



Forensic Accounting Today

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

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Issue 15

Determining Standard of Living: What California Courts Consider

In California, marital standard of living is usually determined by the actual income and expenditures of both parties. However, in some cases, calculations may turn out exceptionally high because both parties lived beyond their means or one of the individuals continually worked excessive hours. When it is clear that the couple lived above its means, the Court will likely establish the spousal award on the income of the parties, as opposed to basing the amount on their spending.

But, how about when the Court considers one of the party's working hours extreme? In such cases, expect the Court to establish the standard of living based on what would be considered *reasonable human pace*.

The Court may also consider that the parties lived modestly, perhaps focusing more than "normal" on investing and saving. In these instances, the Court may choose a standard that takes these habits into account.

So, what does the court consider to be evidence of standard of living? Courts take numerous circumstances into consideration. Some factors which the Courts commonly use include the following:

- Stocks, bonds and investments
- Special needs of parents and children
- Value of personal property
- Debts and outstanding loans
- Vehicles owned
- Whether children attend private school

Continued on page 2

Protect Your Client from Being Encumbered with His/Her Spouse's Tax Debt

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

In case you are not aware, during July 2011, the Internal Revenue Service issued Notice 2011-70, which made a significant change to stipulations for individuals looking for spousal relief under IRC 6015(f). This notice may help you protect your clients from liability for either underpayment or nonpayment of taxes caused by dishonesty by their spouses. Prior to this notice, there were significant limitations as to when innocent spouse tax relief could be claimed. Notice 2011-70 lifts the previously enforced two-year limit.

If you have not done so yet, I suggest you review the Technical Provisions of IRC 6015, including 6015(b) which "provides an election for relief from a deficiency/understatement of tax liability", 6015(c) which "provides an election to allocate a deficiency/understatement" and 6015(f), which "provides IRS discretion to grant equitable relief from deficiencies and underpayments, if the relief provisions under IRC 6015(b) or IRC 6015(c) do not apply".

Should you have questions concerning applying Notice 2011-70 to a client's case, please feel free to contact me.

Earning Capacity and Unemployment/Underemployment

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

The California Supreme Court defines earning capacity as "the income the spouse is reasonably capable of earning based upon the spouse's age, health, education, marketable skills, employment history and the availability of employment opportunities." Marriage of Simpson, (1992) C.4th 225, 14 Cal. Rptr. 2d 411.

Due in part to the current economy, there exists a notable number of cases in which spouses have not made a diligent effort to find employment or positions that meet their earning capacities. In such

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Determining Standard of Living: Continued from page 1

- Profit sharing, pensions and retirement accounts
- Social memberships (country clubs, etc.)
- Types of vacations taken
- Ownership of vacation homes
- Donations and contributions
- Sources of unearned income (i.e., rental properties)
- Valuable items and collectibles
- Inheritances

This is not an exhaustive list. If you have questions concerning determining marital standard of living, no matter how complex, call me or take a moment to post your query on our blog (blog.anfusocpa.com).

Ron J. Anfuso

Earning Capacity: Continued from page 1

cases, you have a greater chance of winning your case on support if you can get your client's spouse to admit he or she is unaware of work that is available within a commutable driving distance, as this indirectly indicates a lack of effort. The spouse will most likely admit this because the spouse believes he or she would be in a worse position by stating he or she knew of a job. If you present this well, the court will likely do its part to motivate the spouse to accept available employment. In all likelihood, this will result in a court order requiring the spouse to find employment, or more suitable employment, by the next hearing date or have the spouse present to the court the specific efforts that have been made to resolve the situation.

If you have thoughts you would like to express concerning this subject, I invite you to post your opinion and experiences on our blog (blog.anfusocpa.com).



FRUSTRATED
Your forensic accountant missed the deadline **AGAIN?**

Completing work on time is not that difficult! Yet, we continue to hear frustrations from attorneys about some forensic accounting firms.

Meeting deadlines requires meticulous planning prior to beginning work on a case. It also demands careful delegation and timely completion of tasks. **Most importantly, firms should never take on a case unless they have the qualified manpower to timely handle the work.** This is our policy! It's why referring attorneys know they can always count on us to meet their deadlines. Just ask them.



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An Accountancy Corporation



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