

ENFORCING A SUPPORT ORDER

Child Support Guidelines

CS 404.1

SUPERSEDES

CS 404.1 Child Support Guidelines, July 30, 2020

REFERENCES

MCA § 40-5-209; ARM 37.62.101 through 148

Policy

The Montana Supreme Court adopted the first Montana Child Support guidelines in 1987. The passage of MCA 40-5-209 in 1989 transferred the responsibility for them to the Department of Social & Rehabilitation Services (SRS), precursor to the Department of Public Health and Human Services (PHHS). In 1990 the Child Support Services Division (CSSD) adopted the guidelines in the form of administrative rule.

Purpose and Use

The CSSD is required by law to establish guidelines for determining child support obligations in Montana and to review and update the guidelines every four years. In addition to being used by the CSSD district courts, attorneys, and parents use them to determine appropriate child support amounts for orders established or modified in Montana. This section contains policies and procedures for implementing the Guidelines through administrative process.

Philosophy

The Guidelines are based on the principle that the amount of support should reflect the incomes of both parents and the needs of the child. This principle is reflected in the following basic components of the Guidelines calculation:

<i>TOTAL INCOME</i>	-	<i>DEDUCTIONS</i>	=	INCOME AFTER DEDUCTIONS
<i>INCOME AFTER DEDUCTIONS</i>	-	<i>PERSONAL ALLOWANCE</i>	=	INCOME AVAILABLE FOR CHILD SUPPORT
<i>CHILDRENS PRIMARY ALLOWANCE</i>	+	<i>CHILDRENS SUPPLEMENTAL NEEDS</i>	=	CHILDRENS TOTAL NEEDS
<i>INCOME AVAILABLE FOR CHILD SUPPORT</i>	-	<i>CHILDRENS TOTAL NEEDS</i>	=	INCOME AVAILABLE FOR SOLA*
<i>INCOME AVAILABLE FOR SOLA</i>	-	<i>LONG-DISTANCE PARENTING ADJUSTMENT</i>	=	ADJUSTED INCOME AVAILABLE FOR SOLA
<i>ADJUSTED INCOME AVAILABLE FOR SOLA</i>	x	<i>SOLA PERCENTAGE**</i>	=	STANDARD OF LIVING ADJUSTMENT
<i>CHILDRENS TOTAL NEEDS</i>	+	<i>STANDARD OF LIVING ADJUSTMENT</i>	=	SUPPORT AMOUNT

* Standard of living adjustment

** Percentage depends on number of children

Rebuttable presumption

In a calculation according to the Guidelines, the final result, or bottom line, is presumed to be adequate and reasonable. The **bottom-line presumption** may be rebutted by evidence that the application of the Guidelines is unjust or inappropriate. Rebuttal of the final support amount requires evidence that a different amount would be in the best interests of the child. As a matter of policy, the CSSD presumes that the best interests of the child are served when the support amount maximizes both the financial benefit to the child and the affordability/enforceability of the support payment.

The same rebuttable presumption also applies to each numerical entry, or line item in the calculation of the final support amount. The **line-item presumption** refers to, "...various provisions of the child support guidelines assuming specific fact patterns which occur in a majority of cases. Ifa parent can show that the facts in evidence are not consistent with the facts assumed, the facts in evidence are applied to the entry and result in a different but appropriate child support award." [ARM 37.62.102(7), effective 7/1/12]

Variances

An adjustment resulting from a rebutted bottom line presumption may or may not constitute a variance from the Guidelines. For purposes of this section, a variance is any difference between the bottom line of the worksheet and the amount of child support stated in the support order. A variance is the result of a rebuttal of the bottom-line presumption. When a variance applies, the support order must contain a specific finding explaining why the Guidelines amount (without the variance) would be unjust or inappropriate in the particular case.

Note: An adjustment to any of the following specific component amounts does **not** constitute a variance for purposes of the support order: income, deductions, personal allowance, children's primary allowance, children's supplemental needs, and long-distance parenting or other adjustment to income available for SOLA.

Definitions

The following definitions are taken from ARM 37.62.103 and apply to terms used in the Guidelines.

Legal dependent

A natural born and adopted minor children, spouses, special needs adult children, household members covered by a conservatorship or guardianship, and parents living in the household who are claimed on tax returns as legal dependents.

Other Child

A child whom a parent is legally obligated to support but who is not the subject of the child support calculation. A stepchild is not considered an other child.

Standard of Living Adjustment (SOLA)

Standard of living includes the necessities, comforts, and luxuries enjoyed by either parent, the child or both parents and the child, which are needed to maintain them in customary or proper community status or circumstances.

Procedures for Caseworker

1. Initiating the Calculation

Upon identifying a biological unit, children sharing the same natural or adoptive mother and father for whom a Guidelines determination is needed, proceeds in steps 1a through 1c below.

- a. Gathers financial information from both parents according to the procedures in this section for establishment, or CS 408.3 Review and Modification of Support Order.
- b. Confirms that all the children of the biological unit have been identified

NOTE:

Investigation Required. Initially, the CSSD may be unaware of the existence of other children of the biological unit who are outside the CSSD case. For purposes of the Guidelines calculation (see step 1c below) the caseworker must actively investigate to identify any additional children. The extent of the investigation depends on the facts of the case; in many cases, direct inquiry of both parents may be sufficient.

- c. Includes both parents and all the children in the calculation. The requirement for **both parents** information applies even if the children reside with a third party, the CSSD does not have jurisdiction over one of the parents, the CSSD does not have a case against one of the parents, there is already an order against one of the parents, or the CSSD intends to establish an order against only one of the parents.

EXCEPTION:

In rare cases where the children reside with a third party and the CSSD cannot obtain, estimate, or impute positive income information for one of the parents for example, the parent is deceased, an unidentified father, permanently disabled with no usable income or assets, or for some other reason not available for child support, the CSSD performs the calculation for the available parent only.

The requirement to include **all the children** in the calculation applies even if the CSSD intends to establish separate orders for separate children or groups of children, there is no CSSD case for one or more of the children, there is an existing support order for one or more of the children, or the parents are living together and some of the children live with the parents.

NOTE:

Non-IV-D Cases. The CSSD cannot perform a guidelines calculation for a non-IV-D case. In cases where a Montana district court orders a parent to pay support in an amount to be determined by the CSSD, the CSSD requires that one of the parents apply for CSSD services.

The following dependent exemption and tax credit information is based on IRS publications and The 1040 Quick finder© Handbook from Thompson Reuters.

Dependent Exemptions and Tax Credits

Beginning in the 2005 tax year, a uniform definition for a qualifying child was provided by 26 USC § 152 and The Working Families Tax Relief Act of 2004. As a result, a standard definition now applies to all five of the following child-related tax benefits. In addition to the standardized definition of a qualifying child, other rules or variations apply to particular benefits.

