

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF _____

_____ X

Plaintiff,

— against —

Defendant

_____ X

Index/Docket No.:

_____ / _____

**TEMPORARY MAINTENANCE
GUIDELINES WORKSHEET for
Divorces on or after 10/25/15**
(See Attached Instructions on page 8)
Rev. 3/1/21

This Worksheet is submitted by Plaintiff Defendant.

NOTE: If you and your spouse have entered into an agreement about temporary maintenance, check the box below and submit a copy of the agreement to the court along with the completed Worksheet.

Plaintiff and Defendant have entered into a written agreement about temporary maintenance.

1. ENTER INCOME OF PARTIES

A. Enter Plaintiff's Annual Income from **Line 17 of Appendix A** \$ _____

B. Enter Defendant's Annual Income from **Line 17 of Appendix A** \$ _____

NOTE: If you do not know your spouse's income write "unknown."

2. DETERMINE WHO IS THE MAINTENANCE PAYOR AND WHO IS THE MAINTENANCE PAYEE

A. Enter the higher of **Lines 1A and 1B**.
The person with the higher income is the **MAINTENANCE PAYOR**. \$ _____

B. Enter the lower of **Lines 1A and 1B**.
The person with the lower income is the **MAINTENANCE PAYEE**. \$ _____

continued

3. CALCULATE GUIDELINE AWARD ON INCOME UP TO AND INCLUDING \$192,000¹

A. Check the box to indicate how you made the calculation:

- Use the Temporary Maintenance **Online Calculator** available at: <http://www.nycourts.gov/divorce/MaintenanceChildSupportTools.shtml> and enter the amount from **Line 12** of the **Online Calculator** in **Line 3B** below

OR

- Use **Appendix B** to make the calculation and enter the amount from **Line 19** of **Appendix B** in **Line 3B** below

B. The Guideline Award of Temporary Maintenance (based on Maintenance Payor's Income up to \$192,000) is: \$ _____²

I have carefully read this statement and attest that it is true and accurate to the best of my knowledge.

Signature of party who presented this worksheet

Print or type name

Subscribed and Sworn to before me
on _____

NOTARY PUBLIC

Signature of Attorney, if any

Print or type name

Attorney's Address

Attorney's Telephone Number

NOTES:

¹**Temporary Maintenance Award on Portion of Payor's Income above \$192,000.** If the Maintenance Payor's income exceeds \$192,000, the Court may award an additional amount of maintenance. In making such decision, the Court shall consider the **13 factors for temporary maintenance.**

²**Unjust or Inappropriate Awards:** If a party believes that the Guideline Award of Temporary Maintenance is unjust or inappropriate, the party can ask the Court to order the Maintenance Payor to pay an adjusted amount. In making such decision, the Court shall consider the **13 factors for temporary maintenance.**

The 13 factors for temporary maintenance pursuant to DRL§ 236(B [5-a](h)(1) are set forth in Appendix C

APPENDIX A (Page 1 of 2 Pages)

TO TEMPORARY MAINTENANCE GUIDELINES WORKSHEET

Itemization of Income and Deductions

I. GROSS INCOME *(Annual Figures Only)*

| | PLAINTIFF | DEFENDANT |
|---|------------------------------|------------------------------|
| 1. Gross (total) income (as should have been or should be reported in most recent federal income tax return) | \$ _____ | \$ _____ |
| 2. Investment income (not already included in item 1) reduced by amount expended in connection with the investments . . . | _____ | _____ |
| 3. Income or compensation from the following sources (not already included in items 1 or 2) | _____ | _____ |
| a. deferred compensation. | _____ | _____ |
| b. worker’s compensation. | _____ | _____ |
| c. disability benefits. | _____ | _____ |
| d. unemployment insurance benefits | _____ | _____ |
| e. social security benefits | _____ | _____ |
| f. veterans benefits. | _____ | _____ |
| g. pensions and retirement benefits | _____ | _____ |
| h. fellowships and stipends. | _____ | _____ |
| i. annuity payments | _____ | _____ |
| 4. Former income or resources voluntarily reduced | _____ | _____ |
| 5. Self-employment deductions (not already included in items 1 or 2) . . . | _____ | _____ |
| a. depreciation deduction in excess of straight-line | _____ | _____ |
| b. entertainment and travel allowances if they reduce personal expenditures | _____ | _____ |
| 6. Other Income not already listed above (including but not limited to: Income from non-income producing assets; employment “perks” and reimbursed expenses to the extent that they reduce personal expenses; fringe benefits as a result of employment; money, goods and services provided by friends and relatives;) | _____ | _____ |
| 7. GROSS ANNUAL INCOME (Add lines 1-6) | \$ _____ PLAINTIFF | \$ _____ DEFENDANT |

