

Income Shares and Standardized Taxes

**Illinois Child Support Advisory Committee
Special Meeting
May 13, 2013**

History: Gross Income

Quadrennial review in 2010

- The Child Support Advisory Committee (CSAC) voted to support a legislative change from percentage of income to income shares.
- The CSAC then voted to recommend a gross income basis—as opposed to the current net income basis—for income shares.

History: Gross Income

- The majority of States who have income shares use gross income.
- Dr. Jane Vehnor explained the advantages to gross income included simplicity and transparency.
- The IV-D program and *pro se* litigants especially benefit from a gross income basis.

Title IV-D Program

- More than **75%** of the child support cases in Illinois are part of the Title IV-D child support program.
- HFS refers over **60,000** child support cases to its legal representatives and there are about **67,000** new support orders each year in IV-D cases.
- **85%** of the Title IV-D program cases (56,683) had child support set at less than \$500 per month, meaning that the annual net income of most non-custodial parents is **under \$30,000**.

Title IV-D Program

- Most of the parents in the child support program are low income to lower-middle class income levels.
- Income from employment fluctuates.
- 70% of non-custodial parents in the child support program claim single taxpayer status with one exemption.

Gross Income Advantages

- For Title IV-D cases, calculating support using gross income is better than an individualized net income calculation because
 - Both result in very similar child support orders in most cases *and*
 - Using gross income requires **significantly less time** to calculate support
 - Saving Precious State and Court Resources
 - Easier for *Pro Se* Litigants and Courts

Gross Income Advantages

- Very conservatively, it takes at least 10 minutes longer on a normal IV-D case to apply the net income model than the gross income model.
 - Need to gather additional information from the parties
 - Need to do the calculations – pull numbers from Circular E and IL tax book, and calculate FICA.
- Requiring the IV-D program to conduct a net income calculation on all of its **67,000** cases every year will cost the State at least **111,175 hours** of resources **more** than adopting the gross income model or having simple gross to net income table.
- That time equals **13,897 business (8 hour) days.**

History: Net Income

- Prior to 1984, Illinois law provided courts with the discretion to set support at a reasonable and necessary amount.
- In 1984, Public Act 83-1404 amended section 505 of the Illinois Marriage and Dissolution of Marriage Act to require the calculation of support by applying percentage guidelines, depending upon the number of children, to the obligor's *net income*.
- The net income basis has been part of Illinois law for almost **29 years**.

History: Net Income

- In 2011, the Illinois Family Law Study Committee held a hearing on the issue of retaining the net income basis for child support calculations.
- The Committee unanimously voted to support the retention of the net income basis in the new income shares legislation.

Net Income Advantages

- Retaining an individualized net income option is favored by the private bar because it:
 - Most accurately reflects the disposable income available to pay child support;
 - Most accurately accounts for the individual tax circumstances of the parties;
 - Has significant precedent and history in Illinois.

A Combined Approach

- Recognizing that both the gross and net income approaches have advantages, the CSAC voted in 2013 to reopen the issue.
- Workgroup 1 was reconvened to examine the Standardized Net Income approach.
- Over the last two months, Workgroup 1 met several times to discuss the details of a Standardized Net Income approach and to draft statutory language.

Standardized Net Income

- The standardized net income approach captures the benefits of gross income while retaining a net income option for the private bar.
- The standardized tax approach uses a simple statutory calculation method for all cases unless the parties opt for individualized tax calculations.

Standardized Net Income

- Standardized Tax Proposal includes a:
 - Default
 - Uniform
 - Method for calculating tax deductions from gross income unless
 - One of the three individualized tax calculation methods applies

Standardized Net Income

- Pursuant to statute, HFS will promulgate a tax chart every year that converts gross income to net income at annual income levels up to \$100,000. The tax chart will:
 - Reflect any changes to the Federal, State, or FICA taxes without new legislation;
 - Be much less expensive than computer programs to calculate net income; and
 - Provide all—especially the IV-D program, *pro se* litigants, and the judiciary—with an easy to use gross to net conversion to calculate support.

Standardized Net Income

- The Standardized Tax Amount will use the following tax assumptions to calculate Federal and State Taxes:
 - **Single taxpayer status**
 - **Standard deduction (not itemized)**
 - **Applicable number of dependency exemptions for the minor child(ren) that the parties have together**
- The Standardized Tax Amount also will include FICA tax at the current rate.

