



HOW TO PREPARE A FINANCIAL STATEMENT: A HOW-TO GUIDE

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Every family law matter that involves claims for support or property division requires that the parties engage in full and frank financial disclosure.

This applies to married couples and common-law spouses alike (although the latter is not usually entitled to partake in the equalization of net family property regime).

Financial disclosure can seem overwhelming at first glance and can rack up unnecessarily high expenses.

To minimize your costs associated with this process, we have prepared a step-by-step guide to give your family lawyer what they need to help move your matter forward efficiently, thereby saving you money.

The first step in this process is to determine whether you are only dealing with support claims or if you need to make a claim relating to property or debts incurred during the relationship.

If you are only dealing with child support and/or spousal support, you will need to fill out a Form 13 Financial Statement.

If you are dealing with support issues and property claims, you will need to complete a Form 13.1 Financial Statement.

Both are sworn statements: You are required to fill them out honestly and provide backup documentation to prove your claims.

This guide is intended to help you break down the Financial Statement into manageable parts. The more complete your first draft is, the easier it is for your lawyer to finalize the Statement, allowing your matter to move forward more quickly and minimizing the fees that you incur.

Because of the generality and simplicity of this guide, we encourage you to still consult with your family law lawyer to ensure that you have completed the form appropriately and are able to sign it under oath.



THE IMPORTANCE OF TRANSPARENCY IN DISCLOSURE

Full and frank financial disclosure is foundational in family law: Without it, separation agreements and court orders can be set aside.

Separation agreements and court orders are based on the assumption that the financial disclosure is complete and accurate.

To save yourself time, money and aggravation down the road, it is important, to be honest and forthright when presenting and disclosing financial information.

If you are working with a skilled family law lawyer, it is part of their job to carefully review your financial statement, ask you follow up questions, advise you on the different elements that make up "income" for support purposes.

WHAT IS INCOME FOR FAMILY LAW PURPOSES?

The Federal Child Support Guidelines determine what a person's income is for both child and spousal support purposes.

Most people think that their Line 150 income, as reported on their taxes, constitutes their "income" for support purposes.

While this can be true in some cases, more often this is only the first step in deriving a person's current income.

For a self-employed individual whose income varies from year to year, this becomes more complex, as it does too for a person who is a shareholder, director or officer of a corporation that they control.

If you or your spouse are not a T4 employee, be sure to engage a skilled family law lawyer who is seasoned in dealing with financial issues.

Your lawyer may advise you to rely on your prior year's income or project the current year's income based on your income to date.

Section 17 of the Child Support Guidelines allows the court to average out the last three years' income to account for fluctuations in earnings by a self-employed person.

For complex matters, you may need to get an expert to provide you with an income valuation.

Your lawyer should be able to advise you appropriately as to what to report.

The basis for your income must be identified on your Financial Statement.

INCOME

Fill in the first section according to your current status.

If you are employed, you will need to list your employer and their address.

If you are self-employed, you will need to enter the name under which you do business and the business address.

If you are currently unemployed, you will need to specify your last date of employment.

Next, you need to substantiate your claim by proving your year-to-date income and attaching your paycheque stub, social assistance stub, pension stub or workers' compensation stub.

If you are unemployed, you are required to provide your employment insurance stub and most recent Record of Employment (ROE).

Self-employment adds a layer of complexity to a Financial Statement.

In such cases, you are required to produce a statement of income and expenses for your professional activities and will likely need to increase your claimed income as a result of the write-offs from which you benefit.

Lastly, you are required to list your gross income from all sources for the last calendar year and attach your last three income tax returns and notices of assessment.

The Financial Statement requires you to break down your employment income:

- commissions
- tips and bonuses
- self-employment income
- employment insurance benefits
- workers' compensation benefits
- interest and investment income
- pension income
- child tax benefits
- any other source of income

Be sure to fill these numbers accurately and provide copies of pay stubs, proof of RRSP withdrawals, etc. to your lawyer.

For a T-4 employee who is paid twice per month, to calculate your monthly income, divide your gross income on your pay stub, multiply it by 26 and then divide by 12.

Do not simply multiply your gross income by 2 as it fails to account for months that have more than four weeks.

EXPENSES

This portion of the Financial Statement does not require the same accuracy as other portions.

