

Outline for York County Bar Association CLE

**Hour 1: Troubled Waters – Tax Cuts and Jobs Act (TCJA) and Divorce 2019 and Beyond**

**Presenter: James Wade**

- Impact of TCJA on Alimony
- Where are my exemptions? What is the impact of TCJA on your client's tax return?
- How to read the new Form 1040 – now “postcard” sized and “simpler”.
- Have a sample copy of a tax return, W2, and the new 1040 for each attendee so they can make notes on it, highlight, etc.

**Questions to answer:**

- What about the any changes to the child tax exemptions/credits? What makes the most sense to do when parties are trying to alternate the credit? Can they still do this? Are there new forms that need to be filed to facilitate this?
- What can or should I send to my clients regarding the TCJA during my representation of them? For example, should I send them a letter explaining what the law changes mean to support(both child and spousal) payments?
- How will these changes impact negotiations in my cases? Will wealthy spouses begin negotiating smaller spousal payments as result of the payment changes?
- Will the changes to spousal support tax treatment in the TCJA potentially cause judges to make smaller spousal support awards?
- How could future Court decisions in determining alimony being impacted by the TCJA?
- Do states have to follow the TCJA or can they choose to keep spousal support deductible for the payor and not for the recipient? Is there any word on will Maine follow the TCJA?
- If you are modifying a pre-2019 spousal support order, does there need to be any special language in the modified order or put on the record to keep the spousal support payments pre-2019 tax treatment(deductible to payor)?
- How is Child Support impacted the TCJA?
- As a result of the TCJA, will it ever make more sense to delay finalizing a divorce for tax savings?
- What does it mean to be head of household and how do you get to claim it?
- What about the child tax credit? How does that work under TCJA?

- Will the child tax credit be tradeable?
- What about the sunset provisions of the TCJA as they relate to alimony? Is there anything that should be written in divorce judgments regarding that?
- Why is the child tax credit so much more valuable in a divorce?
- What is a “qualifying child” as it relates to the child tax credit?

## **Hour 2: Tips and Tricks on Using Financial Documents in Your Next Divorce Case**

**Presenter: Eric Purvis & Dana Prescott**

- Financial statements
- Tax returns
- Investment statements
- Bank statements
- Evidentiary issues

### **Questions to answer:**

1. How do you handle a situation of poorly drafted financial statements?
2. How can you use bank statements to determine if excessive spending is taking place? Is there any case law related to what constitutes excessive spending?
3. What is the easiest way to determine the marital value of pensions? Are there certain documents that you should request?
4. Sole business owners—how to calculate their fringe benefits for purposes of child support, spousal support, and valuation of the business?
5. If a sole business owner decides to give employees fringe benefits—how does this factor into their income? If these benefits are not required, this seems like another way to hide income.
6. How do you decipher the Schedule C to determine whether or not some of the expenses are legitimate business expenses or a way to hide income?
7. Do you have any business valuation experts that you recommend and what does average pricing look like?
8. Are there any rules of thumb relative to income, net worth, or business size, business type, that attorneys should be looking to find experts to do the analysis?
9. What are some of the evidentiary issues that come up with using financial documents?

## **Hour 3: Show Me the Money! How to Sniff Out Hidden Assets or Unreported Income. (Panel for sure)**

**Presenter: Bob Brown**

- Where to look
- What discovery to request
- Do it yourself or hire an expert?
- Case studies

### **Questions to answer:**

- Should I subpoena the records I want or request them as documents?
- If you can't figure out the tax return, who can you turn to help you figure out what is there?
- Is there any particular person or service, other than a Private Investigator, that is used to find these hidden assets?

Hour 1 will be presented either by me. I may have a CPA who I convinced to join a panel act as a second so he or she can chime in with their take on certain things. This hour is going to go over the change with alimony which I expect will take 10 minutes. Discussing the new tax return will probably take another 5 minutes. The rest of the time will be discussing all the changes of the TCJA which may have an impact on a divorce. Things like the loss of exemptions and the increased child tax credit.

Hour 2 will be done by a CPA and an experience divorce attorney. I want the CPA to talk about each financial document and what can be gleaned off it. For the first part of the hour the CPA will do most of the talking but once we have an idea what is out there for information the idea is to have the experience divorce attorney talk about how he or she uses this information to build a case. I can help out and gather interesting cases which can be added as things to keep the discussion going.

Hour 3 will be myself, an experienced divorce attorney who has some experience with sniffing out financial shenanigans. I also want to get a CPA who is a forensic accountant. I think out of all the topics that this should be the most fun and interesting. I just need to get an interesting CPA who has some war stories and an attorney who can help talk about what tools to use.

