

# INCOME SHARES & CALCULATION OF CHILD SUPPORT – NET INCOME

**Presented to:**  
Illinois Child Support Advisory  
Committee, July 23, 2012

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# THE ILLINOIS FAMILY LAW STUDY COMMITTEE VOTED TO RETAIN THE NET INCOME APPROACH

## The Illinois Family Law Study Committee

- Formed in 2008 by House Resolution 1011.
- The bipartisan committee was charged with the responsibility of a comprehensive review of the Illinois family law statutes. The committee recommended Illinois adopt an Income Shares model to determine child support using the net income approach.

## Voted Unanimously in Favor of Net Income

- On October 21, 2011, the Illinois Family Law Study Committee held a public hearing to assess whether a gross or net income approach in determining child support should be utilized in an income shares model.
- The committee voted unanimously in favor of recommending retention of the net income approach in any income shares legislation which Illinois adopts.

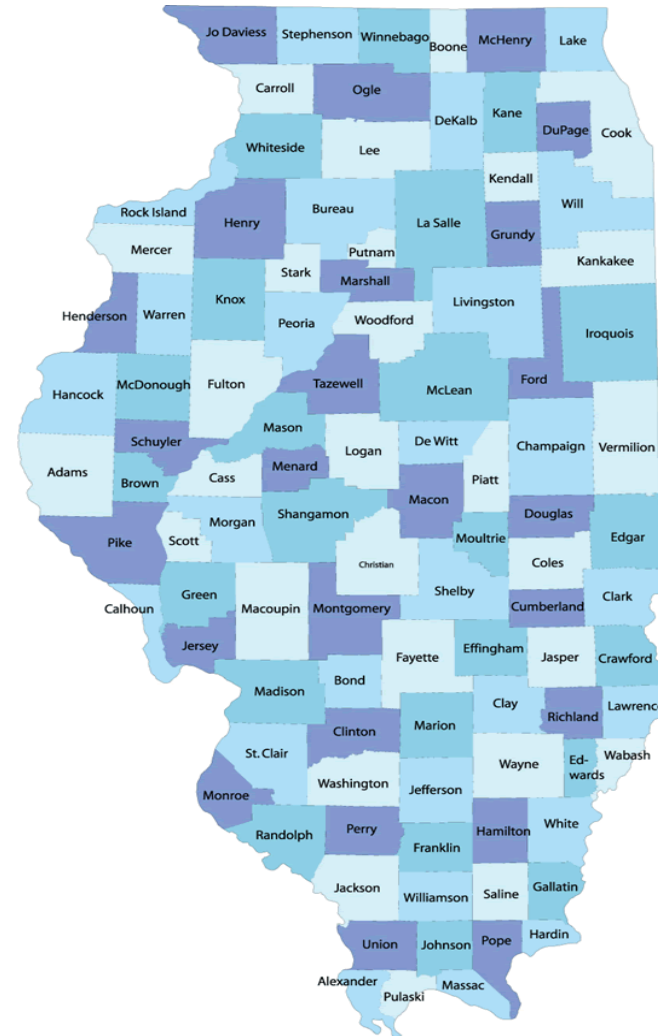
## THE ILLINOIS FAMILY LAW STUDY COMMITTEE VOTED TO RETAIN NET INCOME BECAUSE...

- It is a more **equitable** method and the purpose of adopting income shares is to create a more equitable system of determining child support
- Illinois has decades of case law which have established and defined net income
- To change to a gross income methodology would create confusion when income shares is implemented, and requires a significant learning curve by professionals and litigants
- There are **3 major flaws** contained in **gross income models** due to the complexities of the United States Tax Code:
  - Income Shares Bias
  - Income Conversion Bias
  - Outdated gross income expenditure tables due to frequent and anticipated tax rate changes effecting one's net income

**These flaws create inequity and inaccurate child support awards.  
Unfair child support awards will create disharmony in families.**

# THE NET INCOME APPROACH IS MORE EQUITABLE

- Illinois has the tradition of preparing individualized calculations when computing child support.
- Determining child support based on actual disposable income, properly calculated, is fair to both parents!
- Net income is what families live on.



