

MICHIGAN
CHILD SUPPORT FORMULA
MANUAL

2000

Friend of the Court Bureau
State Court Administrative Office
P.O. Box 30048
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**Michigan
Child Support Formula
Manual**

**2000
Twelfth Revision**

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TABLE OF CONTENTS

	Page
Preface	V
Purpose of this Formula	VI
Changes to the Child Support Formula Manual	IX
I. Statutory Requirements	1
A. Application of and Deviation from the Formula	1
B. Requirement to Investigate and to Petition for Modification	1
C. Minimum Threshold Amount	2
II. Determining Net Income	3
A. Sources and Variations in Income	3
B. Children's Income	4
C. Overtime and Second Jobs	5
D. Social Security Retirement/Disability Benefits	5
E. Deferred Compensation/Individual Retirement Account (IRA)	6
F. Inheritances, One-Time Gifts	6
G. Means Tested Sources of Income	6
H. Identifying Net Income	7
I. Imputation of Income	8
J. Non-Income Producing and Low-Income Producing Assets	9
K. Allowable Deductions from Gross Income	9
L. Existing Support Orders	10
M. Other Minor Children	11
N. Stepchildren	12
O. Special Considerations in Determining Income	13
III. Calculating Child Support Amounts	17
A. Calculating Child Support Using Table III	17
B. Calculating Child Support Using Support Schedules	21
C. Calculation of Child Support in Low/No Income Cases	21
D. Calculation of Child Support in High Income Cases	24
IV. Miscellaneous Provisions	25
A. Different Custody Arrangements For Different Children	25
B. Shared Economic Responsibility	26
C. Parenting Time Abatement	27
D. Health Care Expenses	28
E. Child Care Expenses	29
F. Third Party Custodians	33
G. Arrearage Guidelines	33
H. Stipulated Agreements	37
I. Ex Parte and Temporary Orders	37
J. Child Support Recommendations in Contested Custody Cases	40

SECTION II. DETERMINING NET INCOME

Condition Two:

It may be appropriate to consider stepchildren when their custodial parent earns no income and does not have the ability to earn income.

After it is established that **both** of these conditions exist, the following method should be used for determining the net incomes of parents who currently have stepchildren living in their households.

- Step 1: Determine the net weekly incomes of the parties in the case under review.
- Step 2: Determine the number of stepchildren living in the party-stepparent's household for whom the party-stepparent is the sole source of income.
- Step 3: Adjust the stepparent's income, according to the number of stepchildren in the current household, by multiplying the stepparent's income by the appropriate adjustment percentage from Table II.

The applicable percentages when parents have stepchildren are derived from the average percentages calculated by using Table III (see page 17). When there is one stepchild in the stepparent's household, multiply by .948 (see Table II). The factor of .948 is derived by dividing the average support percentage for one child (20.8%) by 4 and then subtracting that number (5.2) from 100. When there are 2 stepchildren, multiply by .921, when there are 3 stepchildren, multiply by .899, when there are 4 stepchildren, multiply by .886, when there are 5 stepchildren, multiply by .876.

- Step 4: Apply the stepparent's adjusted income, as determined in Step 3, and their former spouse's income to the schedule with the correct number of children for whom this modification is being sought.

Table II
Percentages Applied to Net Income
when Parents have Stepchildren

Number of Children	Adjustment Percentage
1	94.8%
2	92.1%
3	89.9%
4	88.6%
5 or more	87.6%

O. Special Considerations in Determining Income of Self-Employed Persons, Business Owners, and Business Executives

2000 CHILD SUPPORT FORMULA

There are special difficulties in determining the income of self-employed persons and business owners. This is due to at least four related causes. First, self-employed persons and business owners often have types of income and expenses not frequently encountered in determining the income of wage- and salary-earning employees. Second, the tax rules and tax forms associated with self-employment income are not only quite different from those associated with ordinary income from employment, but are designed with many additional purposes unrelated to child support determination and may therefore be difficult to translate into child support terms. Third, business balance sheets and other records also have purposes unrelated to child support determination, and are similarly difficult to translate into child support terms. Finally, there are potential difficulties because persons who have significant control over the form and manner of their own compensation may be able to arrange that compensation so as to be able to minimize the amount visible to friends of the court and others. To a somewhat lesser extent, all these considerations also apply to business executives who may have little or no ownership interest in the business.