Standardized Net Income

- The Standardized Tax Amount will *not* apply where there is:
 - Agreement/stipulation by the parties as to the amount of the tax deduction;
 - Court order; or
 - Either party has opted to use the taxes set forth in the parties' financial affidavits, tax returns, and other financial documents after full and complete disclosure pursuant to local circuit court rule.

Standardized Net Income

- In the new income shares legislation, net income will be defined as gross income minus *either* the standardized tax amount or the individualized tax amount.
 - The standardized tax amount will be the default rule.
- Now, the Case Studies . . .

CASE STUDY 1

**Non-custodial parent (NCP) is a single W-2 wage earner
Custodial parent (CP) and NCP have one child together**

Monthly Gross Income of NCP: \$2,240

**Standardized Net Income if NCP claims child:
\$1,797 (FICA \$171; Fed (2) \$177; State (2) \$95)**

**Standardized Net Income if CP claims child:
\$1,740 (FICA \$171; Fed (1) \$226; State (1) \$103)**

CP's gross income tested at \$0, \$1,000, \$2,000, \$3,000

CP's net income if NCP claims child: \$0, \$830, \$1,566, \$2,289

CP's net income if CP claims child: \$0, \$872, \$1,624, \$2,347

CASE STUDY 1 (Scenario 1)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$2,240 gross \$1,797 net w/ child deduction	\$2,240 Total support \$400	\$1,797 Total support \$392	
NCP \$1740 net w/o child deduction	\$2,240 Total support \$400	\$1740 Total support \$381	
CP \$0 gross \$0 net	NCP's order regardless of who claims child \$400	NCP's order if he claims child: \$392 NCP's order if CP claims child: \$381	\$342

CASE STUDY 1 (Scenario 2)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$2,240 gross \$1,797 net w/ ch	\$3,240 Total support \$560	If NCP claims child, combined net = \$2,627 Total support = \$574	
NCP \$1740 net w/o ch	\$3,240 Total support \$560	If CP claims child, combined net = \$2,611 Total support = \$564	
CP \$1,000 gross \$830 net w/o ch FICA \$77 Fed \$51 State \$42	NCP's order regardless of who claims child \$387	NCP's order if NCP claims child \$393	NCP's order if NCP claims child \$359
CP \$872 net w/ ch FICA \$77 Fed \$19 State \$33		NCP's order if CP claims child \$376	NCP's order if CP claims child \$348

CASE STUDY 1 (Scenario 3)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$2,240 gross \$1,797 net w/ ch	\$4,240 Total support \$702	If NCP claims child, combined net = \$3,363 Total support = \$716	
NCP \$1740 net w/o ch	\$4,240 Total support \$702	If CP claims child, combined net = \$3,364 Total support = \$716	
CP \$2,000 gross \$1,566 net w/o ch FICA \$153 Fed \$190 State \$91	NCP's order regardless of who claims child \$371	NCP's order if NCP claims child \$383	NCP's order if NCP claims child \$359
CP \$1,624 net w/ ch FICA \$153 Fed \$141 State \$83		NCP's order if CP claims child \$370	NCP's order if CP claims child \$348

CASE STUDY 1 (Scenario 4)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$2,240 gross \$1,797 net w/ ch	\$5,240 Total support \$803	If NCP claims child, combined net = \$4,086 Total support = \$822	
NCP \$1740 net w/o ch	\$4,240 Total support \$803	If CP claims child, combined net = \$4,087 Total support = \$822	
CP \$3,000 gross \$2,289 net w/o ch FICA \$230 Fed \$340 State \$141	NCP's order regardless of who claims child \$343	NCP's order if NCP claims child \$361	NCP's order if NCP claims child \$359
CP \$2,347 net w/ ch FICA \$230 Fed \$291 State \$132		NCP's order if CP claims child \$350	NCP's order if CP claims child \$348

Notes from Case Study 1

- Very small differences between gross vs. standardized net.
- The amount of child support goes up if NCP claims the child as a dependent.
 - \$11 per month more if CP has \$0 income
 - \$17 per month if CP has \$1,000 income
 - \$13 per month if CP has \$2,000 income
 - \$11 per month if CP has \$3,000 income

CASE STUDY 2

**Non-custodial parent (NCP) is a single mother and W-2 wage earner
Custodial parent (CP) and NCP have three children together**