# TAX EXEMPTIONS & STANDARD DEDUCTIONS

## CHANGE YEARLY

<u>YEAR</u>	<u>MARRIED – JOINT</u>	<u>MARRIED SEPARATE</u>	<u>SINGLE RETURN</u>	<u>SINGLE – HEAD OF HOUSEHOLD</u>	<u>DEPENDENT EXEMPTION</u>
1999	\$7,200	\$3,600	\$4,300	\$6,350	\$2,750
2000	\$7,350	\$3,675	\$4,400	\$6,450	\$2,800
2001	\$7,600	\$3,800	\$4,550	\$6,650	\$2,900
2002	\$7,850	\$3,925	\$4,700	\$6,900	\$3,000
2003	\$7,950	\$3,975	\$4,750	\$7,000	\$3,050
2004	\$9,750	\$4,850	\$4,850	\$7,150	\$3,100
2005	\$10,000	\$5,000	\$5,000	\$7,300	\$3,200
2006	\$10,300	\$5,150	\$5,150	\$7,550	\$3,300
2007	\$10,700	\$5,350	\$5,350	\$7,850	\$3,400
2008	\$10,900	\$5,450	\$5,450	\$8,000	\$3,500
2009	\$11,400	\$5,700	\$5,700	\$8,400	\$3,650
2010	\$11,400	\$5,800	\$5,800	\$8,400	\$3,650
2011	\$11,600	\$5,800	\$5,800	\$8,500	\$3,700
2012	\$11,900	\$5,950	\$5,950	\$8,700	\$3,800

# JURISPRUDENCE

- Decades of jurisprudence defining net income would provide a smooth transition from percentage guidelines to income shares



Changing from net to gross income would create legal uncertainty and confusion – there would be a significant learning curve that would affect our judges, child support workers, attorneys and litigants. If Illinois changes from a net income model to a gross income model, we lose the gains that decades of case law has provided us.

# CURRENTLY IN ILLINOIS...

- Illinois Courts are required to consider the following when determining gross income:
  - Income from all sources;
  - Bonuses;
  - Commissions;
  - Overtime pay;
  - Investment Income;
  - Incentive Income; and
  - Other income.
- The properly calculated deductions are subtracted from the total income to arrive at net income.
- In most cases electronic worksheets are utilized which automatically calculated federal, state, FICA and Medicare tax.
- There is no room for error or manipulation by the payor.

# WHAT IS NET INCOME FOR CHILD SUPPORT PURPOSES?

## Net Income:

- Net income approach is a process which determines an individual's income for child support purposes after the mandatory deductions.
- Net income varies based on filing status, number of dependency exemptions, etc.

## Deductions:

- Federal Taxes
- State Taxes
- FICA
- Medicare Taxes
- Mandatory Retirement Contributions & Union Dues
- Affordable Health Care Act / Health Insurance



# BIASES IN A GROSS INCOME APPROACH

- Income Shares Bias
- Income Conversion Bias
- Outdated Expenditure Tables

- Tax advantages are only considered in a calculation using the net income approach.
  - Tax advantages, tax credits, and tax deductions result in higher child support awards
  - Thus there is **more** disposable income which results in more child support.
- Under a gross income approach, the tax advantaged spouse who receives tax advantages, credits, or deductions has more disposable income
  - In a gross income model the tax advantaged spouse **does not** have to account for the additional disposable income received from these tax advantages or deductions

# INCOME SHARES BIAS



# INCOME SHARES BIAS CONTINUED....

Testimony given at the public hearing held by the Illinois Family Law Study Committee focused on the fact that the federal tax rate is not the same for each individual taxpayer.

Two individuals earning the same gross income can have a significantly different net income based on their filing status and the number of dependents they claim.

## Case Study Number 1:

There are two children with both children residing with CP. NCP files single and receives no dependency exemption and CP files as Head of Household and receives two dependency exemptions.

	NCP	CP	TOTAL
Filing Status	SINGLE	HEAD OF HOUSEHOLD	
Gross Income Per Year	\$60,000.00	\$60,000.00	\$120,000.00
Monthly Gross Income	\$5,000.00 (50%)	\$5000.00 (50%)	\$10,000.00
<b>Monthly Child Support Based on GROSS Income</b>	<b>\$824.50 (50%)</b>	<b>\$824.50 (50%)</b>	<b>\$1,649.00*</b>
Yearly Deductions From GROSS Income:			
Number of Dependency Exemptions Claimed	0	2	
Federal Income Tax	-\$8,593.00	-\$4,825.00	
State Income Tax	-\$2,900.00	-\$2,700.00	
Social Security (FICA) and Medicare	-\$3,390.00	-\$3,390.00	
Health Insurance-paid by employer	\$0.00	\$0.00	
<b>Total Deductions</b>	<b>-\$14,883.00</b>	<b>-\$10,915.00</b>	
Yearly Net Income	\$45,117.00	\$49,085.00	\$94,202.00
Monthly Net Income	\$3,759.75 (48%)	\$4,090.42 (52%)	\$7,850.17
<b>Monthly Child Support Based on NET Income</b>	<b>\$876.96 (48%)</b>	<b>\$950.04 (52%)</b>	<b>\$1,827.00*</b>
<b>Error Factor/Bias Per Month</b>	<b>\$52.46</b>		
<b>Total Error Factor/Basis Per Child's Minority</b>			<b>\$11,331.36</b>

