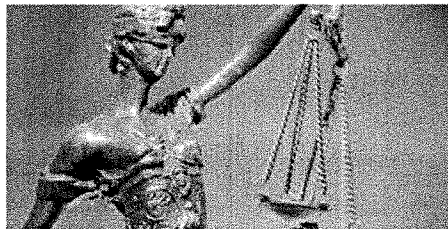




SUFFOLK ACADEMY OF LAW
The Educational Arm of the Suffolk County Bar Association
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Three Years Later: How Much Maintenance is Fair Under the Tax Cut and Job Act

FACULTY:

Hon. John J. Leo, J.S.C., Suffolk County, Supreme Court
Arthur E. Shulman, Esq.
Harold L. Deiters III, CPA/ABV/CFF/CGMA, CFE,
MAFF/CVA | Partner, Empire Valuation Consultants

February 8, 2021
Suffolk County Bar Association, New York

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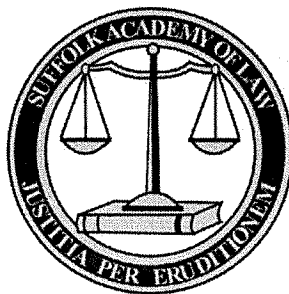


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Hon. John J. Leo, Supreme Court-County of Suffolk

Hon. John J. Leo was admitted to practice in New York and before the Supreme Court of the United States, the United States District Court of the Southern and Eastern Districts. **Justice of the Supreme Court of the State of New York, County of Suffolk**, Justice Leo served as Town Attorney, Town of Huntington, and prior to Town Attorney, was in private practice. Hon. John J. Leo holds a B.A. in Economics, cum laude from Fordham University, M.B.A. NYU Graduate School of Business in Finance/Accounting and J.D. Fordham University School of Law.



ARTHUR E. SHULMAN, ESQ.

Arthur E. Shulman is a sole practitioner in his own firm located in Islandia, NY and a resident of Smithtown.

Mr. Shulman is a Past President of the Suffolk County Bar Association, a Past Dean of the Suffolk Academy of Law and the former Co-chairman of the SCBA Grievance Committee and the Former Chairman of the Bench Bar Committee. In 2004 Mr. Shulman received the SCBA Director's Award. He is a current member of the Professional Ethics Committee, Matrimonial and Family Law Committee, Family Court Committee, Surrogate's Court Committee, Commercial and Corporate Law Committee, District Court Committee, Real Property Committee and the Academy Advisory Committee. He is a member of the Suffolk County Matrimonial Bar Association and continues to be a Committee member for the Tenth Judicial District Grievance Committee.

Mr. Shulman is retired from the New York City Police Department and retired at the rank of Lieutenant.

**HAROLD L. DEITERS III, CPA/ABV/CFF/CGMA, CFE, MAFF/CVA
STATEMENT OF QUALIFICATIONS**

Harold Deiters is the Managing Partner of the Long Island office of Empire Valuation Consultants. Mr. Deiters is a trained professional in preparing damage calculations, business valuations and performing forensic accounting. His experience covers economic damages, valuations for matrimonial and estate tax purposes, gift planning, shareholder disputes, and buy/sell agreements. He has extensive experience in tax return preparation, accounting and auditing both public and privately held companies, including manufacturing, wholesale and retail distribution, professional service organizations and not-for-profit organizations. In addition, Mr. Deiters has over 8 years of accounting experience in the private sector.

Professional Designations

- CPA – Certified Public Accountant
- ABV – Accredited in Business Valuation
- CFF – Certified in Financial Forensics
- CGMA – Chartered Global Management Accountant
- CFE – Certified Fraud Examiner
- MAFF – Master Analyst in Financial Forensics
- CVA – Certified Valuation Analyst
- Qualified to serve as Accountant to Receiver pursuant to NYS Part 36

Professional Associations

- AICPA – American Institute of Certified Public Accountants
- NYSSCPA – New York State Society of Certified Public Accountants
- ACFE – Association of Certified Fraud Examiners
- NACVA – National Association of Certified Valuators and Analysts
- Nassau Suffolk Law Services Advisory Council
- AANG – Accountant/Attorney Networking Group, Board Member (Past President/Co-Founder)