II. DEDUCTIONS *(Annual Figures Only)*

| | PLAINTIFF | DEFENDANT |
|--|-----------------|-----------------|
| 8. Unreimbursed employee business expenses (except to extent expenses reduce personal expenditures) | \$ _____ | \$ _____ |
| 9. Alimony or maintenance actually paid to non-party spouse pursuant to court order or agreement | _____ | _____ |
| 10. Child support actually paid pursuant to court order or agreement for non-party child. | _____ | _____ |
| 11. Public assistance <i>Note: enter zero unless included in Gross Income</i> | _____ | _____ |
| 12. Supplemental social security Income <i>Note: enter zero unless included in Gross Income</i> | _____ | _____ |
| 13. N.Y.C. or Yonkers taxes. | _____ | _____ |
| 14. Federal Insurance Contributions Act (FICA) Social Security taxes | _____ | _____ |
| 15. Federal Insurance Contributions Act (FICA) Medicare taxes | _____ | _____ |
| 16. TOTAL ANNUAL DEDUCTIONS (Add lines 8-15). | \$ _____ | \$ _____ |

III. NET INCOME

| | | |
|---|-----------------|-----------------|
| 17. NET ANNUAL INCOME (Subtract line 16 from line 7 and insert on lines 1A and 1B of the Worksheet). | \$ _____ | \$ _____ |
| | PLAINTIFF | DEFENDANT |

APPENDIX B (page 1 of 2 pages)

TO TEMPORARY MAINTENANCE GUIDELINES WORKSHEET

Calculation of Guideline Amount Of Temporary Maintenance Up To And Including \$192,000, and Adjustment for Low Income, If Any

I. BASIC CALCULATION

STEP A: COPY BASIC INCOME OF PAYOR AND PAYEE FROM p. 1 of Worksheet

- 1. Enter Maintenance Payor's income from Line 2A on page 1 of the Worksheet:
If this amount is greater than \$192,000, enter \$192,000. _____
- 2. Enter Maintenance Payee's income from Line 2B on page 1 of the Worksheet _____

STEP B: CALCULATE RESULT 1 and RESULT 2 USING FORMULAS B(1) AND B(2) BELOW; THEN ANSWER QUESTIONS IN STEP C AND STEP D TO DETERMINE WHETHER RESULT 1 OR RESULT 2 APPLIES

STEP B (1) 3. Multiply Line 1 (Maintenance Payor's Income) by 20% _____

STEP B (1) 4. Multiply Line 2 (Maintenance Payee's Income) by 25% - _____

STEP B (1) 5. Subtract Line 4 from Line 3: **Result 1** _____

STEP B (2) 3. Multiply Line 1 (Maintenance Payor's Income) by 30% _____

STEP B (2) 4. Multiply Line 2 (Maintenance Payee's Income) by 20% - _____

STEP B (2) 5. Subtract Line 4 from Line 3: **Result 2** _____

STEP C: 6. Will child support be paid for children of the marriage? **YES** **NO**

STEP D: 7. Is the Maintenance Payor the Non-Custodial parent? **YES** **NO**

- ▶ **RESULT 1 OF STEP B(1) WILL APPLY IF THE ANSWERS TO BOTH OF THE QUESTIONS IN STEP C AND STEP D IS YES.**
- ▶ **RESULT 2 OF STEP B(2) WILL APPLY IF THE ANSWER TO EITHER QUESTION IN STEP C OR STEP D IS NO.**

STEP E: COMPLETE THE CALCULATIONS BELOW to arrive at Result 3:

8. Add lines 1 and 2 _____

9. Multiply 40% of Line 8 - _____

10. Subtract Line 2 from Line 9: **Result 3** _____

11. Enter the lower of **Result 3** from Line 10 and Line 5 (from **STEP B, Result 1** or **Result 2**, whichever applies), but if Line 11 is less than or equal to zero, enter zero _____