# ERROR FACTOR

Impact on Non-Custodial Parent	CP=\$60,000.00 NCP=\$60,000.00
Yearly	\$629.52
18 Years	\$11,331.36

- These amounts are significant to Illinois families.
- Also, factor in the amounts that CP is underpaying towards the support.
- By using the Gross Income in the Calculations, the Non-Custodial Parent is not paying his/her fair amount.
- When you look at the amounts over the span of 18 years, there is a significant difference in amounts.

Yearly Income:	
<b>Filing Status</b>	<b>Single</b>
Gross Income (w-2 wages)	\$60,000.00
Other Income	\$0.00
<b>Total Gross Income</b>	<b>\$60,000.00</b>
<b>Deductions:</b>	
Number of Dependency Exemptions Claimed	0
Federal Income Tax	-\$8,593.00
State Income Tax	-\$2,900.00
Social Security (FICA)	-\$3,390.00
Mandatory Retirement	\$0.00
Union Dues	\$0.00
Medicare	\$0.00
<b>Total Deductions</b>	<b><u>-\$14,883.00</u></b>
<b>Other Allowed Expenses:</b>	
	\$0.00
Other child support orders (current payments)	\$0.00
Work related child care costs	\$0.00
<b>Total Other Expenses</b>	<b>\$0.00</b>
<b>Net Income:</b>	<b><u>\$45,117.00</u></b>
Other Deductions:	\$0.00
Life Insurance	\$0.00
Disabilty Insurance	\$0.00
Total Other Deductions	\$0.00
<b>Adjusted Net Income</b>	<b>\$45,117.00</b>

## CASE STUDY 2

This calculation indicates an individual who is filing as **single with no children.**

<b>Yearly Income:</b>	
<b>Filing Status</b>	<b>Head of Household</b>
Gross Income (w-2 wages)	\$60,000.00
Other Income	\$0.00
<b>Total Gross Income</b>	<b>\$60,000.00</b>
<b>Deductions:</b>	
Number of Dependency Exemptions Claimed	0
Federal Income Tax	-\$6,520.00
State Income Tax	-\$2,900.00
Social Security (FICA)	-\$3,390.00
Mandatory Retirement	\$0.00
Union Dues	\$0.00
Medicare	\$0.00
Dependent & Individual Health Insurance	\$0.00
<b>Total Deductions</b>	<b><u>-\$12,810.00</u></b>
<b>Other Allowed Expenses:</b>	
	<b>\$0.00</b>
Other child support orders (current payments)	\$0.00
Work related child care costs	\$0.00
<b>Total Other Expenses</b>	<b>\$0.00</b>
<b>Net Income:</b>	<b><u>\$47,190.00</u></b>
Other Deductions:	\$0.00
Life Insurance	\$0.00
Disabilty Insurance	\$0.00
<b>Total Other Deductions</b>	<b>\$0.00</b>
<b>Adjusted Net Income</b>	<b>\$47,190.00</b>

## CASE STUDY 2

This calculation indicates an individual who is filing as the head of household with no children.

