



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 21, 2018

Title

Family Law: Income and Expense
Declaration

Agenda Item Type

Action Required

Effective Date

January 1, 2019

Rules, Forms, Standards, or Statutes Affected

Revise form FL-150

Date of Report

August 8, 2018

Recommended by

Family and Juvenile Law Advisory
Committee

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends making time-sensitive revisions to *Income and Expense Declaration* (form FL-150) to implement recent changes to the tax treatment of alimony (spousal support) under the Internal Revenue Code (IRC) of 1986. In addition, the committee recommends updating the reference to a military housing allowance acronym in the form to clarify the meaning of the term.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019, revise form FL-150 to reflect:

1. Amendments made by the Internal Revenue Code of 1986, effective December 31, 2018, that relate to spousal support judgments; and
2. Changes to the terms used to denote military allowances that are attributable as income to a party in a family law proceeding.

The revised form is attached at pages 7–10.

Relevant Previous Council Action

Income and Expense Declaration (form FL-150) was last revised, effective January 1, 2007, for reasons not relevant to the recommendations in this report.

Analysis/Rationale

Background

The Tax Cuts and Jobs Act (Pub.L. No. 115-97 (Dec. 22, 2017) 131 Stat. 2054) amends the spousal support provisions of the IRC by repealing the income tax deduction to the person who pays spousal support under a divorce or separation instrument. In addition, the new law repeals the corresponding inclusion of spousal support in the gross income of the recipient. These amendments apply to (1) any divorce or separation instrument executed after December 31, 2018; and (2) any modification of a divorce or separation instrument that expressly provides that the amendments made by this section of the IRC apply to such modifications.

The California Revenue and Taxation Code has not been amended to reflect the new federal tax treatment of spousal support. Thus, it appears that spousal support (and domestic partner support)¹ will continue to be taxable as income to the recipient and tax deductible to the payor for state tax purposes after December 31, 2018.

Changes regarding spousal support items

Item 5 (Income) on form FL-150 requires the party completing the form to list all income received in the past month and on an average monthly basis for all categories listed in this item. Item 5e requires a party receiving spousal support to state how much support was received in the past month and on an average monthly basis. The item appears on the form as follows:

Spousal support ☐ from this marriage ☐ from a different marriage

To determine the after-tax income of the person completing the form, the court will need to know whether that spousal support is taxable. A party receiving spousal support under a divorce or separation decree entered *on or before* December 31, 2018, will continue to pay income tax on those support payments. Persons who receive spousal support from a divorce or separation decree entered *after* December 31, 2018, will *not* have to declare a spousal support payment as federal taxable income, but will continue to include that amount on form FL-150 at item 5e, just as other nontaxable sources of income, such as TANF and SSI, must be reported.

Parties who modify their spousal support judgments after January 1, 2019, may choose to follow the new federal law and make the support payments nondeductible to the payor (and taxable to the recipient); otherwise, the payments will remain tax deductible to the payor (and taxable to the

¹ In California, alimony payments between registered domestic partners are treated the same as alimony payments between spouses. However, for federal purposes, the treatment may not be the same because the IRC identifies alimony as a payment to a spouse under a divorce or separation instrument.

recipient). Thus, just listing the date of the order may not be determinative as to tax status. To conform item 5e to the changes in federal law, the committee recommends that the item be revised as follows:

Spousal support ☐ from this marriage ☐ from a different marriage ☐ federally taxable

Item 10 (Deductions) on form FL-150 also needs to be changed to reflect the new federal tax law. Item 10e. requires a party to declare the amount of spousal support paid the previous month (from the date the form was signed). To conform to the new tax law, the committee proposed the following change to item 10e of the form:

Spousal support that I pay by court order from a different marriage ☐ federally tax deductible

Changes regarding military benefits reference

The term “Basic Allowance for Quarters” (BAQ) is now known as “Basic Allowance for Housing” (BAH). The acronym BAQ is found on form FL-150 (at item 5.I); however, the reference is intended to serve as an example of other items that are attributed as income to a party in a family law proceeding. There are other military allowances,² such as “Basic Allowance for Subsistence.” The committee proposes that the term “military BAQ” be replaced with “military allowances.” This change will help persons who are not in the military understand what the example refers to and avoid confusion among military members as to why only one allowance is referenced.

Policy implications

The recommendations in the report simply implement recent federal changes to the IRC as to the spousal support provisions of a family law judgment. The federal income tax changes specifically impact parties in a family law proceeding without implicating judicial branch policies.

Comments

Proposed changes to form FL-150. The proposal circulated for comment as part of the spring 2018 invitation-to-comment cycle, from April 9 to June 8, 2018, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, family law facilitators and self-help center staff, social workers, probation officers, Court Appointed Special Advocate programs, and other juvenile and family law professionals.

The committee received comments from 10 individuals or organizations. Of these commenters, 7 agreed with the proposal without specific comments, 2 expressed no position but included comments and suggestions to clarify the meaning of the new checkboxes in items 5 and 10, and 1 expressed no position but asked a question about the change in the federal tax law. No

² The types of BAH are listed at http://militarypay.defense.gov/Pay/Allowances/BAH_Types.aspx.

commenter disagreed with the proposed changes. A chart with the full text of the comments received and the committee's responses is attached at pages 12–17.