Five Child-Related Tax Benefits:

- 1) Dependent child's tax exemption
- 2) Child Tax Credit
- 3) Child and Dependent Care Tax Credit
- 4) Earned Income Tax Credit
- 5) Head of Household Filing Status – for the purpose of calculating child support, this tax benefit is not considered. The calculation of income tax liability is based on tax withholding tables that limit the filing status choices to single and married.

Uniform Definition of a Qualifying Child

In general, to be the taxpayers qualifying child, a person must satisfy four tests:

- 1) Relationship means the taxpayers child or stepchild (whether by blood or adoption), foster child, sibling or stepsibling, or a descendant of one of these.
- 2) Residence means has the same principal residence as the taxpayer for more than half the tax year. Exceptions apply in certain cases. For children of divorced or separated parents, kidnapped children, temporarily absent children, and children who were born or died during the year, see Exception for Children of Divorced or Separated Parents below.
- 3) Age means must be under the age of 19 at the end of the tax year, or under the age of 24 if a full-time student for at least five months of the year, or be permanently and totally disabled at any time during the year.
- 4) Support means did not provide more than one-half of his/her own support for the year.

Additional Rules

While the four qualifying child tests generally apply for the five tax benefits above there are some additions or variations for particular provisions. In some instances, a qualifying child must also meet the nationality and marital status tests:

- Nationality – be a U.S. citizen or national, or a resident of the U.S., Canada or Mexico. There is an exception for certain adopted children.
- Marital Status – if married did not file a joint return for that year unless the return is filed only as a claim for refund and no tax liability would exist for either spouse if they had filed separate returns.

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A child is usually the qualifying child of the parent with whom the child resides. However, in some instances the child may be the qualifying child of the noncustodial parent as evidenced by the Exception for Children of Divorced or Separated Parents. Some of the tax benefits discussed in this section use the exception and others do not.

Exception for Children of Divorced or Separated Parents

A child will be treated as the qualifying child of the noncustodial parent if all of the following apply:

- 1) The parents:
 - i. Are divorced or legally separated under a decree of divorce or separate maintenance.
 - ii. Are separated under a written separation agreement, or
 - iii. Lived apart at all times during the last 6 months of the year.
- 2) The child received over half of his or her support for the year from the parents.
- 3) The child is in the custody of one or both parents for more than half of the year.
- 4) A decree of divorce or separate maintenance or written separation agreement that applies to 2005 or after provides that the noncustodial parent can claim the child as a dependent, and in the case of a pre-1985 agreement, the noncustodial parent provides at least \$600 for the support of the child during the year, or the custodial parent signs a written declaration that he or she will not claim the child as a dependent for the year.

Custodial Parent

A child's *custodial parent* is the parent who has custody of the child for the greater portion of the year [IRC §152(e)(4)]. Generally, this is the parent with whom the child resides for a greater number of nights during the calendar year. [Reg. §1.152-4(c)]

NOTE:

The IRS has chosen to use the number of overnights per year in the determination of which parent is the custodial parent. The number of overnights will not necessarily agree with the number of days counted for child support calculation purposes.

Releasing the Exemption to the Noncustodial Parent

IRS Form 8332 is generally used to release an exemption for the current year or for any or all future years. It can be used even if the parents were never married [King, 121 TC 245 (2003)]. A copy must be attached to the noncustodial parents return for each year the exemption is released.

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Effect of a Release

The custodial parents release of an exemption to the noncustodial parent only applies for claiming a dependency exemption and child tax credit for the child. Notice 2006-86 refer to table, below.

NOTE:

The following table shows which child-related tax benefits may be claimed by the noncustodial parent assuming the custodial parent has released his/her claim to the exemption for the child. The Child Tax Credit (CTC) always goes to the parent claiming the child's tax exemption but, again, the parent and child must otherwise be eligible. For example: the child must be under 17 at the end of the year to be eligible for the CTC; if the parents income is very high, the credit may be reduced or eliminated entirely.

CHILDREN OF DIVORCED OR SEPARATED PARENTS

Release of Exemption to Noncustodial Parent

Parent entitled to claim child as qualifying child for	Custodial Parent	Noncustodial Parent
Child and dependent care credit (daycare)	X	
Child tax credit		X
Dependency exemption		X
Earned income credit	X	
Head of household filing status	X	
Income exclusion of employer-provided dependent care assistance	X	

Additional tax benefit *requirements* are included with the following tax benefits as they appear throughout the section. Tax Benefits:

- Earned Income Tax Credit – Line 1f, page 14
- Dependent Childs Tax Exemption – Line 2e, f step 2, page 17
- Child Tax Credit – Line 2e, f, page 18
- Dependent Care Tax Credit – Line 2j, pages 20-22

2. Performing the Calculation

Converts all financial information to annual amounts. Prepares Worksheets A through E forms CS-404.1A through 1E using the INSTRUCTIONS in this section, the line-by-line instructions in the guidelines packet and the instructions printed on the worksheets. Enters the support amount in the Notice and Order Concerning Support, or the Administrative/Proposed Modification Notice and Order, as applicable.

Follows procedures in steps 3 through 9 below for implementing the Guidelines calculation within the establishment and modification processes.

3. Verifying Information

- a. Verifies a parents actual income from the documents submitted by the parent (pay stubs, employer statements, income tax returns, profit and loss statements), or from SEARCHS information or direct contact with the payor. Where the facts indicate there may be additional unreported income, researches likely sources to the extent practical, and includes any additional amounts discovered. Does not include income as actual that cannot be documented in some way. Where additional income is suggested by indirect factors such as lifestyle, but no documentation is available through ordinary channels, consults CSSD staff attorney to identify other possible sources of documentation in the particular case.
- b. Verifies the amounts of allowed deductions and expenses using payroll documents, court or administrative orders, other written proof of payment or amount, direct contact with a payor or insurance plan, or any combination of these. Expenses described, as actual, see INSTRUCTIONS must be supported by written proof of payment. Also, for each deduction or other expense verifies that the deduction or expense is allowable under the Guidelines, based on information provided by the parent or obtained from other sources.
- c. Presumes amounts taken from a parents tax return to be correct unless there is evidence of possible error failure to report a significant amount of applicable income; deductions for non-allowable expenses; or significant miscalculation of taxes or credits. If so, determines any corrections and substitutes the corrected amounts in the Guidelines calculation. Caseworker discretion applies in determining the extent to which tax return amounts should be examined or recalculated for Guidelines purposes.

4. Documenting Decisions

Document reasons and considerations for allowing/not allowing expenses, and for including/not including income. Documents any sub calculations for amounts entered, if applicable for example, averaging or projecting income for a twelve-month period; converting amounts to annual levels; determination of tax credits. For imputed income also documents data source. References documents from step 3 above that are retained in the physical file. Documents all information called for in this step in a case note, the Comments section of Worksheet A, or the physical file, as appropriate.