THIS IS THE CALCULATED GUIDELINE AMOUNT

II. THE LOW INCOME ADJUSTMENT

STEP F: *(Determine if the low income adjustment applies)*

12. Enter Maintenance Payor's income from Line 1 _____

13. Enter calculated guideline amount from Line 11. - _____

14. Subtract Line 13 from Line 12. _____

▶ *If Line 14 is greater than \$17,388, there is no low income adjustment.
Enter the amount from Line 11 in Line 18.*

▶ *If Line 14 is less than \$17,388, there is a low income adjustment.
Go to Step G to calculate the amount of the award.*

STEP G: *(Determine the amount of the award after the low income adjustment)*

15. Enter Maintenance Payor's income from Line 1 _____

16. Enter \$17,388 (the Self Support Reserve)*. - _____

17. Subtract Line 16 from Line 15. _____

▶ *If the amount on Line 17 is greater than zero, enter that amount in Line 18.*

▶ *If the amount on Line 17 is less than or equal to zero, enter zero in Line 18.*

18. Amount owed after low income adjustment \$ _____

III. AWARD

19. Enter the amount as directed in either Step F or Step G, whichever applies.
Also enter this amount in Line 3B of the Worksheet \$ _____

* Every March 1st the Self -Support Reserve changes. You may find the most current figures posted after April 1st at: https://newyorkchildsupport.com/quick_links.html. The current level of the Self-Support Reserve is \$17,388.

APPENDIX C

TO TEMPORARY MAINTENANCE GUIDELINES WORKSHEET

13 Factors For Court To Consider For Temporary Maintenance Where Income Exceeds \$192,000 or In Connection With Adjustment Of Award (See DRL § 236(B) [5-a](h)(1))

1. the age and health of the parties;
2. the present or future earning capacity of the parties, including a history of limited participation in the workforce;
3. the need of one party to incur education or training expenses;
4. the termination of a child support award during the pendency of the temporary maintenance award when the calculation of temporary maintenance was based upon child support being awarded and which resulted in a maintenance award lower than it would have been had child support not been awarded;
5. the wasteful dissipation of marital property, including transfers or encumbrances made in contemplation of a matrimonial action without fair consideration;
6. the existence and duration of a pre-marital joint household or a pre-divorce separate household;
7. acts by one party against another that have inhibited or continue to inhibit a party's earning capacity or ability to obtain meaningful employment. Such acts include but are not limited to acts of domestic violence as provided in section four hundred fifty-nine-a of the social services law;
8. the availability and cost of medical insurance for the parties;
9. the care of children or stepchildren, disabled adult children or stepchildren, elderly parents or in-laws provided during the marriage that inhibits a party's earning capacity;
10. the tax consequences to each party;
11. the standard of living of the parties established during the marriage;
12. the reduced or lost earning capacity of the payee as a result of having foregone or delayed education, training, employment or career opportunities during the marriage; and
13. any other factor which the court shall expressly find to be just and proper.

Instructions for Temporary Maintenance Guidelines Worksheet

SECTION 1

- Complete **Income Computations for Plaintiff and Defendant** in **Appendix A**. Insert the amounts from **Appendix A, Line 17** on **Lines 1A** and **1B** of the worksheet. If you do not know your spouse's income, write the word "**unknown**" in the relevant section.

SECTION 2

- Determine whether Plaintiff or Defendant has greater income; that spouse will be called the "**maintenance payor**" and the other spouse will be called the "**maintenance payee.**" Enter amounts on **Lines 2A** and **2B** of **Section 2** of the Worksheet

SECTION 3

- Calculate the guideline amount of temporary maintenance on income up to and including \$192,000, and any low income adjustment, by either of the following methods:
 - ▶ use the court's **Temporary Maintenance online calculator** available at <http://www.nycourts.gov/divorce/MaintenanceChildSupportTools.shtml>
 - or
 - ▶ make the calculations yourself on **Appendix B** to the worksheet
- Check the applicable box on the Worksheet that indicates which method you chose to make the calculations

Enter the result of your calculations from **Line 12** of the Temporary Maintenance **online calculator** or **Line 19** of **Appendix B** on **Line 3B** of the Worksheet. This is the guideline award of temporary maintenance on income up to and including \$192,000 after adjustment for low income, if any

After you have completed **Sections 1- 3** of the Worksheet, sign your name on **Page 2** of the Worksheet before a notary public and print your name below the line. If you are represented by an attorney, the attorney should also sign. Then submit the original of the Worksheet to the court. Have a copy served on your spouse and keep a copy for yourself. Attach copies of your most recent tax returns and W-2 statements if you have not already submitted them with your Net Worth Statement.