Spousal support items. Two commenters (California Department of Child Support Services (CDCSS) and Child Support Directors Association of California (CSDAC)) commented specifically about item 5. As to spousal support, they requested that the check box for “federal taxable” be deleted and replaced with “Spousal support ___From this marriage ___ from a different marriage ___ ordered before 1/1/19 ___ordered changed after 12/31/18 **and** did state a different tax impact to the parties.” CSDAC also suggested including a check box for “initial order made before 1/1/2019.”

In the experience of these commenters, self-represented litigants do not fully understand the tax status of payments being paid or received. In addition, they stated that the proposed replacement language would prompt local child support agencies, and potentially the courts, to review the spousal support orders made in an individual case more closely.

The committee appreciates the commenters' suggestions relating to item 5. After discussion, the committee prefers to implement a more concise change to these areas of the form by adding a single check box that states “☐ federally taxable*” and “federally tax deductible,*” respectively. The following instruction would then be included at the bottom of the same page:

* Check the box if the spousal support order or judgment was executed by the parties and the court before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.

Other comments. Three courts who commented stated that three months is sufficient time for them to implement the recommended changes to form FL-150, that no cost savings are associated with the changes, and that the recommendations would work for courts of various sizes. One court also indicated it would need to train staff, revise procedures, and create new codes for case management to implement the changes to form FL-150.

Suggestions for future improvements to form FL-150. The committee also requested that commenters include suggestions about how to improve the form in a future cycle. Of the 10 individuals or organization who commented about the proposed technical changes, 7 included suggestions for substantive changes in a future cycle. A chart with the full text of the comments received is included as Attachment A.

Some of the suggestions included:

- Creating a new, simplified *Declaration Regarding Child Support Factors* that could be attached by the parties to a *Request for Order* (form FL-300) or function as a standalone document;
- Simplifying the language on existing form FL-150 overall to make it easier for unrepresented litigants to complete;

- Revising the form so that it collects only core information applicable to all case types;
- Revising item 13 to require a party to list its actual expenses, estimated expenses, and proposed needs;
- Adding a section on other fees, i.e., fees for experts or evaluators; and
- Including an item for a party to indicate if he or she is a beneficiary of a trust.

As indicated in the invitation to comment, the above suggestions will not be implemented effective January 1, 2019, but will be considered by the committee in the future.

Alternatives Considered

Circulation

Revisions to form FL-150 are required to implement the recent changes to the tax treatment of alimony (spousal support) in the Internal Revenue Code of 1986, effective January 1, 2019. Nonetheless, the committee considered two alternatives:

1. Recommending technical changes directly to the Judicial Council without circulating the form with the proposed changes for public comment; and
2. Circulating the form to request specific comment on the proposed changes and requesting comments for generally improving the form in a future cycle.

The committee chose the second option because it would enable the committee to obtain suggestions for alternative language to help implement the new tax laws while gathering input on the form for future revisions.

New language on the *Income and Expense Declaration*

The committee also considered how to draft the language on page 2 of form FL-150 to clarify the meaning of “federally taxable” and federally tax deductible” in item 5. Specifically, the committee needed to determine whether the changes to the federal law apply to spousal support court orders made before the judgment for divorce (for example, temporary or pendente lite orders) or whether the changes apply only to judgments.

The committee received guidance from a United States Tax Court Memorandum Findings of Fact and Opinion, which found that a pretrial order for spousal support fell within the meaning of Internal Revenue Code section 71(b)(2)(C)(i) because it was otherwise connected with a decree of divorce...that produced the judgment, and therefore was a written instrument incident to a decree of divorce or separate maintenance.³ Based on this finding, the committee determined that it is appropriate to draft the language on page 2 of form FL-150 to include an order or a judgment for spousal support.

³ *Anderson v. Commissioner* (2016) 47 T.C., www.leetcode.com/decision/intco20160314d20.

Fiscal and Operational Impacts

The committee anticipates that this proposal will result in minor costs incurred by the courts to revise the form, train staff, and create new codes for case management programs. Those costs are likely outweighed by the time saved by the court in obtaining the information necessary to make appropriate orders, including the taxability of the parties' income.

Attachments and Links

1. Form FL-150, at pages 7–10
2. Chart of comments, at pages 11–16
3. Attachment A: Chart of comments for proposed future revisions
4. Attachment B: Pub.L. No. 115-97, § 11051
5. Link to Pub.L. No. 115-97, at www.congress.gov/bill/115th-congress/house-bill/1

Attach copies of your pay stubs for last two months (black out Social Security numbers).