<b>Yearly Income:</b>	
	<b><u>Head of Household</u></b>
<b>Filing Status</b>	
Gross Income (w-2 wages)	\$60,000.00
Other Income	\$0.00
<b>Total Gross Income</b>	<b>\$60,000.00</b>
<b>Deductions:</b>	
Number of Dependency Exemptions Claimed	1
Federal Income Tax	-\$4,935.00
State Income Tax	-\$2,800.00
Social Security (FICA)	-\$3,390.00
Mandatory Retirement	\$0.00
Union Dues	\$0.00
Medicare	\$0.00
Dependent & Individual Health Insurance	\$0.00
<b>Total Deductions</b>	<b><u>-\$11,125.00</u></b>
<b>Other Allowed Expenses:</b>	<b>\$0.00</b>
Other child support orders (current payments)	\$0.00
Work related child care costs	\$0.00
<b>Total Other Expenses</b>	<b>\$0.00</b>
<b>Net Income:</b>	<b><u>\$48,875.00</u></b>
Other Deductions:	\$0.00
Life Insurance	\$0.00
Disabilty Insurance	\$0.00
Total Other Deductions	\$0.00
<b>Adjusted Net Income</b>	<b>\$48,875.00</b>

## CASE STUDY 2

This calculation indicates an individual filing as head of household with one child.



# COMPARING THE NET INCOMES

	Net Yearly Income
Single	\$45,117.00
Head of Household-no dependency exemption	\$47,190.00
Head of Household-one dependency exemption	\$48,875.00

- The net incomes vary drastically depending on the filing status and dependency exemptions and should impact child support as well.
- An individual who is filing as Head of Household and claiming one dependent certainly has more available income than an individual filing Single.

# INCOME CONVERSION BIAS

- When constructing expenditure tables, generalized tax assumptions are made in the table in a gross income model
- In a gross income model, one conversion is done to convert the total combined gross income to combined net, or expendable income for child support purposes
- Gross income models use a “one size fits all” approach to compute an individual’s tax burden



This approach treats both the payor and recipient as one “tax unit.”

This is unfair for both the payor and the recipient!

Under the gross income approach, the support award tables are presented by combined gross income and assumptions are made about tax rates which are incorporated into the tables

- Usually one conversion is done to convert the combined gross income to combined net income as part of the construction of the support awards table creating erroneous tax computations for the recipient and obligor
- Therefore, the Empirical Flaw in a gross income model is that one conversion is done to convert the combined gross income to combined net income as part of the construction of the support table

# INDIANA'S INCOME SHARES FORMULA



- Indiana applies a flat 21.88% rate of tax to convert gross to net, and does not treat each parent as a separate tax unit
- In Indiana...

- State Tax 3.4%

- FICA / Medicare (2013) 7.65%

- Federal Tax\* 10.83%

$$= \frac{\quad}{\quad} = 21.88\%$$

\*(assumes everyone's tax rate)

# INDIANA'S LEGISLATIVE NOTES RE: GROSS INCOME

Indiana's legislative notes state that Indiana adopted gross income as the basis for computing child support because it reduces discovery.

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However, simpler is not always better!

**BECAUSE GROSS INCOME EXPENDITURE TABLES  
HAVE BUILT IN TAX ASSUMPTIONS**

**EVERY TAX CHANGE  
WOULD REQUIRE A  
MODIFICATION TO A  
GROSS INCOME  
EXPENDITURE TABLE**

# TAX EXEMPTIONS & STANDARD DEDUCTIONS

## CHANGE YEARLY

<u>YEAR</u>	<u>MARRIED – JOINT</u>	<u>MARRIED SEPARATE</u>	<u>SINGLE RETURN</u>	<u>SINGLE – HEAD OF HOUSEHOLD</u>	<u>DEPENDENT EXEMPTION</u>
1999	\$7,200	\$3,600	\$4,300	\$6,350	\$2,750
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2002	\$7,850	\$3,925	\$4,700	\$6,900	\$3,000
2003	\$7,950	\$3,975	\$4,750	\$7,000	\$3,050
2004	\$9,750	\$4,850	\$4,850	\$7,150	\$3,100
2005	\$10,000	\$5,000	\$5,000	\$7,300	\$3,200
2006	\$10,300	\$5,150	\$5,150	\$7,550	\$3,300
2007	\$10,700	\$5,350	\$5,350	\$7,850	\$3,400
2008	\$10,900	\$5,450	\$5,450	\$8,000	\$3,500
2009	\$11,400	\$5,700	\$5,700	\$8,400	\$3,650
2010	\$11,400	\$5,800	\$5,800	\$8,400	\$3,650
2011	\$11,600	\$5,800	\$5,800	\$8,500	\$3,700
2012	\$11,900	\$5,950	\$5,950	\$8,700	\$3,800

# CHANGES TO TAX RATES

- Federal Tax Rate
- Illinois Tax Rate
- EITC Tax Rate
- Medicare Rate
- FICA
- Affordable Health Care Act
- Future Anticipated Tax Rate Changes





## STANDARD DEDUCTIONS & EXEMPTION AMOUNTS HAVE CHANGED **EVERY YEAR** SINCE 2000

- If Illinois adopted a gross income approach to calculating child support, we would have to recalibrate the table every time FICA, medicare, federal or state taxes change.
- Gross Income Expenditure tables are outdated almost immediately due to tax law changes.