5. Cases Involving Third-Party Custodians

In cases where the obligee for any of the children for whom support is being established is a third-party custodian, adjusts the calculation to preserve both parents individual obligations for each third-party child. Specifically, proceeds in section CS 404.3 according to the type of third-party arrangement in effect.

6. Modifications Involving Subsequent Children

Prior to July 1, 2012, the guidelines included ARM 37.62.146 Modification of Child Support Orders also known as Rule 22 in the prior guidelines, which provided for two calculations when either parent had a subsequent child. A subsequent child was one born after or whose support order was entered after the support order being modified. One calculation included the subsequent child as another child and the second calculation excluded the subsequent child. Depending on the outcomes, one calculation was selected and in some cases the calculation excluded the subsequent child. It was primarily due to the exclusion that the rule was repealed.

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Because ARM 37.62.146 was repealed, there is no longer a subsequent child category in the guidelines and the term was deleted from the definitions rule. Since, July 1, 2012, other children are treated the same in calculations to establish as they are in calculations to modify support orders regardless of whether they were born or had a support order entered before or after the support order being modified.

NOTE:

See below for instructions regarding deductions from income for other children.

7. Social Security or Veterans Payments for the Benefit of the Child

In a case where a child receives social security **or Veterans** benefits as the result of a parents disability, do NOT consider the amount of the child's benefit in the Guidelines calculation. Once a support order is entered for the child and the case is in enforcement status, the CSSD will credit the disabled obligor parent with full or partial payment of support for each month benefits accrue to the child. See ARM 37.62.144, Social Security **and Veterans** Benefits, for details.

8. Veterans Administration (VA) Payments for the Benefit of the Child

In a case where a parent receives disability benefits from the VA, includes the amount of benefits as other non-taxable income for child support. While either parent may request an apportionment of the benefits for their child, the **total** VA benefit is income. If the child does not reside with the VA parent, the amount apportioned is deducted, dollar for dollar, from the parents benefit and sent to the child's custodian. Once a support order is entered for the child and the case is in enforcement status, the CSSD will credit the disabled obligor parent with full or partial payment of support for each month benefits accrue to the child.

9. Required Language in Support Orders

Adjusts the language in the support order as applicable when any of the following situations occurs:

(1) A presumption is rebutted in such a way as to create a variance. The following RULE applies:

RULE 2 REBUTTABLE PRESUMPTION...

(2) At the request of one of the parties and upon consideration of the factors set out in the guidelines and in 40-4-204, 40-4-208 and 40-6-116, MCA, the final outcome of the guidelines calculation, or bottom line, may be rebutted and a variance from the guidelines final amount may be granted. Any consideration of a variance from the guidelines must take into account the best interests of the child.

(3) The support order may vary from the bottom line in a particular case only if the decree, separation order or support order contains a specific written finding showing justification that application of the guidelines would be unjust or inappropriate, based upon evidence sufficient to rebut the presumption.

(4) Findings that rebut and vary the bottom line must include a statement of the amount of support that would have been ordered under the guidelines without the variance.

[Optional:] Attaches to the support order a separate worksheet containing the calculation without the variance.

If the variance is based on circumstances that may change, the following RULE also applies:

RULE 2 REBUTTABLE PRESUMPTION...

(6) A support order granting a variance from the bottom line, based upon the existence of a condition or the performance of an act, must provide that, upon termination of the circumstances which justify the variance, the support immediately reverts to the amount which would have been ordered under the guidelines without the variance.

CAUTION: Whenever possible the reverter language in the support order should be written so as to create an incentive for one or the other of the parents to inform the CSSD when the circumstances justifying the variance have terminated, or where appropriate, to provide proof to the CSSD that the circumstances have not terminated.

If the variance is based on a stipulation or agreement between the parents, the support order must reference or attach the written stipulation/agreement. Requirements for an acceptable stipulation/agreement are given in the INSTRUCTIONS FOR WORKSHEET A, COMMENTS line, later in this section.

(2) A change in circumstances is anticipated within the next 18 months regardless of whether a variance is involved that will significantly affect the Guidelines calculation. The following RULE applies:

RULE 19 ANTICIPATED CHANGES

(1) To the extent possible, child support orders must address children's changing needs as they grow and mature in a way that minimizes the need for future modifications. If any material change in current circumstances is anticipated within 18 months, separate child support calculations must be completed.

(2) In the initial calculation, present circumstances should be included. In the subsequent calculation(s), appropriate anticipated changes should be calculated. The child support order should provide that the amount(s) from the subsequent calculations will take effect the month following the anticipated changes.

NOTE: All worksheets reflecting anticipated changes should be attached to the support order.

10. Payment in Equal Monthly Installments

Upon entry of a support order establishing the support payment amount identified in Worksheet A, enforces the case according to the following RULE:

RULE 1 AUTHORITY, POLICY AND PURPOSE

(3) These guidelines are structured to determine child support on an annual basis. Payment will be made in equal monthly installments.

The CSSD believes it is in the best interests of the child to receive support on a regular monthly basis, since most of the child's financial needs continue regardless of the cash flow or visitation of the obligor. In cases where the obligor's visitation exceeds the normal amount, there is an appropriate credit already included in the Guidelines calculation. Accounting adjustments or support abatements to accommodate an obligor's fluctuating payments or extended visitation are prohibited, except in very unusual situations.

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INSTRUCTIONS FOR COMPLETING WORKSHEET A

Line Description/Instructions

- 1 Income** Include in lines 1a through 1d, and 1f through 1h, all economic benefits actually received by the parent, **except** (1) expense offsets, (2) loan proceeds, (3) means-tested income, (4) social security **or veterans** benefits received on behalf of a child of the calculation, and (5) income attributable to another person. Income includes all economic benefit from whatever source derived except as excluded in (3) of this rule. Further exceptions **may** be allowed for amounts received from one-time gifts, inheritances, winnings, lump-sum retirement distributions, and similar events; determine these exceptions on a case-by-case basis. Determine exceptions (1), and (3), respectively according to the RULES below.

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT...

(2) Actual income includes:

(e) allowances for expenses, flat rate payments or per diem received, except as offset by actual expenses. Actual expenses may be considered only to the extent a party can produce receipts or other acceptable documentation. Reimbursements of actual employment expenses may not be considered income for purposes of these rules.

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT...

(3) Income for child support does not include:

(a) income attributable to subsequent spouses, domestic associates, and other persons who are part of the parents household;

(b)means-tested veterans benefits;

(c) means-tested public assistance benefits including but not limited to cash assistance programs funded under the federal temporary assistance to needy families (TANF) block grant;

(d)supplemental security income (SSI);

(e) supplemental nutrition assistance program (SNAP) benefits, formerly known as food stamps;

(f)child support payments received from other sources; and

(g) adoption subsidies paid by state or federal agencies, unless expenses of the subsidized child are included in the calculation.