- (If you have more than one job, attach an 8 1/2-by-11-inch sheet of paper and list the same information as above for your other jobs. Write "Question 1—Other Jobs" at the top.)

a. My age is (*specify*):

b. I have completed high school or the equivalent: ☐ Yes ☐ No If no, highest grade completed (*specify*):

c. Number of years of college completed (*specify*): ☐ Degree(s) obtained (*specify*):

d. Number of years of graduate school completed (*specify*): ☐ Degree(s) obtained (*specify*):

e. I have: ☐ professional/occupational license(s) (*specify*):
☐ vocational training (*specify*):

4. **Other party's income.** I estimate the gross monthly income (before taxes) of the other party in this case at (*specify*): \$
This estimate is based on (*explain*):

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date:

(SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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Attach copies of your pay stubs for the last two months and proof of any other income. Take a copy of your latest federal tax return to the court hearing. (Black out your Social Security number on the pay stub and tax return.)

5. **Income** (For average monthly, add up all the income you received in each category in the last 12 months and divide the total by 12.)

	Last month	Average monthly
a. Salary or wages (gross, before taxes).....	\$	_____
b. Overtime (gross, before taxes).....	\$	_____
c. Commissions or bonuses.....	\$	_____
d. Public assistance (for example: TANF, SSI, GA/GR) <input type="checkbox"/> currently receiving	\$	_____
e. Spousal support <input type="checkbox"/> from this marriage <input type="checkbox"/> from a different marriage <input type="checkbox"/> federally taxable*	\$	_____
f. Partner support <input type="checkbox"/> from this domestic partnership <input type="checkbox"/> from a different domestic partnership	\$	_____
g. Pension/retirement fund payments.....	\$	_____
h. Social Security retirement (not SSI).....	\$	_____
i. Disability: <input type="checkbox"/> Social Security (not SSI) <input type="checkbox"/> State disability (SDI) <input type="checkbox"/> Private insurance	\$	_____
j. Unemployment compensation.....	\$	_____
k. Workers' compensation.....	\$	_____
l. Other (military allowances, royalty payments) (specify):	\$	_____

6. **Investment income** (Attach a schedule showing gross receipts less cash expenses for each piece of property.)

a. Dividends/interest.....	\$	_____
b. Rental property income.....	\$	_____
c. Trust income.....	\$	_____
d. Other (specify):	\$	_____

7. **Income from self-employment, after business expenses for all businesses**.....\$ _____

I am the ☐ owner/sole proprietor ☐ business partner ☐ other (specify): _____

Number of years in this business (specify): _____

Name of business (specify): _____

Type of business (specify): _____

Attach a profit and loss statement for the last two years or a Schedule C from your last federal tax return. Black out your Social Security number. If you have more than one business, provide the information above for each of your businesses.

8. ☐ **Additional income.** I received one-time money (lottery winnings, inheritance, etc.) in the last 12 months (specify source and amount): _____

9. ☐ **Change in income.** My financial situation has changed significantly over the last 12 months because (specify): _____

10. **Deductions**

	Last month
a. Required union dues.....	\$ _____
b. Required retirement payments (not Social Security, FICA, 401(k), or IRA).....	\$ _____
c. Medical, hospital, dental, and other health insurance premiums (total monthly amount).....	\$ _____
d. Child support that I pay for children from other relationships.....	\$ _____
e. Spousal support that I pay by court order from a different marriage <input type="checkbox"/> federally tax deductible*	\$ _____
f. Partner support that I pay by court order from a different domestic partnership.....	\$ _____
g. Necessary job-related expenses not reimbursed by my employer (attach explanation labeled "Question 10g").....	\$ _____

11. **Assets**

	Total
a. Cash and checking accounts, savings, credit union, money market, and other deposit accounts.....	\$ _____
b. Stocks, bonds, and other assets I could easily sell.....	\$ _____
c. All other property, <input type="checkbox"/> real and <input type="checkbox"/> personal (estimate fair market value minus the debts you owe).....	\$ _____

* Check the box if the spousal support order or judgment was executed by the parties and the court before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.

PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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12. The following people live with me:

Name	Age	How the person is related to me (ex: son)	That person's gross monthly income	Pays some of the household expenses?	
a.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
b.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
c.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
d.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
e.				<input type="checkbox"/> Yes	<input type="checkbox"/> No

13. Average monthly expenses ☐ Estimated expenses ☐ Actual expenses ☐ Proposed needs

a. Home: (1) <input type="checkbox"/> Rent or <input type="checkbox"/> mortgage..... \$ _____ If mortgage: \$ _____ (a) average principal: \$ _____ (b) average interest: \$ _____ (2) Real property taxes..... \$ _____ (3) Homeowner's or renter's insurance (if not included above)..... \$ _____ (4) Maintenance and repair..... \$ _____ b. Health-care costs not paid by insurance..... \$ _____ c. Child care..... \$ _____ d. Groceries and household supplies..... \$ _____ e. Eating out..... \$ _____ f. Utilities (gas, electric, water, trash)..... \$ _____ g. Telephone, cell phone, and e-mail..... \$ _____	h. Laundry and cleaning..... \$ _____ i. Clothes..... \$ _____ j. Education..... \$ _____ k. Entertainment, gifts, and vacation..... \$ _____ l. Auto expenses and transportation (insurance, gas, repairs, bus, etc.)..... \$ _____ m. Insurance (life, accident, etc.; do not include auto, home, or health insurance)..... \$ _____ n. Savings and investments..... \$ _____ o. Charitable contributions..... \$ _____ p. Monthly payments listed in item 14 (itemize below in 14 and insert total here)..... \$ _____ q. Other (specify): \$ _____ <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> r. TOTAL EXPENSES (a–q) (do not add in the amounts in a(1)(a) and (b)) \$ _____ </div> s. Amount of expenses paid by others \$ _____
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14. Installment payments and debts not listed above