# MYTHS & MISCONCEPTIONS

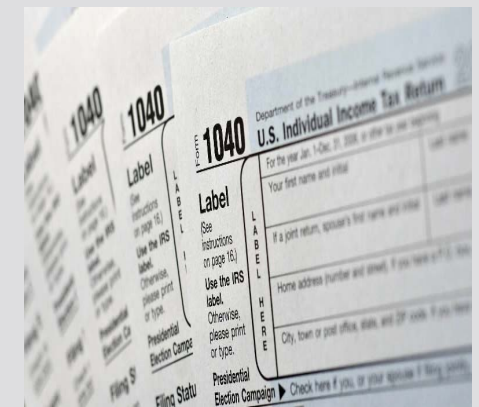
About Using Gross Income to  
Calculate Child Support

- Utilizing gross income in income shares models can result in lower child support because the ratios **do not** properly reflect actual disposable income
- Gross income model will not include the allocation of:
  - One's filing status
  - Dependency exemptions worth \$3,800 each
  - Filing statuses
  - Child tax credit
- A gross income approach will create additional controversy amongst families already in conflict

Gross  
Income  
≠  
Higher  
Awards

- Many income shares states using pure gross income **do not** use the IRS definition of gross income.
- These states use gross income with some exclusions, such as:
  - **“Adjusted Gross Income”** – which is line 37 of the Federal Tax 1040 Return
  - **“Actual Gross Income”** – which excludes 13 items as a part of adjusted gross income

## DEFINITION OF GROSS INCOME



# TECHNICAL CONVERSIONS OF CHILD REARING EXPENDITURES

*Back out the estimates of child-rearing expenditures to net income if necessary.*

**Policy research indicates that in order to develop a gross income base schedule of child rearing expenses, conversions are necessary:**

- Some of the measurements of child-rearing expenditures relate to total family expenditures rather than gross or after-tax incomes.
- Since families spend more or less of their after-tax income, an adjustment is necessary to convert studies that measure the share of total family expenditures devoted to child rearing to an after to an after-tax income base.
- For the same reasons identified above, some measurements may have to be adjusted further to arrive at a gross-income based schedule.
- Specifically, studies of child-rearing expenditures that measure the share of total family expenditures devoted to child rearing must be adjusted to account for taxes when developing a gross-income based schedule.

# TECHNOLOGY

- Many income share states have developed calculators and worksheets to address child support calculations.
- Technology can ease the transition and make calculations simple.

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile Court County, Colorado Court Address:			
In Re: <input type="checkbox"/> The Marriage of: <input type="checkbox"/> Parental Responsibilities concerning:		▲ COURT USE ONLY ▲	
Petitioner: and Co-Petitioner/Respondent:		Case Number:	
Attorney or Party Without Attorney (Name and Address):		Division:                      Courtroom:	
Phone Number:                      E-mail: FAX Number:                      Atty. Reg. #:			
WORKSHEET A – CHILD SUPPORT OBLIGATION: SOLE PHYSICAL CARE			
Children	Date of Birth	Children	Date of Birth
Check box of parent with 273 or more overnights per year*		<input type="checkbox"/> Mother <input type="checkbox"/> Father	Combined
<b>1. Monthly Gross Income</b>		\$                      \$	
a. Plus maintenance received		+                      +	
b. Minus maintenance paid		-                      -	
c. Minus ordered child support payments for other children pursuant to §14-10-115(6)(a), C.R.S.		-                      -	
d. Minus legal responsibility for children not of this marriage/relationship pursuant to §14-10-115(6)(b)(I), C.R.S.		-                      -	
e. Minus ordered post-secondary education contributions**		-                      -	
<b>2. Monthly Adjusted Gross Income</b> (If either the paying parent's income or Combined Income is less than \$850.00, enter \$50.00 on line 11 for paying parent.)		\$                      \$	\$
<b>3. Percentage Share of Income</b> (Each parent's income from line 2 divided by Combined Income)		%                      %	
<b>4. a. Basic Combined Obligation</b> (Apply line 2 Combined column to Child Support Schedule)			\$
b. Each parent's share of basic support obligation (Each parent's percentage from line 3 times combined obligation in 4a)		\$                      \$	
<b>5. Low-Income Adjustment</b> (If paying parent's income in line 2 is less than \$1850.00, see Low-income Worksheet on page 2)		\$                      \$	
<b>6. Adjustments</b> (Expenses paid directly by each parent)			
a. Work-related Child Care Costs - Actual costs minus Federal Tax Credit pursuant to §14-10-115(9), C.R.S.		\$                      \$	
b. Education-related Child Care Costs pursuant to §14-10-115(9), C.R.S.		\$                      \$	
c. Health Insurance premium costs – Children's portion only pursuant to §14-10-115(10), C.R.S. (See page 2 for calculation worksheet)		\$                      \$	
d. Extraordinary Medical Expenses - Uninsured only pursuant to §14-10-115(10), C.R.S.		\$                      \$	