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT....

(5) If overtime is mandatory and the worker has no control over whether or not overtime is worked, the overtime earnings are included in income for child support. In the case of voluntary overtime earnings or earnings from a job that is in addition to a full-time job, and the earnings are expected to continue for the foreseeable future, the earnings are presumed to be available for child support and are included in the calculation subject to rebuttal of the presumption.

This provision is not intended to suggest that a parent is unable to rebut the presumption in favor of mandatory over-time. It is meant to emphasize that the possibility of rebutting the presumption is more likely if the over-time is voluntary rather than mandatory. Voluntary over-time is more likely to have a specific purpose and be temporary in nature, for example.

1a Wages, salaries, commissions

Also include tips, bonuses, severance pay, draws or advances against wage or salary earnings, and any other cash income directly related to work the parent performs for an employer. This type of income is subject to income tax and social security tax.

If necessary, income should be averaged or projected according to the following RULE to determine the amount most likely to apply to the next twelve months:

RULE 6 INCOME VERIFICATION/DETERMINING ANNUAL INCOME....

(3) To the extent possible, income for child support and expenses should be annualized to avoid the possibility of skewed application of the guidelines based on temporary or seasonal conditions. Income and expenses may be annualized using one of the two following methods:

(a) seasonal employment or fluctuating income may be averaged over a period sufficient to accurately reflect the parents earning ability. If a parent has been self-employed for three years or less, the profit and loss statements and income tax returns of the individual parent and the business entity for each of those years are required so that the average of the parents self-employment income can be considered in the child support calculation. If the parent has been self-employed for more than three years, a minimum of the most recent three years profit and loss statements and tax returns are required; or

(b) current income or expenses may be projected when a recent increase or decrease in income is expected to continue for the foreseeable future. For example, when a student graduates and obtains permanent employment, income should be projected at the new wage.

1b Self-employment net earnings

Calculate the self-employment income according to the following RULE:

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT....

(2) Actual income includes:

(b) gross receipts minus reasonable and necessary expenses required for the production of income for those parents who receive income or benefits as the result of an ownership interest in a business or who are self-employed. Specifically:

(i) Straight line depreciation for vehicles, machinery, and other tangible assets may be deducted from income if the asset is required for the production of income. The party requesting such depreciation shall provide sufficient information to calculate the value and expected life of the asset. Internal Revenue Service rules apply to determine expected life of assets.

(ii) If expenses are not required for the production of income, the expenses are not allowable deductions; if business expenses include a personal component, such as personal use of business vehicles, only the business component is deductible;

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(iii) a net loss in the operation of a business or farm may not offset other income .If a parent has more than one business and the businesses are related, however, the total losses of the businesses may be offset against (deducted from) the total profits. An artist, for example, whose principal income source is the sale of paintings in her gallery may also own a company that publishes calendars and other commercial uses of her paintings as a marketing tool. A loss in the operation of the publishing company may be offset against the profit in the gallery business because the two enterprises are related; and

(iv) investment losses outside the normal course of business may not reduce other income.

Self-employment income is generally determined from tax returns filed on the following IRS forms: Form 1040, U.S. Individual Income Tax Return, which may include Schedule A Itemized Deductions, Schedule B Interest/Dividend Income, Schedule C Profit or Loss from Business, Sole Proprietorship, Schedule D Capital Gains, Schedule E, Supplemental Income and Loss rentals, royalties, etcetera. and income from S corporations and partnerships. Schedule F Farm Income, Form 4562 Depreciation and Amortization and countless other forms, schedules, and statements; Form 1065, U.S. Partnership Return of Income; Form 1120, U.S. Corporation Income Tax Return; Form 1120S, U.S. Income Tax Return for an S Corporation; and the schedules, forms, and statements accompanying Forms 1065, 1120, and 1120S.

Self-employment income is subject to federal and state income tax. Income from sole proprietorships, Schedule C, and partnerships, Schedule E is entered at line 1b, Self-Employment net earnings, and is subject to the Self-Employment Tax calculated on Schedule SE. Income from an S Corporation is entered as other taxable income at line 1g and is not subject to the Self-Employment Tax.

Any arrangements made by the parent, regardless of legality, which have the effect of reducing income or increasing deductions may be disallowed for Guidelines calculation purposes if the arrangements were made primarily to reduce child support payable. Such arrangements may include, for example, attributing a portion of the business income to the current spouse, or setting up a mandatory retirement plan for members of a partnership, if there is evidence of intention to evade. Consult the CSSD staff attorney to evaluate evidence in these situations.

If expenses exceed receipts, do not enter the negative amount in this line; see the instructions at the beginning of 1b for determining and entering allowed business losses.

Taxable self-employment income identified in the course of the Guidelines investigation but not reported on the parents tax return should be listed online, 1h. Adjustments for the accelerated portion of depreciation the difference between straight line depreciation allowed and accelerated depreciation claimed, where claimed is higher, and business expenses claimed on the return but not allowed in the child support calculation should also be entered as income on line 1h.

1c Pensions, Social Security

Pension income includes any periodic distributions from retirement plans before or after retirement; veterans retirement benefits are included in this line. Social Security income includes benefits based on the earning record or disability of the parent, except for amounts received on behalf of a child of the calculation. Supplemental security income (SSI) benefits based on the disability of a child of the calculation are not included in the parents income. Note that both VA and Social Security disability benefits are not ordinarily subject to federal or state income tax. Refer to instructions for entries to line 1h at page 16 of 27.

1d Unearned income

Include dividends, interest, trust income, royalties and annuities. Note that interest on out-of-state municipal bonds is not subject to federal income tax.

1e Imputed income

Determine imputed income according to the following RULE:

RULE 5 IMPUTED INCOME FOR CHILD SUPPORT...

(1) Imputed income means income not actually earned by a parent, but which is attributed to the parent based on the provisions of this rule. It is presumed that all parents are capable of working at least 40 hours per week at minimum wage, absent evidence to the contrary.

(2) It is appropriate to impute income to a parent, subject to the provisions of (6) of this rule, when the parent:

(a) is unemployed;

(b) is underemployed;

(c) fails to produce sufficient proof of income;

(d) has an unknown employment status; or

(e) is a student.

(3) In all cases where imputed income is appropriate, the amount is based on the following:

(a) the parents residence and recent work and earnings history;

(b) the parents occupational, educational and professional qualifications;

(c) existing job opportunities and associated earning levels in the community or the local trade area.;

(d) the parents age, literacy, health, criminal record, record of seeking work and other employment barriers;

(e) the availability of employers willing to hire the parent; and

(f) other relevant background factors.

(4) Imputed income may be in addition to actual income and may not necessarily reflect the same rate of pay as the actual income.

