenses.
14. Gains derived from dealings in property, unless the gain is nonrecurring.



# Determining Income For Child Support Purposes:

## Fl. Stat. 61.30(3) (4) and (5)

(3) Net income is obtained by subtracting allowable deductions from gross income. Allowable deductions shall include:

- (a) Federal, state, and local income tax deductions, adjusted for actual filing status and allowable dependents and income tax liabilities.
  - (b) Federal insurance contributions or self-employment tax.
  - (c) Mandatory union dues.
  - (d) Mandatory retirement payments.
  - (e) Health insurance payments, excluding payments for coverage of the minor child.
  - (f) Court-ordered support for other children which is actually paid.
  - (g) Spousal support paid pursuant to a court order from a previous marriage or the marriage before the court.
- (4) Net income for each parent shall be computed by subtracting allowable deductions from gross income.
- (5) Net income for each parent shall be added together for a combined net income.





# Determining Income For Child Support Purposes:

Here the difference is that the both parties' income is taken into consideration when calculation the child support each party is to pay and figuring out the pro rata percentage of the additional child support expenses such as extracurricular, unreimbursed medical and other expenses.

# Equitable Distribution

Understanding Your Assets and Liabilities for Division

Appraisals and Valuations

Protecting Non-Marital Assets

Recovering Marital Assets







# Equitable Distribution

## Understanding Your Assets and Liabilities for Division

How do you select which assets and/or liabilities are better or better suited for your needs?

What is the value of your assets?

What are the tax implications of the asset or liability in which you are getting from the divorce?

Which liabilities are fair and/or equitable for each party to remain responsible for?

# Equitable Distribution

## Appraisals and Valuations

Valuating assets is highly dependent on the nature of the assets and its characteristics.

Importance of seeking professional help in valuing and assessing assets.





# Equitable Distribution Distributions and Taxes

Not all assets or liabilities are created equal.

Understanding the true value of what you are getting and the cost of that asset or liability down the road.



# Equitable Distribution

## Protecting Non-Marital Assets

In a divorce, a party is able to protect his or her non-marital assets from distribution provided that the non-marital asset has not been converted whether in part or whole into a marital asset.

That is where often financial documents can play a critical role in that determination.





# Equitable Distribution

## Recovering Marital Assets

Parties are capable of recovering up to two years of wasteful dissipation of marital assets in a divorce proceeding. Financial documentation to prove waste is crucial.

# Financial Documents and their Importance in Drafting Family Law Agreements





# Family Law Agreements

**Pre and Post Nuptial Agreements.**

**Marital Settlement Agreements.**

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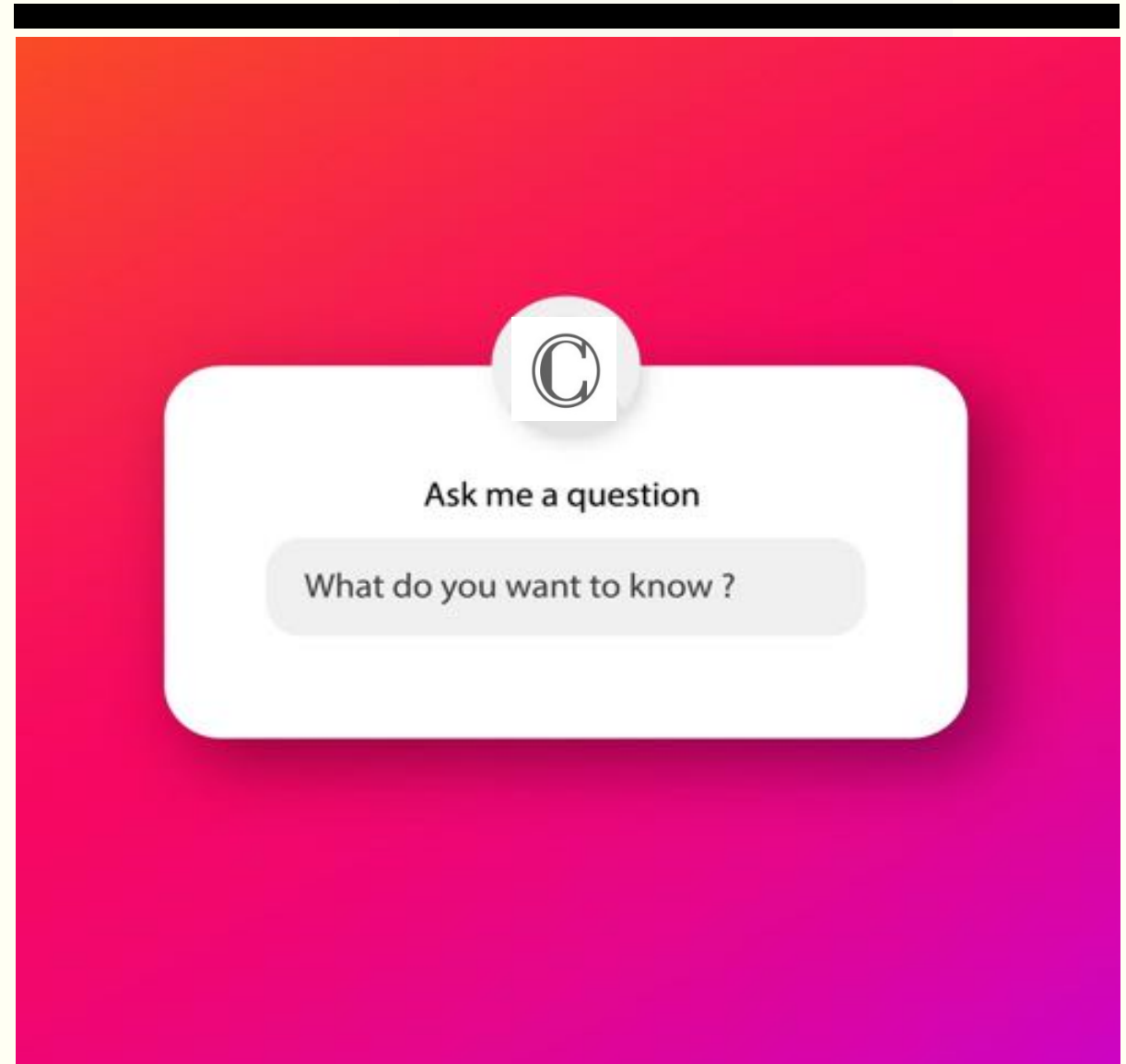
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# Q & A



THANK YOU!

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Stay Tuned for our Next Webinar!

## Why A Shareholder or Partnership Agreement is Necessary?

May 6, 2021 at 10am

This Webinar focuses why management agreements between partners, shareholders and owners are important and necessary in order to avoid disruptions in the business due circumstances such as the **5 D's: Dispute, Divorce, Debt, Disability and Death.**

**Click here to register:**

<https://us02web.zoom.us/meeting/register/tZUscu6trDktGdASf5cxraNAczkya4-9vQ6S> (Make hyperlink)



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# THANKS AGAIN!

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