

Alimony



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Each case has unique facts and circumstances. The information provided in this guide is general information and is not a substitute for legal advice from an attorney. The information contained in this Guide does not constitute legal advice nor is it intended to be legal advice.

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What is Alimony?

Alimony is a legal obligation for one spouse to provide financial support to their spouse/ex-spouse during or after the divorce.

PURPOSE

The purpose of alimony is to provide support to one spouse or ex-spouse if that spouse is in need of economic support.

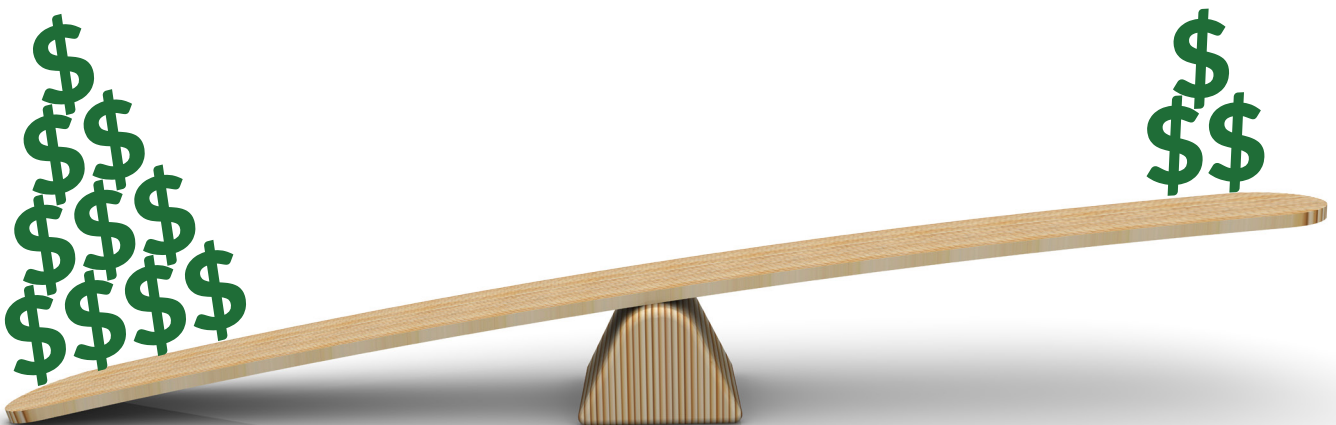
IS ALIMONY WARRANTED?

Generally speaking, whether or not an award of alimony is warranted will depend on several factors. However, most commonly it will come down to two things:

NEED

VS.

**ABILITY
TO PAY**



Determining Alimony

In Georgia, there is no formula or specific calculation used to determine alimony. Instead, courts are given broad discretion to determine the amount and length of alimony based upon the following factors:

■ EDUCATION

Where appropriate, the time needed for a party to acquire sufficient education and training to enable them to find employment.

■ MARRIAGE

The length of the marriage as well as the standard of living established during the marriage.

■ CONDITIONS

The age of the parties as well as their physical and emotional condition.

■ PARTY CONDITIONS

The condition of the parties, including the separate estate, earning capacity, and debts of the parties.

■ CONTRIBUTION

The contribution of each party to the marriage, including, but not limited to, services rendered in homemaking, child care, education, and career building of the other party.

■ FINANCES

The financial resources of each party.

■ OTHER FACTORS

Any other relevant factors as the court deems fair.



Is Alimony Appropriate?

If you plan to seek alimony during your divorce process, it is important for you to consider the following questions.

1. How much money do you need to live on every month?
2. How much can your spouse realistically afford to pay you?
3. How secure is your job, and how secure is your spouse's job?
4. How will alimony affect your income taxes?
5. Will you be living with someone or getting remarried within the next few years?
6. Will your alimony award be for a fixed amount, or will it be reviewable?
7. How are you going to secure alimony?



Duration

Generally, the Longer the Marriage... The Longer A Spouse Will Pay Alimony.

However, this general rule is not always true. If a court determines that a spouse is not in need of alimony or that the other spouse has no ability to pay, even a 30 year marriage can result in no alimony award.



Practice Pointer

Who Determines Alimony?

Ultimately, the parties may simply agree to whether alimony is appropriate and, if they agree that it is appropriate, they may also agree to the amount and length of alimony.

In the event that the parties cannot agree, they can let a judge or jury make that determination for them.

When Do Alimony Payments Stop?

ALIMONY MAY END EARLY WHEN:

The death of either spouse



The recipient spouse remarries



The cohabitation of the recipient spouse with a romantic partner



Practice Pointer

Lump Sum Alimony Does Not Apply

The above three scenarios do not apply to lump sum alimony. Lump sum alimony is when one spouse pays the other a set amount of money. Although lump sum alimony is usually paid in one large amount, it can also include alimony paid over time that is not subject to modification or termination.

