Forensic Accounting Today

Newsletter of Ron J. Anfuso, CPA/ABV, An Accountancy Corp.

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Serving all of California

Ron's Corner

From time to time readers continue to ask me what the initials after my name stand for. Assuming you are familiar with the requirements to achieve CPA status, let us look at the others:

Accredited in Business Valuation (ABV) and **Certified in Financial Forensics** (CFF) are accreditations granted by the ***American Institute of Certified Public Accountants***. These designations are exclusively for CPAs who demonstrate their business valuation expertise and Forensic Accounting experience, and pass a written examination (ABV only).

Certified Divorce Financial Analysts (CDFA) have received training and certification to 1) serve as financial experts on divorce cases, 2) present credible information to support legal arguments, and 3) offer financially sound settlement options.

Fellow status is awarded by the **American Board of Forensic Accounting** (FABFA) to those who have completed at least one of the ***American College of Forensic Examiners International's*** credentialing programs and made professional contributions to the field of forensics. It recognizes achievement and excellence, and establishes the *Fellow* as a distinguished top professional.

If you have questions concerning any of these certifications and why individuals with these qualifications are the most qualified professionals in forensic accounting, I urge you to contact me.

Ron

Determining Marital Standard of Living:

Income Only versus the Subtraction (Cheriton) Method

Part 2

By Ron J. Anfuso, CPA, ABV, CFF, CDFA, FABFA

The intent behind this article is to provide you a better understanding of two primary methods used in determining marital standard of living (MSOL) called ***Income Only*** and ***Subtraction***. In part one, I focused on the ***Subtraction*** method through a brief explanation of the determination of marital standard of living in the case of *In re the Marriage of David R. and Iris M. Frasier Cheriton*.

Here in part two, I focus on the ***Income Only*** method, for which *In re the Marriage of Boris M. and Ann E. Ackerman* provides an ideal example. (*For those of you who missed Part One, I encourage you to visit our website page where you can download a PDF version of Newsletter 41 (http://www.anfusocpa.com/forensic-accounting-newsletters*).

The Income Only Method: Marriage of Ackerman

It is relevant to point out that during their marriage, the Cheritons lived well beneath their means. On the other hand, the Ackermans (especially Ann) lived extravagantly, routinely spending their entire net income and then some each month. This contrast in spending compared to Cheriton led the court to accept an alternative method for the calculation of spousal support... one solely on income.

Boris Ackerman, MD, is a licensed physician practicing plastic surgery. Ann, on the other hand, was not employed outside the home during their marriage. Although Ann had graduated from law school, she had never passed the California state bar examination. It was deemed by the court that she was capable of working either as a paralegal, or by eventually passing the bar examination and practicing law.

When awarding spousal support, one factor the court must consider is the needs of each party based on the standard of living established during the marriage. This can be described as "reasonable needs commensurate with the parties' general station in life." In assessing a parties' standard of living, a

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Methods of Determining MSOL (Part 2) : Continued from page 1

trial court may consider their income, expenses and lifestyle during their marriage. However, the court may also determine MSOL based solely on the family's average income. Whether the parties were living beyond their means is an appropriate factor for a trial court to balance against other considerations to reach "a just and reasonable result." (Smith, supra, 225 Cal. App. 3d at p. 490; see also Weinstein. supra. 4 Cal. App. 4th at p. 566).

The Appeal

Ann argued in her appeal that the trial court was in error because the court failed to consider her expenses. She expressed that because Cheriton determined the marital standard of living by taking the total family income, the trial court had the obligation to do the same.

Prior to the separation of the parties, Boris was earning an average of $61,000 per month while Ann claimed monthly expenses of $50,000. The parties were spending "everything husband made" each month. Even after separation, Ann continued to spend "everything each month and then some." Ann asserted that many of her expenses were child-rearing obligations, which included care for their autistic child. The appeals court, however, ruled that the trial court was not bound to accept Ann's assertion of claimed expenses. Thus, the appeals court disagreed with the wife's belief that she needed two nannies, a cook, two baby sitters, and a personal assistant.

Furthermore, due to their lavish spending, the appeals court ruled it was appropriate for the trial court to base the MSOL solely on income. Therefore, the appeals court agreed with the trial courts' ruling that Ann's claimed expenses of $50,000 per month were unreasonable when compared to the $61,000 gross monthly average Boris earned prior to the parties' separation. The appeals court agreed that the trial court acted within its broad discretion in deciding what it determined were wife's *actual* needs and expenses.

Conclusion

We see that spending habits of the parties during a marriage need to be taken into strong consideration when determining the approach the court will accept in calculating the marital standard of living. If you have questions concerning this or any other issues concerning determining MSOL and related spousal support issues, I encourage you to contact me.

Why Judges Have Appointed Ron J. Anfuso More Than 40 Times

Pursuant to Evidence Code §730

Judges find Ron...

- Continually demonstrates integrity
- Diligently prepares for his testimony
- Demonstrates thorough knowledge of Forensic Accounting and California Family Law that relates to Forensic Accounting
- Provides clear, concise, impartial responses under testimony that help resolve Forensic Accounting matters
- Does not become flustered or thrown off course by tough questioning
- Consistently provides timely and succinctly written reports that fulfill judges' requests

When you need a proven Forensic Accountant to provide expert witness testimony, choose

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Need a Financial Expert to Speak to Your Study Group or Bar Event?

Ron J. Anfuso can address any Forensic Accounting topic, including Moore/Marsden; marital standard of living and support needs analysis; financial specialists and Collaborative Law; gross cash flow available for support; DissoMaster™; divorce tax issues; divorce–what to expect; and business valuation.

To discuss your group's needs, call Ron today!