Education

- BS – St. John's University, 1993

Trial Testimony

- New York State Supreme – Nassau County
- New York State Supreme – New York County
- Federal Court – Eastern District of New York
- Federal Court – District of Massachusetts

Employment Background

- Managing Partner of Long Island Office of Empire Valuation Consultants, concentrating on litigation support, business valuations and forensic accounting
- Partner-in-charge of Deiters & Associates, LLC
- Partner-in-charge of the litigation and valuation services group, Baker Tilly Virchow Krause, LLP (formerly Holtz Rubenstein Reminick LLP)

2021 MAINTENANCE TAX IMPACT

Statute and Case Law

By Arthur E. Shulman, Esq.

Prior the Tax Cut and Job Act of 2017 (TCJA), for the purposes of Federal and New York State and New York City income taxes, Maintenance (Alimony) payments were deductible by the payer and included in the income of the recipient. As of January 1st, 2019, pursuant to TCJA, Maintenance (Alimony) payments were no longer deductible by the payer and included in the income of the recipient on Federal Tax returns for any divorce judgments decrees entered or on stipulation/separation agreements executed after 2018 as well as any modification to an existing agreement made after 2018 if the modification expressly provides for this section to apply.

Any new actions for divorce commenced on or after January 25, 2016 require that there be included with the Summons with Notice or with Verified Complaint a copy of the court's Maintenance Guidelines as follows:

Notice of Guideline Maintenance

If your divorce was commenced on or after January 25, 2016, this Notice is required to be given to you by the Supreme Court of the county where your divorce was filed to comply with the Maintenance Guidelines Law ([S. 5678/A. 7645], Chapter 269, Laws of 2015) because you may not have counsel in this action to advise you. It does not mean that your spouse (the person you are married to) is seeking or offering an award of "Maintenance" in this action. "Maintenance" means the amount to be paid to the other spouse for support after the divorce is final.

You are hereby given notice that under the Maintenance Guidelines Law (Chapter 269, Laws of 2015), there is an obligation to award the guideline amount of maintenance on income up to \$192,000 to be paid by the party with the higher income (the maintenance payor) to the party with the lower income (the maintenance payee) according to a formula, unless the parties agree otherwise or waive this right. Depending on the incomes of the parties, the obligation might fall on either the Plaintiff or Defendant in the action.

There are two formulas to determine the amount of the obligation. If you and your spouse have no children, the higher formula will apply. If there are children of the marriage, the lower formula will apply, but only if the maintenance payor is paying child support to the other spouse who has the children as the custodial parent. Otherwise the higher formula will apply.

Lower Formula

1-Multiply Maintenance Payor's Income by 20% .

2- Multiply Maintenance Payee's Income by 25% .

Subtract Line 2 from Line 1: = Result 1

Subtract Maintenance Payee's Income from 40 % of Combined Income* = Result 2.

Enter the lower of Result 2 or Result 1, but if less than or equal to zero, enter zero.

THIS IS THE CALCULATED GUIDELINE AMOUNT OF MAINTENANCE WITH THE LOWER FORMULA

Higher Formula

1-Multiply Maintenance Payor's Income by 30%

2- Multiply Maintenance Payee's Income by 20%

Subtract Line 2 from Line 1= Result 1

Subtract Maintenance Payee's Income from 40 % of Combined Income*= Result 2

Enter the lower of Result 2 or Result 1, but if less than or equal to zero, enter zero

THIS IS THE CALCULATED GUIDELINE AMOUNT OF MAINTENANCE WITH THE HIGHER FORMULA

*Combined Income equals Maintenance Payor's Income up to \$192,000 plus Maintenance Payee's Income

Note: The Court will determine how long maintenance will be paid in accordance with the statute. (Rev. 3/1/20)

In determining the duration of post-divorce maintenance the court may use the following schedule:

APPENDIX E

THE COURT MAY DETERMINE THE DURATION OF POST-DIVORCE MAINTENANCE IN ACCORDANCE WITH THE FOLLOWING ADVISORY SCHEDULE: BUT IN ANY EVENT, THE COURT MUST CONSIDER THE 15 POST-DIVORCE MAINTENANCE FACTORS SET FORTH IN APPENDIX D.

