

COMPLETING A BC SUPREME COURT FINANCIAL STATEMENT:

WHY? HOW? WHAT HAPPENS NEXT?

WHY? Are you wondering why your lawyer has asked you to complete a BC Supreme Court Financial Statement (“FS”) when you have chosen a collaborative family law process? Well, we use this form because it provides a very helpful summary of a family’s income, expenses, assets and debts. The FS is frequently used in collaborative and mediation processes in BC, as well as court cases. Several reasons for using the FS are set out below:

1. FULL FINANCIAL DISCLOSURE: You and your spouse must fully disclose sources of income, expenses, assets and debts to each other. This is required under the family law legislation and previously decided legal cases. Both spouses are entitled to request and receive full disclosure from the other spouse. You will both need this information to consider your present and future needs, options to resolve the matters of property division and support, and to receive advice from lawyers, financial advisors, accountants and/or business valuers. It is all about allowing you to make informed decisions. With full disclosure and appropriate advice, you can make or evaluate offers to settle to resolve property division, child and spousal support.

Family law settlements must be based on full financial disclosure. If a spouse withholds significant disclosure while negotiating an agreement, the agreement reached may be set aside. At a later date, the other spouse may challenge the agreement after discovering important information was withheld. There are numerous cases in which a judge has varied parts of an agreement or set an entire agreement aside because of incomplete disclosure.

NOTE: You must SWEAR or AFFIRM the FS before your lawyer. It is your “sworn evidence”; it has the same force and effect as providing evidence under oath in a court of law. The contents of your FS must be true and accurate. If there are major changes to your finances, or if you later identify an error in your FS, you will need to update your FS to reflect those changes or corrections.

2. SAVE MONEY and TIME: If you provide your lawyer, your spouse and your spouse’s lawyer with complete information and an organized collection of financial documents, both you and your spouse will save money on legal fees. Options to resolve matters can be considered more quickly and easily when disclosure is complete and organized.

3. GAIN A BETTER UNDERSTANDING OF YOUR FINANCES: In completing the form, you should gain a better understanding of your sources of income, compulsory deductions from your pay cheques, and be able to consider your present and future expenses. If you are near retirement and wondering how the separation or divorce will affect your retirement income, it is especially helpful to have full information about pensions, RRSPs, annuities, and other possible income sources before you seek advice from retirement income specialists.

HOW?

- 1. Set aside an hour or two** when you can focus and think clearly.
- 2. Gather the necessary documents** (bank account statements, credit card statements, utility bills, income tax returns and Notices of Assessment, and your last three paycheques) or get online access to this information.
- 3. Grab a calculator, pencil, eraser and some paper.**
- 4. Complete Parts 1, 2 and 3.** If you have children under the age of 19, or in post-secondary schooling, or adult children with disabilities, complete Part 4 as well. Only complete Parts 5 and 6 if your lawyer instructs you to do so.
- 5. Read the instructions** on the blank Financial Statement.
- 6. Consider the following tips for each part of the form.**

PART I– INCOME:

A. Employer information. If you are unemployed or retired, change the first sentence under Part 1 to read “unemployed” or “retired”. If you are disabled, state you are unemployed and include your former employer as well as the name of your disability insurance company, if you are receiving disability benefits.

B. Documentation supplied. If you are self-employed and have Financial Statements, the last three years’ worth must be disclosed, in addition to the Statements of Professional or Business Activities of your tax returns. If you are a partner in a partnership or a shareholder in a corporation, the tax returns of the partnership or company must be disclosed.

C. ANNUAL INCOME – Report **ANNUAL** amounts, not **MONTHLY** amounts.

Employment income: It’s best to consider at least three paystubs. Use your last three paystubs if possible. Determine the number of pay periods you have each year. If you are paid twice per month, you will have 24 pay periods. If you are paid every two weeks (i.e., most government employees), you will have 26 pay periods in a year. Include ANNUAL amounts for union and professional dues on Line 9.

Non-employment income: If you are unemployed, gather your EI, disability or retirement income cheque stubs and/or tax slips. If you are retired, you likely have several sources of income (pension, RRSPs or RRIFs, annuities, income from non-registered investments, CPP, OAS, etc.).

Universal Child Care Benefit (UCCB): Your family should receive \$1,200 per year for each child aged 6 and under.

Child Tax Bonus/BC Family Bonus (CTB): The amount your family receives for children under age 18 changes each year in July.

NOTE: Include self-employment income, partnership income, rental income, dividends, and RRSP income in **Schedule A** on page 5. You must include both Gross and Net income for self employment and rental incomes. For dividends, disclose actual and taxable amounts, as well as eligible and non-eligible dividends. I advise discussing the reporting of dividends with your accountant and lawyer.

If you believe you need to complete **Schedule B** on page 5 regarding employment expenses, business losses, capital cost allowances or employee stock options, you should discuss this section with your lawyer and accountant. It may be best to retain your accountant to provide these amounts for this sworn document.

PART 2– EXPENSES:

The FS requires **MONTHLY** expenses. This is different from the INCOME section that requires annual amounts. To calculate monthly expenses, you will likely need to AVERAGE some of your expenses, especially those for expenses that vary with the season (oil, gas and hydro) and those that are one-time annual expenses, such as large bills for dental work, car repairs, or house maintenance. If you own real estate – you will need to report the property taxes and insurance as monthly expenses, and tally your total annual expenses for water, repairs and maintenance before reporting them as monthly expenses.

Compulsory deductions: Compare three or more pay stubs. Do you have some deductions that occur in every pay period or every 2nd pay period? Are some deductions made once a year or once a quarter (every three months)? You need to state the MONTHLY AVERAGE of these deductions.