Paid to	For	Amount	Balance	Date of last payment
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	

15. Attorney fees (This information is required if either party is requesting attorney fees):

- a. To date, I have paid my attorney this amount for fees and costs (specify): \$
- b. The source of this money was (specify):
- c. I still owe the following fees and costs to my attorney (specify total owed): \$
- d. My attorney's hourly rate is (specify):

I confirm this fee arrangement.

Date:

(TYPE OR PRINT NAME)	<div style="text-align: right;"> </div> (SIGNATURE OF DECLARANT)
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PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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CHILD SUPPORT INFORMATION
(NOTE: Fill out this page only if your case involves child support.)

16. Number of children

- a. I have *(specify number)*: _____ children under the age of 18 with the other parent in this case.
- b. The children spend _____ percent of their time with me and _____ percent of their time with the other parent.
(If you're not sure about percentage or it has not been agreed on, please describe your parenting schedule here.)

17. Children's health-care expenses

- a. ☐ I do ☐ I do not have health insurance available to me for the children through my job.
- b. Name of insurance company: _____
- c. Address of insurance company: _____
- d. The monthly cost for the **children's** health insurance is or would be *(specify)*: \$ _____
(Do not include the amount your employer pays.)

18. Additional expense for the children in this case

- | | Amount per month |
|---|------------------|
| a. Childcare so I can work or get job training..... | \$ _____ |
| b. Children's health care not covered by insurance..... | \$ _____ |
| c. Travel expenses for visitation..... | \$ _____ |
| d. Children's educational or other special needs <i>(specify below)</i> | \$ _____ |

19. Special hardships. I ask the court to consider the following special financial circumstances

(attach documentation of any item listed here, including court orders):

- | | Amount per month | For how many months? |
|--|------------------|----------------------|
| a. Extraordinary health expenses not included in 18b..... | \$ _____ | _____ |
| b. Major losses not covered by insurance <i>(examples: fire, theft, other insured loss)</i> | \$ _____ | _____ |
| c. (1) Expenses for my minor children who are from other relationships and are living with me..... | \$ _____ | _____ |
| (2) Names and ages of those children <i>(specify)</i> : | | |

(3) Child support I receive for those children..... \$ _____

The expenses listed in a, b, and c create an extreme financial hardship because *(explain)*:

20. Other information I want the court to know concerning support in my case *(specify)*:

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Family Law: Income and Expense Declaration (technical revisions to form FL-150)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	California Department of Child Support Services by Kristen Donadee, Assistant Chief Counsel Rancho Cordova	N/I	<p>The draft Income and Expense Declaration (FL-150) appears to meet most of the limited objectives the Judicial Council of California (JCC) is trying to accomplish as part of this expedited cycle.</p> <p>More specifically, while the proposed language to capture the military allowances is clear, the spousal support clarification is not.</p> <p>It has been our experience that unrepresented litigants struggle to draw appropriate legal conclusions even when given plain language instructions. For that reason, we would recommend that the JCC consider soliciting relevant factual information about the spousal support orders made by the court instead. This information would give the LCSAs and the courts the information they need to identify which tax status applies to the spousal support ordered.</p> <p>If the JCC concurs with this recommendation, it could consider adding the language to “Spousal Support” section of the Income and Expense Declaration to solicit factual information.</p> <p>Item 5.e. could be revised as follows:</p> <p>Spousal support __From this marriage __ from a different marriage __ <u>ordered before 1/1/19</u> <u>ordered changed after 12/31/18 and did state a different tax impact to the parties.</u></p>	<p>No response required.</p> <p>No response required.</p> <p>The committee appreciates the commenter’s suggestions for improving the form, and agrees that it should be revised to make it clear for all users when the proposed new check boxes apply to the case.</p> <p>The committee appreciates the commenter’s suggestions relating to item 5.e. and item 5.l. After discussion, the committee prefers to implement a more concise change to these areas of the form by adding a single check box that</p>

