



# Snapshots™

## DIVORCE: CHILD SUPPORT

**BOTH THE *DIVORCE ACT* AND PROVINCIAL LAWS ARE VERY CONCERNED WITH THE WELFARE OF CHILDREN AND THE COURTS WILL NOT APPROVE A SEPARATION AGREEMENT OR A DIVORCE UNTIL THERE IS ADEQUATE SUPPORT FOR THE CHILDREN.**

If you were legally married, you are subject to the federal *Divorce Act*. If you weren't legally married, you are subject to provincial or territorial law. Typically that support will be shared between the parents.

The Federal Child Support Guidelines describe which parent is responsible for how much support for children after a divorce. The guidelines are designed to divide support fairly between the parents and consider various factors such as:

- a. the number of children
- b. annual income of the paying parent
- c. custody arrangements (sole, split, joint)

The guidelines do not have to be followed if the parents can show the court that their own arrangement is actually more beneficial for the children. To calculate hypothetical child support amounts based on your gross income, number of children and province of residence you can use this convenient Government of Canada [Child Support Table Look-up](#).

### Personal tax credits and deductions

Each spouse may be entitled to the eligible dependant amount. Only one spouse can claim the amount for a particular dependant, so if you have more than one child, it often makes sense to each claim the credit in respect of different children. Otherwise you'll need to agree on who will claim the credit.

As for child-care expenses, you can claim expenses incurred by you for the period your child resided with you. Finally, in the case of tuition, textbook and education credits, a student can transfer these credits to either parent, but not a portion to both, which will require agreement between you and your spouse.

### Deductibility of legal fees

Legal fees are generally deductible if they relate to collecting late support payments, establishing a right to support, increasing your support, or to make child support payments tax-free. If you're the payer of support, legal fees are generally not deductible. Nor are fees related to child custody or visitation issues. If your deductible legal fees happen to exceed your income in a year, a non-capital loss is created, which can then be carried forward, or back, to other tax years.

Since 1997, child support payments are included in the income of the paying spouse and received tax-free by the spouse who has custody. Therefore the parent who is using the child support payments to support their children will receive any child support tax-free.

A lawyer specializing in this area should always be consulted.

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