

GUIDELINES TO COMPLETING THE FORM 8 FINANCIAL STATEMENT

Separation is an extraordinarily stressful time. During this time, we are typically monopolized by our emotions which is typical of the human condition. It is difficult to be pragmatic and focused on the “business” of separation and the details of litigation.

Compiling and completing your financial documents can be daunting particularly when emotions are running high. That being said, it is absolutely critical to the successful resolution of your matter, that your lawyer and or the Court have a complete and accurate picture of your finances.

Whether you are participating in a collaborative or cooperative process or in litigation, financial disclosure is not only important, but mandatory. Again, it is necessary for the resolution of your matter and it is the law.

One of the more useful tools for exchanging financial disclosure in the separation process is known as the Form 8 Financial Statement. Although at first blush, completing this form may seem daunting, it is our experience that clients are frequently empowered by completing this form which provides them and their lawyer with a comprehensive picture of their finances and also gives them the foundation for a post-separation budget and critical information for financial planning.

When completing the Form 8 you must be thorough and completely honest. You will be swearing/affirming the Form 8, which means that you can be examined on the content of this document and if you are not honest, you will be perjuring yourself, which is illegal.

Here are some helpful tips to guide you when you are completing your Form 8:

INCOME

Go through this section line by line. Have your paystubs and income tax returns handy. These will be useful if not crucial for you to have to be able to accurately report your current income and your income as reported in your tax return filed, the previous year. Accurately report all sources of income for the year and all of your deductions. If you have any questions about your income and or deductions, you should discuss these with your lawyer.

You are required to provide the following proof of income: a) last three years income tax returns together with copies of supporting documents b) last three years Notices of Assessment and or Re-assessment c) 3 recent and consecutive paystubs from all income sources and or a letter from your employer(s) setting out your year-to-date income d) if self-employed a year to date income and expense statement e) if you are incorporated you will also need to provide the last three years' corporate income tax returns and notices of assessment or re-assessment; last three years' financial statements and a statement setting out the year to date income and expenses (if possible).

If you do not have copies of your tax returns and or Notices of Assessment and or Re-assessment, you may go to the Canada Revenue Agency on line and order copies at no charge to you.

EXPENSES

Once again, it is very important that you report your monthly expenses honestly and accurately. The expenses to be listed are clear and for the most part self-explanatory on the form. If you have any questions or concerns, ask your lawyer. Expenses are frequently used in the determination of spousal support and can influence the amount of

child support payable in shared parenting regimes. The strength of your case and your lawyer's ability to put your best foot forward will be based in large part on the information that you provide which forms the foundation for litigation, negotiation and resolution. If you do not provide complete and accurate disclosure you are doing yourself a disservice and you are failing in your obligation to yourself and your lawyer to provide your lawyer with all of the tools he/she needs to procure the outcome you are hoping for.

ASSETS

Real Estate

- List all real estate, homes cottages, and other real property;
- For each item of real estate, identify who is in possession;
- For each item of real estate, identify who is listed on the title (Ownership -joint? In your name? In your partner's name?);
- For each item of real estate, identify what you would estimate to be the value of the item as at the date of separation and the basis for this value. Be proactive. Obtain a valuation for each item of real estate and attach copies of those valuations;
- For each item of real estate, identify what you would estimate to be the current value of the real estate. Identify what the basis is for this estimate.

Cars, boats, vehicles

- List all cars, boats and vehicles which existed at the date of separation;
- For cars, also include the make, model, and year and provide Black Book value documentation. This information is readily available on line for no charge;
- For boats and other vehicles such as a trailer, identify the estimated value as at the date of separation and identify the basis for your estimate
- For each car, boat or other vehicle, identify who is currently in possession of that item at the date of separation (if item has been sold, indicate same)
- For each car, boat or vehicle, identify who had the ownership of that vehicle at the date of separation (whose name is on the registration?)

Household goods, furniture and appliances, and tools, sports and hobby equipment

- Please identify if both of you retained some of these items. Do not consider personal items such as clothes and toiletries in this analysis. Recall that the basis for valuation pursuant is auction sale values not replacement values.

Bank accounts and cash on hand

- Please list all of your bank accounts which existed at the date of separation;
- For each bank account, identify the account number, the financial institution, and whether it is chequing, savings or other type of account;
- Please identify the amount in each bank account as at the date of separation;
- For each item list the current status of that account (closed, transferred into a new account) and the approximate current value (attach statements as at the date of separation);
- Please provide statements which support the balances in each of the accounts as at the date of separation and currently;
- Please list, to the best of your knowledge, the number of bank accounts owned by you and your partner at the date of separation, the financial institution, the type of account and approximate balance if you know this information.

RRSPs

- Please list all accounts that you held, financial institution, and a contact person, if any at the financial institution;
- For each RRSP account, please provide statements showing the value as at the date of separation as well as the current value.

Bonds, shares, term deposits, investments, certificates or mutual funds

- Please list all accounts that you held, financial institution, and a contact person, if any at the financial institution;
- For each account, please provide statements showing the value as at the date of separation, as well as the current value;
- Please advise if either you or your partner were owed any money as at the date of separation.

Insurance

- Please whether you do or do not have life insurance with a cash value as at the date of separation;
- Please confirm that you do not know of any life insurance with a cash out value that your partner held as at the date of separation;
- In the event that either of you had cash value life insurance, please provide a statement for same with the value as at the date of separation.

Pension Plans

- Please list all pension plans that you were a member of as at the date of separation (not including the Canada Pension Plan);
- If you have a pension plan you must contact the pension administrator and request a commuted value marriage breakdown statement. This statement should provide an actuarial calculation of your partner's entitlement, if any, to your pension plan credits.

Business Assets

- Please confirm that neither you nor your partner (to the best of your knowledge) had any business interests, including shares, or stock options, as at the date of separation. If you did, please provide the particulars of those interests.

DEBTS AND LIABILITIES OF BOTH PARTIES

Mortgage

- Please list the mortgage(s) that either you or your partner held at the date of separation or that were jointly held;
- Please identify the mortgage(s) is in your name, your partner's name or is held jointly;
- Please provide us with a statement which shows the mortgage(s) balance as at the date of separation and the current mortgage(s) balance.

Loans or Lines of Credit

- Please list all loan or line of credit accounts, including the financial institution where they are held and any contact person you deal with;
- Please provide a statement showing the balance as at the date of separation as well as the current balance;
- Please advise of the current status of the loan or line of credit.

Credits Cards

- Please list all credit cards including department store cards (that you had at the date of separation);
- Please provide statements showing the balance owed on all credit cards at the date of separation;
- Please advise as of the current status of the credit cards. If your partner maintains an associate card on one of those accounts, discuss whether removing your partner from that account and cancelling the associate card is something that ought to be attended to. If you and your partner have joint

accounts, advise your lawyer immediately with a view to obtaining legal advice with respect to same.

Other

- Other than legal fees, please list any other debts or liabilities which either you or your partner had at the date of separation, including the name of the creditor and the approximate amount owed at the date of separation, and the current status of this debt. Ensure that you have listed your monthly payments on the expense portion of the Form 8.

If you do not have all of the statements you require and if you are time challenged or overwhelmed by the process, consider providing your lawyer with an authorization permitting him/her to obtain the statements for you.

Legal and financial issues and processes can be difficult and confusing and at times overwhelming. Call us and we will help to break this all down for you and empower you and we will guide you through these processes to resolution of your family law matter.