(5) *Income is imputed according to a parents status as a full- or part-time student, whose education or retraining will result, within a reasonable time, in an economic benefit to the child for whom the support obligation is determined, unless actual income is greater. If the student is:*

(a) full-time, the parents earning capacity is based on full-time employment for 13 weeks and approximately half of full-time employment for the remaining 39 weeks of a 12-month period; or

(b) part-time, the parents earning capacity is based on full-time employment for a 12-month period.

(6) *Income is not imputed if any of the following conditions exist:*

(a) the reasonable and unreimbursed costs of child care for dependents in the parents household would offset in whole or in substantial part, that parents imputed income;

(b) a parent is physically or mentally disabled to the extent that the parent cannot earn income, or is incarcerated for more than 180 days.;

(c) unusual emotional and/or physical needs of a legal dependent require the parents presence in the home;

(d) the parent has made diligent efforts to find and accept suitable work or to return to customary self-employment, to no avail; or

(e) the court or hearing officer makes a finding that other circumstances exist which make the imputation of income inequitable. However, the amount of imputed income shall be decreased only to the extent required to remove such inequity.

In cases where there is part-time actual income, and no reason the parent could not work full-time, enter the actual income earned by the parent, and impute the difference between full-time hours and actual hours worked. The computer program will base tax credits on the actual earnings and ignore the imputed income.

1f Earned income credit

In a calculation to **establish** a child support obligation, include the amount shown on the parents tax return. If the tax return is not available or does not claim the credit, estimate the amount using the earned income credit table found in [IRS Publication 596](#) and the following assumptions:

(1) A qualifying child is one who

- is a child of the calculation, or is an other child for whom a support order/allowance is included in line 2a or 2b, and
- is under the age of 18 or under the age of 24 if a student, and
- lives with the parent at least 183 days per year unless residential custody of the child is evenly divided between the parents. In that case, one or the other parent, but not both, may claim the EIC for the child. Refer to Exception for Children of Divorced or Separated Parents in this section.

If there are more than three qualifying children, use 3. Prior to 2011, the EIC allowed a maximum of two children.

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(2) EIC Worksheet income is the parents gross income from lines 1a and 1b, and any other earned income from line 1g of Guidelines Worksheet A, LESS one-half the Self-Employment tax from IRS Schedule SE, and all court-ordered alimony PLUS the parents spouses earned income, if any, from Section A of the Montana Child Support Guidelines Financial Affidavit. The spouses income should only be added to the parents income to calculate the EIC and should not be added into the worksheet income.

The estimate may be revised based on more detailed information provided by the parent using IRS Publication 596.

Enter the number of qualifying children used to determine the amount in this line in the Variables section of Worksheet A.

If income is being imputed for the parent on line 1e, do not include an EIC amount for the imputed income.

IRS Tiebreaker rule: If a child is claimed as a qualifying child by two or more taxpayers in a given year, the child will be the qualifying child of the parent who meets one of the criteria below:

- If more than one taxpayer is the child’s parent, the one with whom the child lived for the longest time during the year, or if the time was equal, the parent with the highest adjusted gross income (AGI).
- If no taxpayer is the child’s parent, the taxpayer with the highest adjusted gross income.

1g Other taxable income

Pursuant to IRS change in rules regarding Alimony effective January 2019, the following is how the issue of alimony should be addressed under each situation. Please note that this 2b what the IRS has done. [Topic No. 452, Alimony and Separate Maintenance](#)

If the original order including alimony was signed BEFORE 12/31/18 it is taxable:

- The parents alimony received would be placed in Line 1g Other Taxable Income.
- The parents alimony paid would be placed under Line 2c Ordered Alimony/Spousal support.
- This handling applies also to any order that we are requested to modify that **contains** alimony language in an order signed **before** 12/31/18.

Include actual income not listed on lines 1a through 1f. Examples are rental income, alimony or spousal maintenance, unemployment benefits, income from S corporations, allowances and reimbursements exceeding actual expenses (see RULE under line 1 above), and the taxable portion of student grants, scholarships, and similar income. Note that unemployment benefits are not subject to Montana state income tax.

Include net capital gains as income in all cases:

Income also includes capital gains net of capital losses. To the extent the net gains result from recurring transactions, they may be averaged over a period of at least three years. If the net gains are attributable to a single event or year, they may be used to represent income over one or more years.

Include earnings, profits, and contract proceeds that are received from activities other than employment, self-employment, business ownership, or one-time transactions.

Include non-cash benefits according to the following RULE:

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT...

(1) *Actual income includes:*

(c) the value of non-cash benefits such as in-kind compensation, personal use of vehicle, housing, payment of personal expenses, food, utilities, etc.

1h Other non-taxable income

Pursuant to IRS change in rules regarding Alimony effective January 2019, the following is how the issue of alimony should be addressed under each situation. Please note that this mimics what the IRS has done. [Topic No. 452, Alimony and Separate Maintenance](#)

If the original order including alimony was signed AFTER 12/31/18 it is NON-taxable, unless the original order includes language repealing the alimony payment tax language:

- The parents alimony received would be placed in Line 1h Other Non-Taxable Income
- The parents alimony paid would be placed in Line 2k Other deductions with the notation Alimony ordered **after** 12/31/18.

Include workers compensation benefits and disability benefits; the latter may include veterans benefits. Also include the non-taxable portion of student grants, scholarships, and similar income described in the following RULE:

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT...

(2) *Actual income includes:*

(d) grants, scholarships, third party contributions and earned income received by parents engaged in a plan of economic self-improvement, including students. Financial subsidies or other payments intended to subsidize the parents living expenses and not required to be repaid at some later date must be included in income for child support.

NOTE:

Institutions of higher learning. College, university, vocational/technical, trade schools, etcetera are required to provide an annual Form 1098-T (Tuition Statement) to every student. Box 1 includes payments received from the student for qualified tuition and related expenses. Box 5 includes the amount of scholarships and/or grants received by the student.

2 Allowable deductions

Allowable deductions from income include those required by law, those required as a condition of employment, and those necessary for the production of income. Include in lines 2a through 2k all required or necessary deductions from gross income **except** those described in the RULE below:

RULE 8 NON-ALLOWABLE DEDUCTIONS FROM INCOME

(1) Deductions which are not allowable under these rules include:

- (a) payroll deductions for the convenience of the parent, such as credit union payments and savings;*
- (b) imputed employment-related expenses, such as imputed child care;*
- (c) expenses incurred for the support of a spouse capable of self-support;*
- (d) payments for satisfaction of judgments against a parent related to the purchase of property for the parents personal use;*
- (e) bankruptcy payments except to the extent that they represent debts for expenses which would otherwise be deductible; or*
- (f) a step-child and associated costs.*

2a Ordered child support for other children.