Length of Marriage Percent of the length of the marriage for which maintenance will be payable

0 up to and including 15 years 15% - 30%

More than 15 up to and including 20 years 30% - 40%

More than 20 years 35% - 50%

Absent an agreement regarding the payment of maintenance by the monied spouse to the non-monied spouse, as indicated in Appendix E above, the court must consider the 15 Post-Divorce Maintenance Factors set forth in Appendix D below:

APPENDIX D

15 FACTORS FOR POST-DIVORCE MAINTENANCE PURSUANT TO DRL §236B(6)(E)(1) FOR ADJUSTMENT OF AWARD, FOR DURATION OF AWARD, OR WHERE PAYOR'S INCOME EXCEEDS \$192,000

1. the age and health of the parties;
2. the present or future earning capacity of the parties, including a history of limited participation in the workforce;
3. the need of one party to incur education or training expenses;
4. the termination of a child support award before the termination of the maintenance award when the calculation of maintenance was based upon child support being awarded which resulted in a maintenance award lower than it would have been had child support not been awarded;

5. the wasteful dissipation of marital property, including transfers or encumbrances made in contemplation of a matrimonial action without fair consideration;
6. the existence and duration of a pre-marital joint household or a pre-divorce separate household;
7. acts by one party against another that have inhibited or continue to inhibit a party's earning capacity or ability to obtain meaningful employment. Such acts include but are not limited to acts of domestic violence as provided in section four hundred fifty-nine-a of the social services law;
8. the availability and cost of medical insurance for the parties;
9. the care of children or stepchildren, disabled adult children or stepchildren, elderly parents or inlaws provided during the marriage that inhibits a party's earning capacity;
10. the tax consequences to each party;
11. the standard of living of the parties established during the marriage;
12. the reduced or lost earning capacity of the payee as a result of having foregone or delayed education, training, employment or career opportunities during the marriage;
13. the equitable distribution of marital property and the income or imputed income on the assets so distributed;
14. the contributions and services of the payee as a spouse, parent, wage earner and homemaker and to the career or career potential of the other party; and
15. any other factor which the court shall expressly find to be just and proper.

Temporary Maintenance Guidelines Worksheet Rev. 3/1/20 (ch. 269, L. 2015)

APPENDIX C TO TEMPORARY MAINTENANCE GUIDELINES WORKSHEET

13 Factors For Court To Consider For Temporary Maintenance Where Income Exceeds \$192,000 or In Connection With Adjustment Of Award (See DRL § 236(B) [5-a](h)(1))

1. the age and health of the parties;
2. the present or future earning capacity of the parties, including a history of limited participation in the work force;
3. the need of one party to incur education or training expenses;
4. the termination of a child support award during the pendency of the temporary maintenance award when the calculation of temporary maintenance was based upon child support being awarded and which resulted in a maintenance award lower than it would have been had child support not been awarded;
5. the wasteful dissipation of marital property, including transfers or encumbrances made in

- contemplation of a matrimonial action without fair consideration;
6. the existence and duration of a pre-marital joint household or a pre-divorce separate household;
 7. acts by one party against another that have inhibited or continue to inhibit a party's earning capacity or ability to obtain meaningful employment. Such acts include but are not limited to acts of domestic violence as provided in section four hundred fifty-nine-a of the social services law;
 8. the availability and cost of medical insurance for the parties;
 9. the care of children or stepchildren, disabled adult children or stepchildren, elderly parents or inlaws provided during the marriage that inhibits a party's earning capacity;
 10. the tax consequences to each party;
 11. the standard of living of the parties established during the marriage;
 12. the reduced or lost earning capacity of the payee as a result of having foregone or delayed education, training, employment or career opportunities during the marriage; and
 13. any other factor which the court shall expressly find to be just and proper.

Unfortunately, when the Federal Government passed the TCJA, the New York State legislature made no effort to change the existing N.Y.S. maintenance guidelines referred to hereinabove nor did it give any indication or explanation as to how the parties were to handle the change in the federal tax law.