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	Commentator	Position	Comment	Committee Response
			<p>Item 10.e. could be revised as follows:</p> <p>Spousal support that I pay by court order from a different marriage ___ordered before 1/1/19 ___order changed after 12/31/18 and did state a different tax impact to the parties.</p> <p>However, if the JCC prefers to include clarifying instructions that relate to the federal taxation issue, our Committee would recommend the revision that follows:</p> <p>*Check the box if the court made the initial spousal support order before January 1, 2019, of if a court-ordered change to that spousal support order was made after December 31, 2018, and does not state any different tax impact to the parties.</p> <p>Adding this new check box will at least prompt the LCSAs, and potentially the courts, to review the spousal support orders made in an individual case more closely.</p> <p>The commenter also submitted suggestions for future changes to this form. See attached comment chart for proposed future revisions.</p>	<p>states “___federally taxable*” and “federally deductible*,” respectively. Then, at the bottom of the same page, including the following instruction:</p> <p>“*Check the box if the spousal support order or judgment was executed before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.”</p> <p>The committee is concerned that a party may not readily understand the meaning of “tax impact to the parties,” as the commenter suggests, whereas, a party may well know whether he or she has paid federal income tax on spousal support payments received or has been able to deduct spousal support payments made during a given tax year that were based on a court order or judgment.</p> <p>The committee agrees with the commenter, but believes that its recommended changes more concisely call the issue to the attention of the judicial officer making an order or issuing a judgment for support, attorney’s fees, or other financial matter that is at issue in the hearing or trial.</p> <p>The committee appreciates the suggestions for future changes to the form.</p>
2.	California Lawyers Association by Saul Bercovitch, Director of Governmental Affairs	A	No specific comment.	No response required.

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	Commentator	Position	Comment	Committee Response
	And Stephen D. Hamilton, Legislation Chair at Flexcom San Francisco			
3.	Hon. Enrique Camarena, Judge, Superior Court of San Diego County	A	No specific comment. The commenter also submitted suggestions for future changes to this form. See attached comment chart for proposed future revisions.	No response required. The committee appreciates the suggestions for future changes to the form.
4.	Child Support Directors Association of California (CSDA) by Ronald Ladage, Chair CSDA Judicial Council Forms Committee and Assistant Director/Chief Attorney, El Dorado County DCSS	N/I	*In reviewing the proposed change, the CSDA Judicial Council Committee has identified options for your consideration. Of the two options, the Committee believes the first option would better serve the local child support agencies (LCSAs) and the courts. It has been our experience that unrepresented litigants struggle to draw appropriate legal conclusions even when given plain language instructions. For that reason, we would recommend that the JCC consider soliciting relevant factual information about the spousal support orders made by the court instead. This information would give the LCSAs and the courts the information they need to identify which tax status applies to the spousal support ordered. If the JCC concurs with this recommendation, it could consider adding the language to “Spousal Support” section of the Income and Expense Declaration to solicit factual information.	No response required. The committee appreciates the commenter’s suggestions for improving the form, and agrees that it should be revised to make it clear for all users when the proposed new check boxes apply to the case.

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	Commentator	Position	Comment	Committee Response
			<p>Item 5.e. could be revised as follows:</p> <p>Spousal support __From this marriage __ from a different marriage __ ordered before 1/1/19 __ordered changed after 12/31/18 and did state a different tax impact to the parties.</p> <p>Item 10.e. could be revised as follows:</p> <p>Spousal support that I pay by court order from a different marriage __ordered before 1/1/19 __order changed after 12/31/18 and did state a different tax impact to the parties.</p> <p>However, if the JCC prefers to include clarifying instructions that relate to the federal taxation issue, our Committee would recommend the revision that follows:</p> <p>*Check the box if the court made the initial spousal support order before January 1, 2019, of if a court-ordered change to that spousal support order was made after December 31, 2018, and does not state any different tax impact to the parties.</p>	<p>The committee appreciates the commenter’s suggestions relating to item 5.e. and item 5.l. After discussion, the committee prefers to implement a more concise change to these areas of the form by adding a single check box that states “__federally taxable*” and “federally deductible*,” respectively. Then, at the bottom of the same page, including the following instruction:</p> <p>“*Check the box if the spousal support order or judgment was executed before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.”</p> <p>The committee is concerned that a party may not readily understand the meaning of “tax impact to the parties,” as the commenter suggests, whereas, a party may well know whether he or she has paid federal income tax on spousal support payments received or has been able to deduct spousal support payments made during a given tax year that were based on a court order or judgment.</p> <p>In addition, the committee believes that its recommended changes more concisely call the issue to the attention of the judicial officer making an order or issuing a judgment for support, attorney’s fees, or other financial matter that is at issue in the hearing or trial.</p>
5.	Gursey Schneider LLP	A	No specific comment.	No response required.

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	Commentator	Position	Comment	Committee Response
	by Alexandra Peais, CPA San Francisco		The commenter submitted suggestions for future changes to this form. See attached comment chart for proposed future revisions.	The committee appreciates the suggestions for future changes to the form.
6.	Harriett Buhai Center for Family Law by Rebecca L. Fischer	A	The proposal appropriately addresses the stated process. The commenter also submitted suggestions for future changes to this form. See attached comment chart for proposed future revisions.	No response required. The committee appreciates the suggestions for future changes to the form.
7.	Orange County Bar Association by Nikki P. Miliband	A	The form proposal does address the issue of the taxability of spousal support already being paid. No other changes to the form at this time since the impact of the new tax laws is still being developed and addressed. No other suggestions for changes at this time.	No response required. No response required. No response required.
8.	Superior Court of Orange County Juvenile and Family Division by Cynthia Beltran, Analyst	N/I	Does the proposal provide cost savings? No. Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes. The rule mentions that if parties modify their spousal support judgments after January 1, 2019, they may choose to follow the new federal law and make the support payments non-deductible to the payor and taxable to the recipient. If parties do not come to an	No response required. No response required. The Invitation to Comment references Public Law No: 115-97, which provides the following: EFFECTIVE DATE.—The amendments made by this section shall apply to—