The objective of determining income for purposes of this formula is to estimate as accurately as possible the amount of income actually available for support of children. Because tax rules and forms, and business balance sheets, as noted above, have quite different purposes, it is necessary to examine such documents carefully, with an emphasis on what is not available from those documents and what needs translation into child support terms.

These considerations apply to all forms of self-employment and business ownership, regardless of whether the business is organized as a corporation, a partnership, a sole proprietorship, or is a completely informal operation. (Of course, the form of organization will make a major difference in the sort of tax documents and business records available.) As noted, many of them will also apply to business executives, again without regard to the form of legal organization of the business.

Special attention should be given to the following factors:

1. Unusual forms of income:

The employment income of self-employed persons, business owners, and business executives may come in many forms other than wages and salaries. These might include distributed profits of the business (including under a profit-sharing plan), officers' fees and other compensation, management or consulting fees, commissions, and bonuses.

2. In-kind income:

Income might be received in a form other than cash. Among the most common forms of such income are use of a company car, free admission to entertainment provided by the business to its clients, and purchases of stock or other goods and services. All such in-kind income should be priced at its market value (the price that a person not affiliated with the business would have had to pay); the amount (if any) that was paid by the party for the goods or services out of his or her pocket should be subtracted; and the remaining amount counted as income. (Note that part or all of the items added to income in this section may be allowable as deductions under Section 6 on Page 15).

3. Re-directed income:

In some cases, income to the owner or executive might be treated by the company as if it were something else. One example would be personal loans to the owner or executive which will not be paid back. These can later be "forgiven" by the company, or otherwise converted into income to the

SECTION II. DETERMINING NET INCOME

individual, once the time of child support determination is past. Although it should be presumed that such loans are in fact income, the presumption may be overcome if there is a history of such past loans being made and being repaid in a timely manner with market interest rates, and the current loan is at market interest rates and is fully paid up in accordance with a commercially reasonable time schedule. The amount by which a commercially reasonable repayment amount exceeds the amount actually repaid should be treated as income.

Another form of redirected income is payments by the business (in the form of wages, salaries, or payments for services) made to friends or relatives of the individual. If the individual cannot demonstrate that there is a history of such payments preceding the separation (or motion for redetermination of child support) by several months or that the payments are a fair market value payment for services actually performed, then the payments shall be treated as income to the individual.

4. Deferred income:

It is possible for business owners and executives to reduce their income for the period of child support determination by temporarily lowering their own salaries, fees, distributed profits, etc. Past practices should be examined with care to determine whether the most recent information on such incomes is in line with historical patterns. For example, if it has been normal for a business to distribute a certain percentage of profits to owners, but the most recent year's distribution was substantially below that percentage, income for child support determination should be based on the historical average. Recent reductions in salary, bonuses, management fees, etc., as a percentage of gross income of the business should be treated similarly.

5. Fringe benefits

Certain fringe benefits paid by the business should be counted as income to the individual for child support determination purposes, even though such payments are not considered income for tax purposes. These include contributions to pension or other retirement plans, except for the employer share of social security and medicare (FICA) taxes and contributions to qualified private retirement plans of up to 5.5% of the individual's gross income. Contributions in excess of these exceptions are to be counted as income.

6. Deductions:

For a wide variety of historical and policy reasons, there are a considerable number of deductions allowed for taxation of business and individuals that are irrelevant to, and therefore not allowed as deductions from income for purposes of, child support determination except for expenses which are consistent with the nature of the business. These include the following:

- a. Rent paid by the business to the individual (unless the rent is otherwise counted as income to the individual);
- b. Certain depreciation allowances. (Depreciation is an allowance for the presumed declining market value of assets used by the business. For tax purposes, depreciation allowances serve the function of spreading the deduction that would be associated with the expense of a purchase over several tax years; because the depreciation periods typically understate the useful life of many assets, depreciation allowances also provide