Monthly Gross Income of NCP: \$950

**Standardized Net Income if NCP claims child:
\$855 (FICA \$73; Fed (3) \$0; State (3) \$22)**

**Standardized Net Income if CP claims child:
\$795 (FICA \$73; Fed (1) \$43; State (1) \$39)**

CP's gross income tested at \$0, \$1,000, \$2,000, \$3,000

CP's net income if NCP claims child: \$0, \$830, \$1,566, \$2,289

CP's net income if CP claims child: \$0, \$899, \$1,681, \$2,404

CASE STUDY 2 (Scenario 1)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$950 gross \$855 net w/ 2 child deduction	\$950 Total support \$132	\$855 Total support \$138	
NCP \$795 net w/o 2 child deduction	\$950 Total support \$132	\$795 Total support \$93	
CP \$0 gross \$0 net	NCP's order regardless of who claims child \$132	NCP's order if she claims child: \$138 NCP's order if CP claims child: \$93	\$239

CASE STUDY 2 (Scenario 2)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$950 gross \$855 net w/ 2 child deduction	\$1,950 Total support \$539	If NCP claims children, combined net = \$1,685 Total support = \$567	
NCP \$795 net w/o 2 child deduction	\$1,950 Total support \$539	If CP claims children, combined net = \$1,694 Total support = \$567	
CP \$1,000 gross \$830 net w/o 2 ch FICA \$77; Fed \$51; State \$42	NCP's order regardless of who claims children \$263	NCP's order if NCP claims children \$288	NCP's order if NCP claims children \$239
CP \$899 net w/ 2 ch FICA \$77 Fed \$0; State \$24		NCP's order if CP claims children \$266	NCP's order if CP claims children \$223

CASE STUDY 2 (Scenario 3)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$950 gross \$855 net w/ 2 child deduction	\$2,950 Total support \$785	If NCP claims children, combined net = \$2,421 Total support = \$797	
NCP \$795 net w/o 2 child deduction	\$2,950 Total support \$785	If CP claims children, combined net = \$2,476 Total support = \$826	
CP \$2,000 gross \$1,566 net w/o 2 ch FICA \$153; Fed \$190; State \$91	NCP's order regardless of who claims children \$253	NCP's order if NCP claims children \$281	NCP's order if NCP claims children \$239
CP \$1,681 net w/ 2 ch FICA \$153 Fed \$92; State \$74		NCP's order if CP claims children \$265	NCP's order if CP claims children \$223

CASE STUDY 2 (Scenario 4)

<u>Assumptions</u>	<u>Support Using Gross</u>	<u>Support Using Standardized Net</u>	<u>Support Current</u>
	Combined Gross	Combined Standardized Net	
NCP \$950 gross \$855 net w/ 2 child deduction	\$3,950 Total support \$999	If NCP claims children, combined net = \$3,144 Total support = \$1,020	
NCP \$795 net w/o 2 child deduction	\$3,950 Total support \$999	If CP claims children, combined net = \$3,199 Total support = \$1,035	
CP \$3,000 gross \$2,289 net w/o 2 ch FICA \$230; Fed \$340; State \$141	NCP's order regardless of who claims children \$240	NCP's order if NCP claims children \$277	NCP's order if NCP claims children \$239
CP \$2,404 net w/ 2 ch FICA \$230 Fed \$242; State \$124		NCP's order if CP claims children \$257	NCP's order if CP claims children \$223

Notes from Case Study 2

- Very small differences between child support using gross vs. standardized net.
- The amount of child support goes up if NCP claims the child as a dependent.
 - \$45 per month more if CP has \$0 income
 - \$22 per month if CP has \$1,000 income
 - \$16 per month if CP has \$2,000 income
 - \$20 per month if CP has \$3,000 income

The Case For Standardized Taxes With An Individualized Tax Option

- Standardized taxes with an individualized tax option offer the best of both the gross and net income models.
- A statutory default tax calculation method allows HFS to promulgate a gross to net income conversion table each year.
- For the IV-D case load, a gross to net income conversion table will save the State a **tremendous** amount of money, resources, and time.
- It will be **much** easier for *pro se* litigants and the courts to calculate support.

The Case For Standardized Taxes With An Individualized Tax Option

- Net income will be retained in Illinois law.
- Retaining net income removes the concern about gross income tables requiring legislative action if/when taxes change.

The Case For Standardized Taxes With An Individualized Tax Option

- The individualized tax option allows for an alternative to standardized taxes.
- It is *always* available to the private bar, IV-D attorneys, *pro se* litigants, and the court if desired.
- In sum, the combined approach developed by Workgroup 1 provides for the simplicity and resource-saving benefits of the gross income method while retaining the net income method for Illinois law and individualized tax deductions whenever desired.

CONCLUSION

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