In a calculation to establish or modify a child support obligation, enters the total annual amount of any existing support orders (court or administrative) against the parent for the parents other children regardless of when the other children were born or adopted or when their support order was entered.

2b Allowance for other children (from Table 2)

In a calculation to establish or modify a child support obligation, enters the total allowance for the parents other children not included in line 2a who meet the qualifications of ARM 37.62.110(1)(b)(ii), below. The amount allowed for qualified children is the amount from the other children column in Table 2 one-half the primary child support allowance, where the number of children used in the table equals the number of eligible other children not included in line 2a.

RULE 7 ALLOWABLE DEDUCTIONS FROM INCOME

(1)(b) for an "other child" as defined in ARM 37.62.103(9):

- (ii) an amount equal to one-half of the primary child support allowance as found in ARM 37.62.121 for the number of other children for whom no support order exists, and who:*
 - (A) reside with the parent of the calculation; or*
 - (B) do not reside with a parent of the calculation if a showing of ongoing support is made.*

2c Ordered alimony / spousal support

See 1g & 1h to comply with federal rule change effective Jan 2019

2 e, f Federal income taxes, state income taxes

The following RULE applies:

RULE 7 ALLOWABLE DEDUCTIONS FROM INCOME

(1) Allowable deductions from income include:

(d) the actual income tax liability based on tax returns. If no other information is available, use the federal and state income tax tables which show the amount of withholding for a single person with one exemption;

If tax returns are available but the parent has not claimed the federal child tax credit, estimate the credit as in step 4b below, and enter on line 2e the parents federal tax liability less the credit.

If taxes must be determined according to the tax tables, use the following steps:

1. Find the taxable income by adding all amounts on lines 1a, 1b, 1c, 1d, 1e and 1g, and subtracting any nontaxable components, see line instructions. Subtract one-half of the self-employment tax from Schedule SE, total alimony ordered paid or payable, and pre-tax retirement contributions before calculating tax.
2. Determine the filing status married or single, and number of exemptions to which the parent is actually entitled. Do not use the defaults, single status and one exemption, unless there is no other information to apply. To claim a tax exemption other than the parents own exemption a parent must have a qualifying child.

A **qualifying child** is one who:

- Satisfies the uniform definition of a qualifying child (refer to step 1)
- Is a U.S. citizen or national, or a resident of the U.S., Canada or Mexico
(An exception exists for certain adopted children)
- If married, did not file a joint return for that year, unless the return was filed only as a claim for refund and no tax liability would exist for either spouse if they had filed separate returns

3. For the **state income tax**, find the amount from the state withholding table using the income, status, and exemptions in steps 1 and 2 above. Enter the amount in line 2f.

4. For the **federal income tax**, follow steps 4a through 4c below:

- a. Find the amount from the federal withholding table (not tax tables) using the income, status, and exemptions in steps 1 and 2 above. The withholding information can be found in [IRS Publication 15 \(Circular E\) Employers Tax Guide](#)

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- b. Estimate the federal child tax credit to which the parent is entitled based on available information, using the [Child Tax Credit Worksheet and Form 8812 Additional Child Tax Credit](#) published by the IRS. A qualifying child is one who
- is under the age of 17 at the end of the tax year, and
 - is the parents son, daughter, stepchild, grandchild, or foster child, and
 - is listed as a dependent on the parents tax return.

Absent more detailed or accurate information, the parents modified AGI is the gross income from line 1i of Worksheet A.

- c. Subtract the child tax credit step b from the federal tax amount step a. Enter the result on line 2e.

In the Variables section of Worksheet, A enter the filing status, number of exemptions, and number of children for child tax credit used in steps 1 through 4 above.

2g Social security (FICA plus Medicare)

Include the actual social security tax paid on income in lines 1a and 1b, from the parents W-2 form and tax return, respectively. If documented amounts are not available, estimate the social security tax on income from line 1a at 7.65% (.0765) of income; estimate the social security tax on income from line 1b using IRS schedule SE.

Income listed on lines 1c through 1h is not subject to social security tax.

2h Retirement contributions/deferred compensation

Include only actual, mandatory contributions toward IRS-approved retirement and deferred compensation plans.

2i Required employment expense

The following RULE applies:

RULE 7 ALLOWABLE DEDUCTIONS FROM INCOME

(1) Allowable deductions from income include:

(2)(g) actual unreimbursed expenses incurred as a condition of employment such as uniforms, tools, safety equipment, union dues, license fees, business use of personal vehicle and other occupational and business expenses;

2j Dependent care expense for persons other than children in this calculation, less dependent care tax credit

The following RULE describes this amount:

RULE 7 ALLOWABLE DEDUCTIONS FROM INCOME

(1) Allowable deductions from income include:

(i) one-half the amount of a parents unreimbursed payments for an "other child" for extraordinary medical expenses and child care expenses necessary to allow the parent to work, less federal tax credits;

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For the federal dependent care tax credit use the amount claimed on the parents tax return. If a tax return is not available or does not claim the credit, find the applicable tax credit from IRS Form 2441 in [IRS Publication 503 Child and Dependent Care Expenses](#), and use the best information available. Earned income may be estimated using the parents gross income from lines 1a and 1b, and any other earned income from line 1g of Guidelines Worksheet A, a qualifying person is one who

- is (or would be) listed as a dependent on the parents tax return, or is not listed on the return only because the parent signed an IRS form allowing the other parent to claim the child for tax purposes, and
- is under the age of 13 at the end of the tax year, OR is physically or mentally unable to care for himself/herself.

The IRS considers the following to be dependent care benefits and they must be reported on Form 2441 Child & Dependent Care Expenses:

- If a parent pays for childcare with funds from a Child Care Flexible Spending account.
- If the parents employer pays part of the childcare cost for employees.
- If the employer provides on-site childcare at a reduced cost.

The childcare costs paid with the dependent care benefits cannot be included in the calculation of the Child & Dependent Care Tax Credit. These costs must be deducted from the total childcare cost before the tax credit is determined. Complete Part III of Form 2441, in addition to Parts I and II when the parent receives dependent care benefits. The actual, out-of-pocket childcare costs paid by the parent are still allowable in the guidelines calculation, but the total amount of the costs will not be reduced by the tax credit.

EXAMPLE:

Mom pays \$5,200/year childcare for one child so that she can work outside the home. She contributes \$3,600 per year to her employers Flexible Spending Plan for Child Care and applies those dollars to the childcare cost. For the calculation of the tax credit, subtract \$3,600 from \$5,200, which leaves \$1,600 in childcare costs available to be reduced by the tax credit.

The credit is limited to the amount calculated on the first \$3000 of actual dependent care expenses for one child, and the first \$6000 for two or more children. For Guidelines purposes **the credit subtracted in this line may not exceed the parents tax liability in line 2e.**

Enter the number of dependents used to determine the tax credit for this line in the Variables section of Worksheet A.