Equally frustrating is the complete lack of Appellate Division decisions regarding the handling of this issue. To the best of my knowledge after conducting an online legal research of decisions that discussed the TCJA in relation to the payment of maintenance, I was able to find only three (3) lower court decisions as follows:

(A) Regarding the tax impacting in Temporary Maintenance pendente lite orders:

In Rapp v Rapp, 68 Misc 3d 1226[A], 2020 NY Slip Op 51073[U], *1 [Sup Ct, Monroe County 2020]) the court rendered the following decision:

"In 2015, the New York State Legislature established guidelines for awarding temporary maintenance in an attempt to create some statewide uniformity in such awards. But, sometimes, as here, the guidelines run into the reality of income shifting for divorcing parents and the Legislature prudently left an escape hatch to allow judges to deviate from the guidelines if just and proper to do so. This dispute is one of those instances. In this matter, the court needs to resolve both temporary child support and temporary maintenance for this couple. The

child support is easy: this court applies the Child Support Standards Act ("CSSA") to the husband's \$110,021 annual salary The more pressing question involves maintenance. ... The husband argues for a lesser amount, seeking to depart from the state-mandated guidelines because the wife now lives in a house, bought by her parents and in which, he claims, she lives at reduced cost and further because the change in the tax-deductibility of maintenance at the federal level should justify a deviation from the same guidelines. . . . The purpose of the temporary maintenance guidelines is to assure that the reasonable needs of a dependant spouse are met during the litigation, and "should reflect an accommodation between the reasonable needs of the moving spouse and the financial ability of the other spouse with due regard for the parties' pre-separation standard of living." . . . The list of factors is significant and requires a court to survey numerous variables in the couple's financial circumstances before making an award. For this court, the bottom line is simple: to meet the "just and proper" overall standard—set forth in the (m) factor in the Guideline—the court must determine how the award of temporary maintenance divides the couple's available—or potential—income, after a parent has paid their employment and income taxes and, the non-residential parent has paid the sums necessary, as a matter of law, for the support of their children. If, as here, the CSSA dictates an amount for child support to be paid by the father, then this court has routinely followed a "net available resources" analysis to determine an appropriate amount of temporary maintenance to be paid to his spouse. . . . Under this analysis, the court attempts to calculate the tax consequences and other costs for each party and to equitably divide the party's "net income available for expenses" during the pendency of the action. When utilized, the net available resources analysis focuses on the true cash position of the parties and their evident needs. . . . Under this backhand method of calculating maintenance, it seems that the amount of temporary maintenance should be no more than enough to create a relative parity in net available resources. . . . This court also declines to consider any tax impact reduction in the father's maintenance obligation as a result of changes in the federal Internal Revenue Code. Having constructed the obligation under the broad discretion available under the (m) factor in Section 236 (B)(5-a) of the Domestic Relations Law, the court need not consider the tax question posed by the father at this stage."

(B) Regarding the tax impacting in Post Judgment Maintenance orders:

In Wisseman v Wisseman, 63 Misc 3d 819, [Sup Ct, Dutchess County 2019]) the court rendered the following decision:

"... The quandary is twofold. First, it is the husband's position that he should pay less maintenance since he cannot deduct the maintenance payments from his taxable income. Second, the question is how much less. The parties agree that the husband's federal tax rate is 22%. Therefore, he claims that an award of maintenance calculated by strict application of the maintenance statute (Domestic Relations Law §236[B][6]) would be unjust and inappropriate and that his statutory calculation should be reduced by 22%. However, the parties agree that the wife's federal tax rate is 12%. She argues that strict application of the statutory formula is mandated, and that reduction of her award by 22% would result in even less of a net payment to her than would have resulted if she had to claim the maintenance as taxable income."

After reviewing the stipulated facts of the case, the Wisseman court (supra) held that based upon all of the statutory factors that strict application of the maintenance guidelines would be unjust and inappropriate so as to warrant a deviation and reduced the guideline maintenance award by 12%, the "net result of which is application of the guidelines as intended by the New York State Legislature prior to the federal change in the relevant tax law, impacted only by a reduction concomitant with the wife's tax bracket and what she would have been obligated to include as taxable income. Until this court is guided by a higher authority or legislature change it finds that such deviation under these circumstance is just and proper."