Temporary Alimony

You Don't Have to Wait Until After the Divorce to Start Getting Alimony

Temporary alimony may be ordered from the time the parties are separated until the time the final decree of divorce is entered.

It is designed to meet the needs of the recipient spouse during the divorce.

This type of alimony is awarded when the parties are separated, but the divorce is not final.



Also, the temporary alimony may include attorney's fees and expenses of litigation.

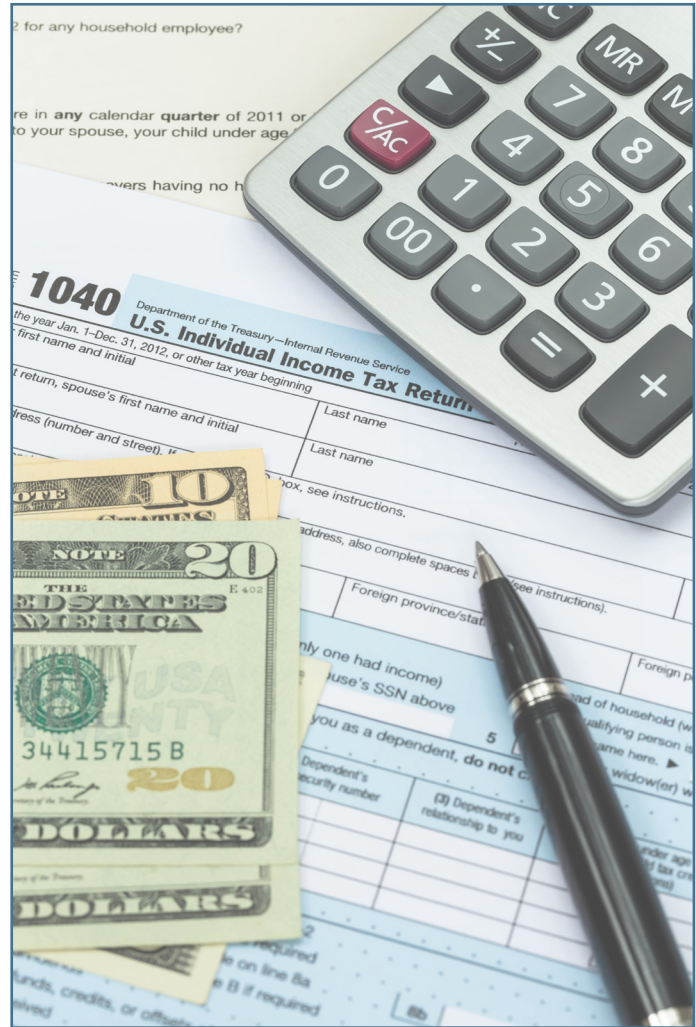
Once the divorce is final, a court may order that alimony continue; however, an order of temporary alimony does not guarantee that the recipient will ultimately receive alimony post-divorce.

Tax Effect of Alimony

This treatment of alimony as an income deduction from the income of the paying spouse can result in a savings in his or her tax payment as taxable income is reduced.

In fact, the combined tax bill for both former spouses will likely decrease as alimony results in the shifting of income from a higher to a lower tax bracket by transferring money from the higher income spouse to the lower income spouse.

Although this may not seem to have any advantage at all for the alimony recipient, the tax benefits enjoyed by the obligated spouse may lead the paying spouse to be more generous or at least be more open to making monthly alimony payments.



Practice Pointer

SEEK FINANCIAL ADVICE!

Whenever evaluating the tax effect of alimony on your divorce, it is important to seek the advice of a tax professional.

Alimony & Adultery

In Georgia, Adultery Can Play a Role In Alimony Cases:

A spouse will not be entitled to alimony if it is established that the separation between the spouses was caused by that spouse's adultery. However, adultery is not a bar to alimony in every case.

Only when it has been shown that the adultery of one spouse actually led to the separation of the spouses will the adulterous party be denied alimony as a result.

Thus, if your spouse does commit adultery and you can prove the cause of your marital break-up is your spouse's adulterous affair, there could be serious consequences in terms of alimony.



Why Meriwether & Tharp?



Meriwether & Tharp is one of the largest and most experienced divorce law firms in Georgia. Our firm has won numerous awards including Lawyer Monthly's Family Law firm of the Year Award for the entire USA.



Divorce hurts, but it doesn't have to be nasty. At Meriwether & Tharp, we believe there's a better way. Here's how we strive to provide high quality family law representation:

Educate Our Clients

Education is the foundation for success. We arm you with the knowledge you need to achieve the results you desire.

Proactive Strategy

No more guessing what comes next – you decide the pace and you control the outcome of your case.

Resolution Focus

Divorce is a puzzle, not a fight. Solutions, not blind advocacy, is our approach.


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