2k Other

Include court ordered payments except as excluded under ARM 37.62.111; extraordinary medical expenses; student expenses and interest payments on student loans according to the following RULE:

RULE 7 ALLOWABLE DEDUCTIONS FROM INCOME

(1) Allowable deductions from income include:

(f) court ordered payments except as excluded under ARM 37.62.111.

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(j) extraordinary medical expenses incurred by a parent to maintain that parent's health or earning capacity which are not reimbursed by insurance, employer, or other entity; and

(k) cost of tuition, books and mandatory student fees for a parent who is a student as anticipated under ARM 37.62.106(5).

(l) the current, annual interest on student loans, paid by a parent of the calculation for post-secondary education that has resulted in an economic benefit for the children of the calculation.

There is no deduction for repayment of the principal balance of student loans.

3 Personal allowance for each parent

Use the amount from guidelines table 1, unless the parent lives in Alaska or Hawaii; then use the [federal poverty guideline amount](#) for that state multiplied by 1.3.

6 Minimum contribution

The parent qualifies for the minimum contribution (instead of a proportional share of the children's needs and standard of living), if either of the following applies:

(1) Income After Deductions (line 3)

LESS Personal Allowance (line 4) \leq \$0

In this case the minimum contribution is a percentage of Income after Deductions from Worksheet C.

(2) Income After Deductions (line 3)

LESS Personal Allowance (line 4) \geq 0

In this case the minimum contribution is 12% of Income after Deductions.

The minimum contribution is different from the final child support obligation, and the calculation does not end with the determination that the parent qualifies. The minimum contribution amount is used at two later points in the calculation to determine at lines 7-9 the parental share for purposes of medical support, and at lines 22-24 the final child support obligation after any payment of expenses for the children's supplemental needs.

12 Supplement to primary allowance

All entries to line 12 are divided between the parents according to the percentages of income determined at line 9. Line 12 amounts represent the additional needs of the children in certain specified areas; they are limited to amounts actually paid by either of the parents or the custodian to a third party, such as a childcare provider. Although the amounts entered in lines 12a through 12d are aggregated for purposes of determining total need, it is also necessary to identify the individual amounts paid by each parent for each child. These amounts are used later in the calculation, line 23, and Worksheet B, part 1, lines 3, 9, and 13. For documentation purposes, further breakdown by type of expense may also be required.

12a Child day care costs less dependent care tax credit

This amount is described in the following RULE:

RULE 13 SUPPLEMENTS TO PRIMARY CHILD SUPPORT ALLOWANCE**NOTE:**

All entries to line 12 are divided between the parents according to the percentages of income determined at line 9.

(1) The primary child support allowance is supplemented by:

(a) reasonable child care costs incurred by a parent for children of the calculation as a prerequisite to employment. The child care expense is reduced by the federal dependent care tax credit;

In some cases, the parents employer may contribute to the cost of an employee's childcare or make childcare available at the job site for a reduced cost. Determine the federal dependent care tax credit using the instructions for line 2j (Worksheet A); enter the number of children used to calculate the credit in the Variables section of Worksheet A.

12b Child health insurance premium

This amount is limited to the amount the parent is **actually paying** for coverage of the children of the calculation. Proof of payment can be either (1) proof of current coverage or (2) verification from the insurance carrier that the parent has paid a premium with the intent of enrolling the children. The cost of prerequisite coverage (coverage the parent is required to purchase before or with any coverage for children of this calculation) is not included in this amount.

If the cost of children-only coverage is not identified separately by the insurance plan, derive the amount by subtracting the cost of a parent-only package from the cost of the parent-child package, or use some other reasonable method. Then divide the children-only cost by the number of children covered to determine the specific cost for each child, and multiply by the number of children of the calculation who are covered.

12c Child unreimbursed medical expenses

This amount is limited to annual expenses in excess of \$250 per child, per year, which are recurring and predictable. Do not include one-time costs or costs that are not expected to occur every year. Eligible payments for past medical debts of the children, or the parent should be entered as allowable deductions from income at line 2k. For large medical debts, the amount entered is one year's payments, not the entire amount due.

12d Other

This amount includes all other special needs of the children as determined by the circumstances of the case. Generally, special needs can include such things such as special schooling, care, equipment, or transportation that are beyond the ordinary needs of most children. If the parents agree, it may also include the cost of private school, an automobile and insurance for teenage drivers, sports equipment, or any number of other possibilities.

18a Long distance parenting adjustment

Enter the amount from Worksheet D.

18b Other adjustments to income available for SOLA

This line is for expenses that

- relate to special conditions in the case.
- are not appropriate earlier in the calculation because they do not relate to a particular line, or because they would have an unfair effect on parental shares (line 9) or on the extent to which the children’s needs are met (line 13 versus line 7), based on the facts of the case.
- if not included, would result in a determination that is unjust or inappropriate in the particular case.

Enter the amount of the actual expense or the net amount available for SOLA line 17 less line 18a, whichever is less. Describe the special conditions and the basis for allowing the expense in the Comments line at the end of Worksheet A.

23 Credit for payment of expenses

For each parent break out the amount the parent actually pays toward the total expenses listed on line 12. Note that in a third-party case the obligor parents credit on this line may be less than the total on line 12 if the custodian pays some of the supplemental expenses.

25 Combination parenting determination

Enter the number of days, as defined below in Rule 14, that each child spends or expects to spend with each parent during the year into Table 25-A. Divide each parents Total Annual Child Support from line 24 by the number of children of the calculation (line 10) and enter the same amount for each child into Mothers column of Table 25-B. Then, divide Fathers line 24 by the number of children and enter the same amount for each child in Fathers column of Table 25-B.

Total each parents column in Table 25-B.

In a two-parent case, both parents are included in the calculation, combination parenting applies in either or both of the following two situations:

- (1) Any of the children spend more than 110 days with one parent, and more than 110 days with the other parent.
- (2) One child of the calculation resides primarily with the first parent and spends no more than 110 days per year with the second parent, and at least one child resides primarily with the second parent and spends no more than 110 days per year with the first parent.

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In determining days spent with each parent, the following RULE applies:

RULE 14 PARENTING DAYS

(3) A "day" is defined as the majority of a 24-hour calendar period in which the child is with or under the control of a parent. This assumes there is a correlation between time spent and resources expended for the care of the child. For purposes of this chapter, and unless otherwise agreed by the parents or specifically found by the court, the calendar period begins at midnight of the first day and ends at midnight of the second day. When the child is in the temporary care of a third party, such as in school or a day care facility, the parent who is the primary contact for the third party is the parent who has control of the child for the period of third party care. If both parents are primary contacts for a third party, or if the parents are otherwise unable to agree on the total number of days for each parent, the number of disputed days may be totaled and divided equally between the parents.

In a one-parent case Combination parenting does not apply. Go on to line 26. For further information, see EXCEPTION to including both parents following 1c of Initiating the Calculation on page 3 of this section.