(C) Regarding the tax impacting where the parties enter into a stipulation to do so:

In A.G. V., 2019 NYLJ Lexis 4278, prior to the trial of remaining issues outstanding in the divorce, the parties entered into a Stipulation of Settlement regarding the economic issues of the case that "... any award of spousal maintenance shall be tax-impacted at the rate of 25% to consider the change in tax consequences subsequent to the passage of the maintenance guidelines." The court in deciding the issue of maintenance held in regards to the amount of maintenance it awarded stated the following: "... this Court finds the tax impacted presumptive amount of statutory maintenance is just and appropriate."

Finally, in the event the parties do enter into an agreement regarding tax impacting maintenance payments, the parties should provide for what happens in the future in the event there is revision of the Federal Tax law such as reinstatement of the federal deduction to the payor spouse and inclusion of the maintenance payments to the payee spouse and/or in the event that either spouse brings a future maintenance modification proceeding. In a recent stipulation that I represented the payor spouse, the parties agreed to the following language to be included in the final stipulation of settlement:

"It is understood that in computing the above stated maintenance payments, the parties deducted 12% from the guideline computed payments to reflect the fact that the guidelines were changed under the new Federal Tax codes to reflect the fact that the payor spouse could no longer deduct said maintenance payments on his Federal Tax return and the payee spouse no longer had to include said maintenance payments on her Federal Tax return. If any modifications are made to the maintenance payments in the future other than what is already provided for in this Agreement, and NYS has not reflected the current Federal Tax codes in computing the maintenance to be paid, then any future computation shall reflect the 12% reduction from the guideline computed payments as stated hereinabove. If the alimony deduction is resurrected such that the Husband's spousal support payments become taxable income to the Wife and tax deductible to the Husband, the parties shall recalculate spousal maintenance to add back in the 12% deduction set forth in this Paragraph."

In summary, until we get further guidance from a higher court or further legislature change, each lower court will have to make its own decision after taking into consideration all of the 13 factors for the granting of pendente lite maintenance, the 15 factors for the granting of post divorce maintenance and what consideration should be given to tax impacting the maintenance award because of the change in the Federal Tax law.

THREE YEARS LATER: HOW MUCH MAINTENANCE IS FAIR UNDER THE TAX CUT AND JOB ACT

Monday, February 8, 2021
Zoom Webinar

Three years after the Tax Cuts and Jobs Act of 2017 (“TCJA”) turned the maintenance world upside down, how has it affected maintenance amounts?

This seminar will deal with how matrimonial cases dealt with the change in maintenance taxability. Prior to the TCJA maintenance paid was tax deductible by the payor and the recipient would have to pay taxes on the maintenance received. For matrimonial cases settled or decided after 2017 the maintenance paid and received were no longer recognized by the Internal Revenue System.

During this program we will take a detailed dive into how the courts have adjusted and what you as practitioners should know.

This course will discuss:

- Are you leaving money on the table?
- Facts to consider when calculating maintenance under TCJA and how to make a persuasive argument to the bench.
- An expert’s role in determining the proper maintenance levels under the TCJA.
- A look at case decisions and what they reveal about how the bench has adjusted to the new maintenance tax laws.
- Taking a different perspective and looking at alternative methods to work with the maintenance tax laws under the TCJA.

Faculty:

Moderator

Hon. John J. Leo, J.S.C., Suffolk County, Supreme Court

Presenters

Arthur E. Shulman, Esq.

Harold L. Deiters III, CPA/ABV/CFF/CGMA, CFE, MAFF/CVA | Partner
Empire Valuation Consultants

Per the TCJA Maintenance (Alimony) payments would no longer be deductible by the payer or included in the income of the recipient. This repeal would apply to any divorce or separation decree executed after 2018 as well as any modification to an existing agreement made after 2018 if the modification expressly provides for this section to apply.

How an Expert Can Help

In the following example we have prepared an analysis of the after-tax maintenance cash flow amounts to Patricia Krum based on various levels of Viktor Krum's income and assumed maintenance amounts. Our analysis compares the net after tax cash flow to Patricia Krum and the net after tax cost to Viktor Krum for the payment of maintenance based on the changes in the maintenance tax laws as a result of the Tax Cuts and Jobs Acts (TCJA). Under the TCJA, divorces after December 31, 2018 no longer permit the payer to take a deduction on their personal return for maintenance paid to their ex-spouse; while the recipient is no longer required to report the maintenance as income on their personal tax returns.

