

## **The New Temporary Maintenance Law**

David P. Badanes, Esq.

On August 13, 2010, New York passed several new laws affecting different aspects of divorce. One of the new laws is a provision for temporary maintenance (alimony). The following is a brief explanation of the new temporary maintenance law.

Once a divorce action is started, one spouse can request temporary maintenance. Temporary maintenance is the amount of money that one spouse has to give to the other spouse for support. Temporary maintenance can be in place until the divorce is granted or until the court decides it should end.

The new law provides for a formula to compute how much money should be paid from one spouse to the other. With the new formula, it is likely that the more monied spouse (i.e., the one who makes more money) will have to pay some amount of maintenance to the less monied spouse (i.e., the spouse who makes less money). The new law is unclear as to how long you will have to pay this amount of maintenance, except that it will definitely end upon the issuance of a final award of maintenance (which occurs when the divorce is final) or the death of either party.

Once the amount of temporary maintenance is computed, the law states that it is presumed to be the correct amount. This means that in all likelihood, a court will award this amount of maintenance. However, if the amount of temporary maintenance is "unjust or inappropriate", then the Court can deviate from this amount.

The formula starts by using each spouse's gross income. However, the court has the option of imputing income to your claimed gross income. This typically happens with someone who is self-employed. If the court believes that you are not declaring all your income, then it has the right to assign an income amount to you.

Once each spouse's gross income is determined, the next steps are to do a somewhat complicated calculation to determine the amount of maintenance. The following chart presents some examples of the amount of temporary maintenance given some different levels of income.

<b>Spouse A's income</b>	<b>Spouse B's income</b>	<b>Amount of temporary maintenance</b>
\$60,000.00	\$20,000.00	\$12,000.00
\$60,000.00	\$30,000.00	\$6,000.00
\$60,000.00	\$40,000.00	None
\$80,000.00	\$20,000.00	\$20,000.00
\$80,000.00	\$30,000.00	\$14,000.00
\$80,000.00	\$40,000.00	\$8,000.00
\$80,000.00	\$50,000.00	\$2,000.00
\$80,000.00	\$53,340.00 or more	None
\$100,000.00	\$20,000.00	\$26,000.00
\$100,000.00	\$30,000.00	\$22,000.00
\$100,000.00	\$40,000.00	\$16,000.00
\$100,000.00	\$50,000.00	\$10,000.00
\$100,000.00	\$60,000.00	\$4,000.00
\$100,000.00	\$66,666.66 or more	None
\$120,000.00	\$20,000.00	\$32,000.00
\$120,000.00	\$30,000.00	\$30,000.00
\$120,000.00	\$40,000.00	\$24,000.00
\$120,000.00	\$50,000.00	\$18,000.00
\$120,000.00	\$60,000.00	\$12,000.00
\$120,000.00	\$70,000.00	\$6,000.00
\$120,000.00	\$80,000.00	None

If one spouse's income is \$500,000.00 or more, then an income cap is imposed, that is, the formula will only be computed using \$500,000.00, regardless of the spouse's income above \$500,000.00.

The Badanes Law Office has assisted several individuals with divorces and can help you understand the temporary maintenance law and how it effects you. Call the Badanes Law Office today at: 631-239-1702, email us at: [dbattorney@optonline.net](mailto:dbattorney@optonline.net) or visit our web site: [www.dbnylaw.com](http://www.dbnylaw.com).