26 Child support per child

If split/shared parenting (Worksheet B) does not apply, the amount in this line should equal the amount in line 24 for the noncustodial parent. If split/shared parenting does apply, the amount will be the difference between the two parents adjusted obligations from worksheet B, not the difference between the line 24 amounts.

Read the Question at line 26 and determine if the answer is YES or NO. If YES, follow the worksheet instructions which direct that the child's annual support from Table 25-B be converted to monthly support and entered in Table 26-B. Total each parents column and enter the non-residential parents total at line 27. If the answer is NO, complete both parts 1 and 2 of worksheet B.

NOTE:

The Obligees Total Obligation in Line 27 is greater than the Obligor If in a non-TANF case there is a split/shared parenting situation, and the transfer line shows that the amount payable is from the obligee to the obligor, contact may be made by phone or by sending CS 202-1A 10 Day Letter to CP for More Information. The obligee may choose to close the case or to proceed with the establishment action.

If *before* the NOCS is issued the CP requests case closure acknowledge the withdrawal in writing and submit the case for closure. If there is no response from the CP response or if the CP wants to proceed with the establishment, enter a case note that details the outcome of the calculation and the result of contact with the obligee. Submit the case for closure and open an AP-initiated case with the CP (obligee) as the obligor on the new case. Transfer all relevant filings from the original case to the newly opened AP-initiated case.

If *after* the NOCS is issued the obligor on the AP-initiated case requests closure, sends CS 404.2E G/L Transfer Payment Case Closure Letter to the obligee by regular mail. If after 20 days the obligee has not requested to open a case, issues CS 401.3F Motion to Dismiss Administrative Notice to the Office of Administrative Law Judge. Upon receipt of the signed Motion submit the case for closure.

27 Final monthly transfer payment

This is the monthly payment for all the children.

COMMENTS: This line is used to list the following information for each parent:

(1) A summary of how income was determined within the Guidelines.

Identify the different types of actual income included in the parents total income on line 1i for example, wages from full-time employment, income from rental property, earned income credit, disability benefits, etcetera. If applicable explain why and how income was imputed, averaged, or projected. Identify any income the parent actually received that was not included in the calculation, and explain why. For self-employment income describe the parents gross receipts, and the business expenses allowed; also indicate whether any income or expenses claimed on the parents tax return were increased or disallowed for Guidelines purposes, and give the basis for the determination.

Also describe any deductions from income other than standard income taxes, social security, and mandatory employer deductions. Give the data or assumptions used to determine any tax credits.

(2) Any supplements to the children's primary needs other than day care and health insurance.

Describe any supplements listed on lines 12c and 12d; if necessary, explain why the supplements were allowed.

(3) Any rebutted presumptions.

For any amount entered in lines 1 through 26 that differs from the prescribed Guidelines amount, explain how the line-item presumption is rebutted in this situation. Most of these deviations will be identified in items (1) and (2) above. (See Rebuttable Presumption, POLICY, this section.)

(4) Any variances from the Guidelines.

If the CSSD intends to order the obligor to pay an amount different from the final support amount transfer payment shown on line 27, explain why a variance from the Guidelines is required; describe the adjustment to the bottom line, and state how the adjustment was derived. Refer to Variances in above policy.

Enter in this (COMMENTS) line the transfer payment that would have applied without the variance.

CAUTION:

An adjustment to the bottom line may depending on the size of the adjustment reduce the final support amount to a point where the children's primary and supplemental needs are not met. In these situations, the effect of the adjustment on the children's needs must be taken into account in determining whether the variance is in the best overall interests of the child.

Situations appropriate to bottom-line variances may include the following subject to the above CAUTION:

- The transfer amount is reduced in consideration of a parents overall financial condition extreme situation, where the amount of the reduction does not correspond to a specific expense amount.
- The parties agree on an amount that is different from the calculated transfer amount, after being informed of the calculated amount.

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If a stipulation/agreement is proposed, the following RULE also applies:

RULE 2 REBUTTABLE PRESUMPTION....

(5) Child support may vary from the bottom line based on a stipulation or agreement of the parties only if the stipulation or agreement meets the following criteria:

(a)it is in writing executed by the parties free of coercion;

(b)it contains specific justification as to why application of the guidelines is unjust or inappropriate;

(c)it contains a statement of the amount of support that would have been appropriate under the guidelines without the variance; and

(d)it has been approved by the court or in an administrative proceeding.

(5) Any significant change in circumstances (affecting the calculation) that is anticipated within the next 18 months.

Describe the anticipated change, and calculate and list the amount that will be payable when and if the change occurs. Note both the current and the future amount may be based on standard calculations, or may include rebutted presumptions or variances. Anticipated changes may include, for example, a change in earning ability when the parent completes a degree program; a change in the personal allowance when the parent is transferred to Alaska; or a change in day care expenses when a child starts school.

(6) If applicable, a brief statement that the case involves a third-party (non-parent) custodian.

Also enter in this COMMENTS line the required disclaimer regarding the other parents obligation, refer to Cases Involving Third-Party Custodians in procedures below.

(7) The parents alternate claiming the children's dependent tax exemption on their income tax returns.

Prepares one calculation with the Mother claiming the exemptions, a second with the Father claiming the exemptions, and averages the monthly child support amounts from the two calculations. This procedure allows a consistent monthly support amount to be ordered regardless of which parent is claiming the exemptions in a given year. Both worksheets should accompany the order for child support.

(8) Any other special circumstances of the case.

List any non-standard information not included in (1) through (7) above that was considered in determining the support amount.

INSTRUCTIONS FOR COMPLETING WORKSHEET D

Line Description/Instructions

1 Annual mileage driven

The following RULE defines long-distance parenting:

RULE 15 LONG DISTANCE PARENTING ADJUSTMENT

(1) Long distance parenting is any travel by a parent or child to attain the goals of the parenting plan. A long-distance parenting adjustment is allowed when travel by a parent or child exceeds 2,000 miles in a calendar year.

The parenting plan is a plan incorporated in the divorce decree that contains a residential schedule specifying the periods of time the child will spend with each parent, including holidays, vacations, etcetera. The requirement for a parenting plan was adopted by the Legislature in 1997; for divorce decrees entered before the requirement was in effect, travel for long distance parenting is estimated based on recent visitation and custody experience, adjusted to reflect any changes anticipated for the coming twelve months.

Mileage to exercise long-distance parenting means mileage incurred by the parent to transport the child to or from the other parent or the custodian according to the child’s residential schedule.

4 Annual transportation cost other than mileage

Non-automobile transportation must be related to the child’s residential schedule found in the parenting plan, or based on recent visitation and custody experience if there is no parenting plan. This amount may include costs incurred to comply with the regulations of the carrier with respect to children traveling alone.