

## Issues in Determining a Lump Sum Spousal Support Buy-Out

Determining an exact figure for a fair spousal support buy-out number is difficult because there are so many factors. To give you an idea of what needs to be considered, here is a list of some of the variables that go into a buy-out calculation:

- Amount of spousal support which would be paid is not absolutely clear unless there's already a court order;
- Chances that spousal support would be modified in the future:
  - Increase;
  - Decrease;
  - Anticipated retirement.
- Length of time spousal support would be paid;
- Early termination: death of either party, remarriage of recipient;
- Risk that spousal support is not paid:
  - Disability or decrease in income for person paying support;
  - Person paying support fails to pay or disappears.
- Earning capacity;
- Duty to be self-supporting;
- Tax ramifications: ordinarily spousal support is tax deductible by the person paying and included in the income of the recipient, but lump sums are not taxed;
- Time value of money:
  - Advantage to having the money in one lump sum;
  - Anticipated rate of return if lump sum was invested.

### Non-Monetary Factors:

- Peace of mind and closure;
- No need to modify spousal support later;
- Privacy with regard to your financial situation in the future;
- Each party has incentive to prosper financially without penalty;
- Easier to co-parent when you're not worried about each other's earning capacity;
- Decreased anxiety associated with ongoing litigation.

**Don't forget to add:** the cost of litigation in order to find out what the spousal support order will be if you cannot settle on the terms.