Here, a best-estimate will suffice. We recommend that clients sit down with their bank account statement if they have most of their bills coming from the same account and use it as a guide with regard to monthly expenses.

If you do not have a lawyer, a highly qualified divorce coach can assist you in filling this out.

Other expenses, such as gifts or vacations that are not necessarily incurred monthly, should be averaged out over the course of twelve months.

For example, if you go on a \$5,000 holiday once per year, your vacation expense is \$416.66 per month.



OTHER INCOME EARNERS IN THE HOME

This section does not apply to all parties filling out a Financial Statement.

You need only to complete this section of the Form 13.1 if you are “making or responding to a claim of undue hardship or spousal support”.

This section is fairly straightforward and you will have to provide information on your spouse’s workplace, income and residence. This section does not appear in Form 13.

ASSETS

If you are filling out Form 13.1 this information is found in Part 4.

If you're filling out Form 13 however, you will find this in Part 3.

This is where you are required to list all your assets such as real estate property, cars, boats, jewellery, investments, bank accounts, savings and pension plans.

Any life insurance policies that you own and any monies owed to you.

If you own any other assets, they must be disclosed in this section.

Complete this as accurately as possible: For personal belongings, use the current resale value of the item being disclosed (check Kijiji, Craigslist, or Facebook Marketplace for comparable items).

For personal belongings that may have a higher value attributable to them such as a piece of art or an antique, consider obtaining an appraisal in order to ascertain its value.

DEBTS

This section of the Forms is dedicated to listing any debts that you have and money that you owe.

It includes mortgages, lines of credit, outstanding credit card balances and unpaid support payments.

This is where you must also state any money owed to CRA.

If you are completing Form 13.1, you are also required to list any debts and other liabilities on the date of marriage.

PROPERTY

For those completing Form 13, this section does not apply to you.

If you are completing Form 13.1, there are 2 additional sections dedicated to property.

Part 7 deals with Excluded Property which refers to property owned on the date of valuation that is excluded from the legal definition of "net family property".

This includes gifts or inheritances.

Part 8 requires that you show the value of all property that you disposed of in the past 2 years or during the marriage.

PROPOSED BUDGET

Towards the end of these forms, there is a section where you are asked to make predictions about your future budget and what you reasonably expect your future expenses to be.

For parents, this section is very important for budgeting purposes going forward as you embark upon being a single parent.

It is also important information for your lawyer to have, as they will use this information in determining reasonable spousal and in some cases, child support.

This information is also important for your lawyer so that they can effectively advise you on what expenses should be deemed "special and extraordinary" as described in the Federal Child Support Guidelines.

Special and extraordinary expenses (sometimes referred to as Section 7 expenses) differ from family to family but are generally defined as expenses which fall outside of table child support guidelines and are usually divided between both parties. These can include the cost of daycare, medical expenses not covered by extended health plans, competitive sports fees and post-secondary school expenses.

CONCLUSION

While these forms can be time-consuming and somewhat intimidating at first, if you tackle them one section at a time, they become more manageable, allowing you to take an active part in your divorce process.

If you're having trouble obtaining any of the information required, speak to your lawyer for advice on how to obtain the necessary information.

Remember that completing these forms thoroughly and accurately is a very important step in your divorce or separation and the more you can do independently, the less you will need to pay your lawyer.

Finally, note that a skilled family lawyer can help you minimize your liabilities and maximize your entitlements once your first draft is complete.

If you're seeking an experienced Divorce and Family Lawyer in Toronto and the Greater Toronto area, give us a call or fill out the form and we will reach out to you as soon as possible.

About The Author



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Ruth is an Associate Lawyer with Hummingbird Lawyers Family Law group.

After completing her Juris Doctorate and being called to the bar in California in 2006, she spent over ten years running a small family law practice in San Francisco. Following her move to Toronto, she continued to practice in the area of divorce and family law with the ongoing goal of resolving clients' issues as efficiently as possible with minimal stress to clients and their children. Ruth advocates for her clients in negotiations, alternative dispute resolution and court. She prides herself in approaching each matter methodically and strategically and tailors each matter to the individual client's needs.

Ruth represents clients in all areas of matrimonial law, from amicable negotiations to high conflict litigation. She regularly appears before the Ontario Court of Justice and the Superior Court of Justice.



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