

How is bonus income treated in spousal support situations?

It's a common issue for parties in divorce or custody proceedings to encounter fluctuating income or commissions and bonuses when determining spousal and child support. True bonus income is discretionary, and rarely guaranteed until actually paid to an employee. This is especially true when it is based on end of year profitability for the employer. As a supported spouse or single parent, how can you ensure you are paid a correct share of these earnings as additional support? As a supporting spouse, how do you avoid overpaying additional support and assure that the support representing alimony is tax deductible?

The problem arises because future support obligations are usually determined by looking at past earnings history, usually by examining the prior calendar year's income as the measure to project future earnings. Judges may round up a party's employment [W2 forms](#), add in [year-end bonuses](#), and then divide by twelve. The result is entered into the X-spouse or Dissomaster support-calculating programs, which treat the supporting spouse's monthly support obligation as though future earnings have already been received in the coming year. But if the future year ends up being less, or the bonus decreases, this can create a major hardship in terms of a supporting spouse's ability to pay their own living expenses – not to mention the supported spouse.

It's no surprise that many supporting spouses hold resentment toward the other party who seeks support based upon those cumulative income numbers. Supporting spouses often view the potential bonus as their only hope for catching up with their own financial obligations. It is very important that both parties, including family court judges who have wide discretion over such matters, have a clear understanding and the ability to adopt or integrate a predictable and fair policy for calculating support. This is very important when income fluctuates. Unfortunately, some supported spouses resist an approach that considers that the other party (or higher earner) is entitled to a life. We have found that inexperienced family law attorneys sometimes fail to understand some of the aspects concerning bonus income orders when they negotiate settlements or argue a client's position in court.