SPR18-21**Family Law: Income and Expense Declaration** (technical revisions to form FL-150)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			agreement, will the court be expected to make an order? Please provide clarification.	<p>(1) any divorce or separation instrument (as defined in section 71(b)(2) of the Internal Revenue Code of 1986 as in effect before the date of the enactment of this Act) executed after December 31,2018, and</p> <p>(2) any divorce or separation instrument (as so defined) executed on or before such date and modified after such date if the modification expressly provides that the amendments made by this section apply to such modification.</p> <p>If the parties do not come to an agreement (and do not expressly provide that the new tax code amendments apply to the modification), then the modified order will not follow the new federal law. The court is still authorized to modify the spousal support order.</p>
9.	Superior Court of Riverside County	A	<p>Q: Does the proposal appropriately address the stated purpose? Yes</p> <p>Q: Are there other ways to change the form to comply with the new tax laws? [no response to this question]</p> <p>Q: Would the proposal provide cost savings? No.</p> <p>Q: What would the implementation requirements be for courts? Train staff, revise procedures, create new codes for case management.</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

SPR18-21**Family Law: Income and Expense Declaration** (technical revisions to form FL-150)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</p> <p>Q: How well would this proposal work in courts of different sizes? Equally well.</p>	<p>No response required.</p> <p>No response required.</p>
10.	Superior Court of San Diego County by Michael Roddy Executive Officer	A	<p>Q: Would the proposal provide cost savings? If so, please quantify. No.</p> <p>Q: What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems. Minimal, if any.</p> <p>Q: Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</p> <p>Q: How well would this proposal work in courts of different sizes? It appears that the proposal would work for courts of various sizes.</p> <p>The commenter also submitted suggestions for future changes to this form. See attached comment chart for proposed future revisions.</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>The committee appreciates the suggestions for future changes to the form.</p>

SPR18-21**Family Law: Income and Expense Declaration** (proposed future revisions to form FL-150)

All comments are verbatim unless indicated by an asterisk (*).

The proposed substantive changes to this form that are received from the public will not be implemented effective January 1, 2019, but will be considered by the committee for modification in the future.

	Commentator	Comment
1.	California Department of Child Support Services by Kristen Donadee, Assistant Chief Counsel Rancho Cordova	<p>The Department concurs that more substantial changes to the FL-150 would be appropriate in future cycles. The Department has concerns, based on its discussions with staff from LCSAs, that the FL-150, as exists today, is difficult for unrepresented litigants to complete. The Department appreciates the JCC's ongoing commitment to resolving Elkins issues that make it more difficult for unrepresented litigants to fully access the courts.</p> <p>Because the Department has had a very expedited timeframe for gathering additional input from stakeholders before this comment was prepared, it respectfully requests an opportunity to partner with JCC staff and its own stakeholders (judicial, LCSAs, family law bar, and advocates) to help the JCC identify what changes might better help it meet these Policy objectives prospectively. The Department respectfully requests an opportunity to engage in these discussions before the FL-150 is sent out for public comment.</p> <p>As to the input available to date, there presently is no consensus as to the best approach, but at least three options have been identified by the Child Support Directors Association's Forms Committee.</p> <ul style="list-style-type: none"> • One suggestion was to create a new simplified "Declaration Regarding Child Support Factors" that could be attached by the parties to a Request for Order or function as a standalone document. • The second suggestion was to simplify the language on-the existing FL-150 overall so it would be easier for unrepresented litigants to complete. • The third suggestion was to revise the FL-150 so it collects only core information applicable to all case types. Separate schedules for the most typical scenarios (i.e. self-employment, ownership of real property, and other assets) would have to be developed for use and case participants would then certify on the FL-150 which schedules apply to their situation and have been attached for the court's consideration. • In terms of the timeshare question, there appeared to be consensus among the group that the actual percentage of visitation time exercised by case participants is not something that the

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Family Law: Income and Expense Declaration (proposed future revisions to form FL-150)