# INFORMATION

- Basic information from the parties is all that is needed to determine net income.
- After the information is received it is as simple as an additional keystroke in the calculators and a selection from a drop down box for the filing status.
- All information needed could be gleaned from the same documents generally used to figure gross income.
- Remember, the purpose is to find the best method for the children of Illinois. Merely focusing on the ease of calculations is shifting our focus away from that primary purpose.

# WHY IS THE NET INCOME APPROACH BETTER?

- Net income is what families take home in each paycheck
- Net income is more accurate
- Individuals know how much they take home, instead of their gross income
- The net income approach is consistent with Illinois law

<i>My Paycheck</i>				
Employee	Employee Identification	Check #	Net Pay	
Beakens, Joe		164	\$1,102.98	
Employee Address				
-				
Pay Type-	Deductions	Current	Year-to-date	
Gross Pay				
\$1,353.33	Federal Withholding	\$106.00	\$503.46	
	State Withholding	\$40.82	\$117.72	
	Fed OASDI/EE or Social Security	\$83.91	\$636.00	
	Fed MED/EE or Medicare	\$19.62	\$244.92	
	Medical	\$0.00	\$0.00	
	401K	\$0.00	\$0.00	
	Totals	\$250.35	\$1,502.10	
<i>Pay Period 6/11/2004-7/11/2004</i>				



# CONCLUSION

Tax and Credits	38	39a	39b	39c	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	
38 Amount from line 37 (adjusted gross income)																						
39a Check <input type="checkbox"/> You were born before January 2, 1944, <input type="checkbox"/> Blind. Total boxes if: <input type="checkbox"/> Spouse was born before January 2, 1944, <input type="checkbox"/> Blind. checked ▶ 39a																						
b If your spouse itemizes on a separate return or you were a dual-status alien, see page 34 and check here ▶ 39b																						
c Check if standard deduction includes real estate taxes or disaster loss (see page 34) ▶ 39c																						
40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)																						
41 Subtract line 40 from line 38																						
42 If line 38 is over \$119,975, or you provided housing to a Midwestern displaced individual, see page 36. Otherwise, multiply \$3,500 by the total number of exemptions claimed on line 6d																						
43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-																						
44 Tax (see page 36). Check if any tax is from: a <input type="checkbox"/> Form(s) 9814 b <input type="checkbox"/> Form 4072																						
45 Alternative minimum tax (see page 39). Attach Form 6251																						
46 Add lines 44 and 45																						
47 Foreign tax credit. Attach Form 1116 if required																						
48 Credit for child and dependent care expenses. Attach Form 2441																						
49 Credit for the elderly or the disabled. Attach Schedule R																						
50 Education credits. Attach Form 8863																						
51 Retirement savings contributions credit. Attach Form 8880																						
52 Child tax credit (see page 42). Attach Form 8901 if required																						
53 Credits from Form: a <input type="checkbox"/> 8396 b <input type="checkbox"/> 8839 c <input type="checkbox"/> 5695																						
54 Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>																						
55 Add lines 47 through 54. These are your total credits																						
56 Subtract line 55 from line 46. If line 55 is more than line 46, enter -0-																						



- The net income approach treats **every** parent as an individual
- Changing the current structure to gross income will create legal **uncertainty, anxiety and frustration** for the parents
- Computer programs can be implemented to automatically compute the net income of individuals
- Net income provides a fair and equitable methodology to compute support calculations which effect both parents
- Net income **eliminates** the built-in **gross income error factors**, flaws and biases