CPP contributions can vary from pay cheque to pay cheque. If you are an employee, the Maximum Annual CPP contributions in 2012 are \$2,306.70 or \$192.23 per month. This is for employees who earned \$50,100 in 2012 or more. If your total earned income in 2012 will be less than \$50,100, your total CPP contributions will be lower. If you are self-employed, the Maximum Annual CPP in 2012 is \$4,613.40 or \$384.45 per month. You should check the contribution amount required for your self-employment income. There are several good websites that contain information about CPP contributions and EI premiums.

EI premiums can also vary from cheque to cheque, with larger contributions through the first part of the year until you have contributed the maximum. If you are an employee, the Maximum Annual EI contribution for 2012 is based on an income of \$45,900, and is \$839.97 or \$70.00 per month. This is for employees who earned \$45,900 in 2012 or more. If your total earned income in 2012 will be less than \$45,900 your total EI premiums will be lower.

Medical, dental and extended health premiums are reported in the **Health** section.

Utilities: Determine what you pay in a year and then the monthly amount. Some municipalities (e.g. Victoria, Esquimalt) include charges for garbage and sewer in your property taxes, but not water.

Household expenses: Include toilet paper, Kleenex, cleaning supplies, dishwasher and laundry soap, and similar items under **Household supplies**.

Health: If possible, try to determine what part of your premiums for MSP, extended health and dental are for you alone, and what amounts are for your children or spouse. The amounts for children are usually split between the parents as **Special or Extraordinary Expenses**.

Personal: Clothing: don't forget to consider the cost of shoes and coats. Gifts: For parents, friends, and relatives. Don't include those for your children or their friends here (don't those birthday parties add up?), but include gifts for your children under the category of Children below.

Children: Gifts: for your children only. If your children are at an age when they attend a lot of birthday parties – and you frequently buy gifts for other children, put the gifts for other children in the Other category.

Support payments to other. This category is for child or spousal support paid to a previous spouse, not your current one, or for children from a previous relationship. For many people, this part is blank.

Debt payments: Consider that every debt listed in the following Part, Part 3, should be matched by a payment in Part 2 – Expenses. A mortgage and car loan/lease payments will show on Page 6, but if you have other debt payments, they should be at the bottom of Page 7.

PART 3– PROPERTY

ASSETS

1. Real estate. Include your estimate of fair market value and the assessed value.

If you don't have the most recent Assessment Notices for your real estate - you can look up the most recent assessed value in the **e-ValueBC** section of the following website:

www.bcassessment.ca. You need the property address and the Assessment Area for each piece of property. If the real estate is in Victoria, Sidney or Sooke - the Assessment Area is the Capital District.

2. Vehicles. Include the year, make and model and your best estimate of fair market value.

If you feel unable to provide a value for a vehicle, you may want to look at websites for vehicle sales in BC. Your public library website may have an “**e-research**” feature; if you search for “autos” you should find the Gold Book which lists values for different types of autos. You and your spouse may decide to get cars, motorhomes or boats appraised by a local dealer.

3. Financial Assets. Include the bank account numbers and date of the balance/overdraft if possible.

4. Pensions and RRSPs. The value of most pensions is NOT that shown on the annual pension statement from your pension plan. Generally, pension statements show employee contributions only and not those made by the employer nor the accumulated interest on all contributions. Many people write “Unknown” in this space. You should request and disclose the most recent statements from any pension plans. You and your spouse may decide to retain an actuary to value your pensions.

5. Business Assets. If you have an indirect or direct interest in a business or venture—including one in which your name may not be on registration or ownership documents—you must disclose it.

6. Other. Include household possessions, antique furniture, etc. Many people write “Unknown” for the value of household possessions. You and your spouse may decide to retain an auctioneer to value your household possessions.

DEBTS

Secured Debt Details – Secured debts are those for which the lender has an asset to pursue if the debt is not satisfied. **Mortgages** are secured debts as the lender has rights of foreclosure to obtain ownership of real estate or its sale proceeds if the mortgage is not fully paid. Vehicles or business assets may be subject to a **lien** or security interest registered in the Personal Property registry. If you believe you or your spouse have an asset secured by a lien or registered security interest, inform your lawyer. **HELOCS** (Home Equity Lines of Credit) or **larger personal and business Lines of Credit** are often secured against real estate and show up as a mortgage on title.

Unsecured Debt Details – Unsecured debts are those for which the lender has NO assets to pursue, but must pursue the debtor in person. These debts include **credit cards, smaller personal lines of credit**, most bank overdrafts, most loans from family or friends, unpaid utility bills, unpaid income taxes, etc.

PART 4 – SPECIAL OR EXTRAORDINARY EXPENSES

Complete one table per child. If you can determine the Gross and Net amounts of expenses, include both amounts. The **net** amount refers to the actual cost to you and your spouse after you deduct any government benefit or tax credit associated with an expense. If you look through previous tax returns, you will see that tax credits for Child Care, Fitness Amounts and private school or university tuition reduce these costs.

WHAT HAPPENS NEXT?

After you have completed a draft of your FS, your lawyer, and possibly your accountant or financial advisor will review it. Your lawyer may want to clarify some of the information in the

FS. You will then need to swear it is true in front of your lawyer, who will provide the sworn document and attachments to your spouse's lawyer. You will receive your spouse's FS and be able to compare it to your FS, and follow up your review with questions to your spouse and his or her lawyer. You can request documents from your spouse. Your lawyer will be able to give you more complete advice on spousal and child support, special expenses, and the division of property. Your accountant will be able to give you more detailed tax or business advice. A retirement specialist can provide more detailed advice on retirement income choices. And finally, you will be moving ahead with your life. Financial disclosure is a vital step in reaching fair and lasting agreements.

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Lawyer

Member of the Collaborative Family Separation Professionals

Victoria, BC, Canada