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	Commentator	Comment
		<p>FL-150 form, as it exists today, captures reliably. As such, JCC may want to consider moving away from percentages and instead rely on plain language descriptions of the number of days, weeks, etc. that the parents actually spend with each child.</p> <ul style="list-style-type: none">Finally, the Department would encourage JCC to consider either adopting a rule of court or issuing instructions to the trial courts that support the ability of DCSS' e-filing LCSAs to forward FL-150s to the court through other electronic means outside their direct interface with the Child Support Enforcement (CSE).
2.	Child Support Directors Association of California (CSDA) by Ronald Ladage, Chair CSDA Judicial Council Forms Committee and Assistant Director/Chief Attorney, El Dorado County DCSS	<p>The Committee concurs that more substantial changes to the FL-150 would be appropriate in future cycles. The Committee has concerns, based on its discussions with staff from LCSAs, that the FL-150, as exists today, is difficult for unrepresented litigants to complete. The Committee appreciates the JCC's ongoing commitment to resolving Elkins issues that make it more difficult for unrepresented litigants to fully access the courts.</p> <p>The Committee would like the opportunity to substantially revise the FL-150. The Committee has identified at least three options.</p> <ul style="list-style-type: none">The first, is to create a new simplified "Declaration Regarding Child Support Factors" that could be attached by the parties to a Request for Order or function as a standalone document.The second, is to simplify the language on the existing FL 150 overall so it would be easier for unrepresented litigants to complete.The third, is to revise the FL-150 so it collects only core information applicable to all case types. Separate income schedules for the most typical scenarios would have to be developed for use and case participants would then certify on the FL-150 which schedules apply to their situation (i.e. self-employment, ownership of real property, and other assets) and would be attached for the court's consideration.Finally, the Committee would encourage JCC to consider either adopting a rule of court or issuing instructions to the trial courts that support the ability of LCSAs to file FL-150s

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Family Law: Income and Expense Declaration (proposed future revisions to form FL-150)

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	Commentator	Comment
		electronically outside their direct interface with the Child Support Enforcement (CSE).
3.	Hon. Enrique Camarena, Judge, Superior Court of San Diego County	Section 13 should also be amended to require a party to list their actual expenses, estimated expenses and proposed needs. Frankly, it is seldom useful for parties to provide only proposed needs. A party should be required to complete three different sections (actual, estimated, proposed) to provide the judicial officer with increased data on which to set support.
4.	Gursey Schneider LLP by Alexandra Peais, CPA San Francisco	<p>It would be helpful and encourage transparency in there were a box that a party could check on the Income and Expense Declaration that would indicate the party is a beneficiary of a trust. I envision that would be included in item 11 on page 2, and could be listed as it's own line item as 11d. The line item could read as follows:</p> <p>d. Trust assets that I am the beneficiary of</p> <p>The amount listed would be the total value of the trust corpus (if known).</p> <p>In addition to the proposed changes to the Income and Expense Declaration regarding the taxable/deductible nature of spousal support received and paid, I think there needs to be further disclosure regarding equity compensation (stock options, restricted stock units, etc.).</p> <p>As there is not a specific line item related to this type of income (which is sometimes very substantial and may represent the majority of a party's recurring annual income), many times parties leave this information off the I&E form completely.</p> <p>I would envision that there be a separate line item for equity compensation, which would appear after the 5c. for "Commissions or bonuses". The new line item would read as follows:</p> <p>d. Equity compensation (stock options, RSUs, etc.) (specify)</p>

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Family Law: Income and Expense Declaration (proposed future revisions to form FL-150)

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	Commentator	Comment
		<p>I also envision there would be boxes to check regarding the vesting schedules for such equity compensation. Suggestions for the boxes are as follows:</p> <p>Monthly Quarterly Annually Other</p>
5.	Harriett Buhai Center for Family Law by Rebecca L. Fischer	<p>For many pro per litigants, the FL-150 is one of the most confusing forms used during a family law case. Given that the majority of family law cases involve a pro per litigant on one or both sides of a case, ensuring that pro per litigants have sufficient information on how to properly complete the form is essential. An FL-I 50-INFO form that identified when and how the form should be used would be very valuable to pro per litigants.</p> <p>Some proposed changes to form FL-150 itself:</p> <ul style="list-style-type: none">• Remove "Public Assistance" from the "Income" section in 5 and add as a separate section.• "12. The following people live with me": Change to "the following people are part of my household." Many pro per litigants share a living space with other people. However, for many litigants, the people sharing their physical house are not people who are part of their economic household. Changing the phrasing of the form would improve the accuracy of the information providing to opposing parties and to the court.• 12: add place to indicate how much persons in 12 are paying of the household expenses (not just are they paying some of the expenses)• 13 "s": change to "Amount of expenses paid by non-household members"• 13: add a line "t" for a litigant to indicate expenses are paid for in part or in whole by CalFresh.• 16: add "c" box for litigants to mark whether the parenting schedule is ordered by the court• 17: add box to indicate children currently receiving Medi-Cal
6.	Superior Court of San Diego County	<ul style="list-style-type: none">• FL-150, page 2, item 10.c. medical, dental, etc. - Add the following: 0 Employer Paid

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Family Law: Income and Expense Declaration (proposed future revisions to form FL-150)

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	Commentator	Comment
	by Michael J. Roddy Executive	<ul style="list-style-type: none">• FL-150, page 3, item 14 installment payments and debts - Add the following: 0 Additional installment payments and debts continued on attachment.• FL-150, page 3, item 15 – our court suggests adding a section on other fees, i.e., fees for experts or evaluators. Litigants may have fees paid or owed for an evaluation such as a custody evaluation or a substance abuse evaluation whether or not they are represented.
7.	TDC Family Law Tracy Duell-Cazes, CFLS San Jose	Since the I&E is being revised to cover changes to the tax laws, it might also be a good idea to add a check box to Item 10c (Deductions – health insurance related) to indicate whether it is pre-tax. This will help the parties and the Court ensure that the health insurance premiums are properly entered in the support calculator(s) for purposes of support. When health-related insurance premiums are paid “pre-tax” it usually has a significant effect on the amount of support that is ordered. This also affects the pro-ratio of child support “add-ons” under Family Code. It also affects the determination of a party’s actual financial position for purposes of the analysis for the award of need-based fees and to a lesser extent the determination of the hardship for the award of sanctions.

Shown Here:
Public Law No: 115-97 (12/22/2017)

ATTACHMENT B

(This measure has not been amended since the House agreed to the Senate amendment without amendment on December 20, 2017. The summary of that version is repeated here.)

This bill amends the Internal Revenue Code (IRC) to reduce tax rates and modify policies, credits, and deductions for individuals and businesses. It also establishes an oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) in Alaska.

(Unless otherwise specified, provisions referred to in this summary as temporary or as a suspension of an existing provision apply for taxable years beginning after December 31, 2017, and before January 1, 2026.)

TITLE I

Subtitle A-- Individual Tax Reform

Part V--Deductions And Exclusions

SEC. 11051. REPEAL OF DEDUCTION FOR ALIMONY PAYMENTS.

(a) IN GENERAL.—Part VII of subchapter B is amended by striking section 215 (and by striking the item relating to such section in the table of sections for such subpart).

(b) CONFORMING AMENDMENTS.—

(1) CORRESPONDING REPEAL OF PROVISIONS PROVIDING FOR INCLUSION OF ALIMONY IN GROSS INCOME.—

(A) Subsection (a) of section 61 is amended by striking paragraph (8) and by redesignating paragraphs (9) through (15) as paragraphs (8) through (14), respectively.

(B) Part II of subchapter B of chapter 1 is amended by striking section 71 (and by striking the item relating to such section in the table of sections for such part).

(C) Subpart F of part I of subchapter J of chapter 1 is amended by striking section 682 (and by striking the item relating to such section in the table of sections for such subpart).

(2) RELATED TO REPEAL OF SECTION 215.—

(A) Section 62(a) is amended by striking paragraph (10).

(B) Section 3402(m)(1) is amended by striking “(other than paragraph (10) thereof)”.

(C) Section 6724(d)(3) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(3) RELATED TO REPEAL OF SECTION 71.—

(A) Section 121(d)(3) is amended—

(i) by striking “(as defined in section 71(b)(2))” in subparagraph (B), and

(ii) by adding at the end the following new subparagraph:

“(C) DIVORCE OR SEPARATION INSTRUMENT.—For purposes of this paragraph, the term ‘divorce or separation instrument’ means— ‘

“(i) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

“(ii) a written separation agreement, or

“(iii) a decree (not described in clause (i)) requiring a spouse to make payments for the support or maintenance of the other spouse.”.

(B) Section 152(d)(5) is amended to read as follows:

“(5) SPECIAL RULES FOR SUPPORT.—

“(A) IN GENERAL.—For purposes of this subsection— H. R. 1—37

“(i) payments to a spouse of alimony or separate maintenance payments shall not be treated as a payment by the payor spouse for the support of any dependent, and

“(ii) in the case of the remarriage of a parent, support of a child received from the parent’s spouse shall be treated as received from the parent.

“(B) ALIMONY OR SEPARATE MAINTENANCE PAYMENT.— For purposes of subparagraph (A), the term ‘alimony or separate maintenance payment’ means any payment in cash if—

“(i) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument (as defined in section 121(d)(3)(C)),

“(ii) in the case of an individual legally separated from the individual’s spouse under a decree of divorce or of separate maintenance, the payee spouse and the payor spouse are not members of the same household at the time such payment is made, and

“(iii) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse.”.

(C) Section 219(f)(1) is amended by striking the third sentence.

(D) Section 220(f)(7) is amended by striking “subparagraph (A) of section 71(b)(2)” and inserting “clause (i) of section 121(d)(3)(C)”.

(E) Section 223(f)(7) is amended by striking “subparagraph (A) of section 71(b)(2)” and inserting “clause (i) of section 121(d)(3)(C)”.

(F) Section 382(l)(3)(B)(iii) is amended by striking “section 71(b)(2)” and inserting “section 121(d)(3)(C)”.

(G) Section 408(d)(6) is amended by striking “subparagraph (A) of section 71(b)(2)” and inserting “clause (i) of section 121(d)(3)(C)”.

(4) ADDITIONAL CONFORMING AMENDMENTS.—Section 7701(a)(17) is amended—

(A) by striking “sections 682 and 2516” and inserting “section 2516”, and

(B) by striking “such sections” each place it appears and inserting “such section”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any divorce or separation instrument (as defined in section 71(b)(2) of the Internal Revenue Code of 1986 as in effect before the date of the enactment of this Act) executed after December 31, 2018, and

(2) any divorce or separation instrument (as so defined) executed on or before such date and modified after such date if the modification expressly provides that the amendments made by this section apply to such modification.