As a result of this change, divorcing couples will lose the advantage of reducing the overall Federal taxes paid by the parties when they shifted income from the higher tax bracket of the payer to the lower tax bracket of the recipient. This increase in overall Federal taxes paid by the couple is not considered in the maintenance tax calculators on nycourts.gov. The question becomes who will suffer from the additional tax burden as a result of this tax change? If the same maintenance award was made to a post December 31, 2018 divorce, as would have been awarded on a divorce prior to that day, there would be a windfall for the recipient of the maintenance as they no longer have to pay Federal taxes on the maintenance. Additionally, the payer would suffer a greater tax burden because they are losing the deduction for the maintenance paid.

The purpose of this analysis is to demonstrate: (1) the net cash flow differences to each of the parties under the new TCJA maintenance tax laws as compared to the pre-TCJA maintenance tax laws, and (2) provide different net cash flow maintenance options of the parties to assist for settlement purposes or the Judiciary in awarding maintenance.

In performing our calculations, we made the following assumptions:

1. Viktor Krum's income is assumed at \$150,000, \$160,000, \$180,000, \$200,000, \$220,000 and \$240,000 per year.
2. No children are being claimed by either party.

3. Patricia Krum will file as Single with standard deduction.
4. Patricia Krum is not employed and is not projected to earn any income.
5. Patricia Krum's maintenance amounts were provided by the attorney requesting the calculation.
6. Viktor Krum will file as Single with standard deduction.

Maintenance Calculations

Based on Viktor Krum's various taxable income levels, the maintenance amounts to Patricia Krum are as follows:

Viktor Krum Income Level	Calculated Maintenance
\$ 150,000	\$ 41,786
\$ 160,000	\$ 44,743
\$ 180,000	\$ 50,656
\$ 200,000	\$ 56,569
\$ 220,000	\$ 62,428
\$ 240,000	\$ 68,287

We have prepared calculations of the taxes Viktor Krum would have to pay under the new tax law as compared to under the old tax law at each income level to demonstrate the increase in taxes Viktor Krum has to pay due to the lost tax benefit under the old tax law (i.e. maintenance deduction).

Presented in the table below is Viktor Krum's estimated taxes under the new tax law, estimated taxes under the old tax law and the calculation of the lost tax benefit based on Viktor Krum's various taxable income levels:

Viktor Krum Income Level	Federal & State Taxes New Tax Law	Federal & State Taxes Old Tax Law	Lost Benefit
\$ 150,000	\$ 36,319	\$ 22,990	\$ 13,329
\$ 160,000	\$ 39,490	\$ 25,226	\$ 14,264
\$ 180,000	\$ 45,948	\$ 29,714	\$ 16,234
\$ 200,000	\$ 53,662	\$ 34,216	\$ 19,446
\$ 220,000	\$ 61,383	\$ 38,747	\$ 22,636
\$ 240,000	\$ 69,859	\$ 43,071	\$ 26,788

Under the new tax law, Patricia Krum's maintenance award is not taxable. Under the old tax laws all maintenance received would have been taxable at Patricia Krum's applicable tax rates. The estimated tax savings to Patricia Krum is as follows:

Calculated Maintenance	Estimated Tax Savings
\$ 41,786	\$ 3,924
\$ 44,743	\$ 4,458
\$ 50,656	\$ 5,532
\$ 56,569	\$ 7,006
\$ 62,428	\$ 8,649
\$ 68,287	\$ 10,293

Presented below is a summary comparison of the new and old tax laws net cash flow impacts to both Viktor Krum and Patricia Krum based on Viktor Krum's different taxable income levels.

A. Viktor Krum's Income is \$150,000 and the Maintenance Award was \$41,786 Per Year

1. Under the pre-2019 law, the net cost to Viktor Krum would have been \$28,457 per year (\$41,786 maintenance award - \$13,329 tax benefit).
2. Under the pre-2019 law, Patricia Krum's net cash flow would have been \$37,862 per year (\$41,786 maintenance award - \$3,924 in taxes).
3. Under the new law, Viktor Krum will payout a total of \$55,115 per year (\$41,786 maintenance award + \$13,329 in additional taxes). This will cost Viktor Krum \$26,658 more than under the pre-2019 tax law.
4. Under the new law, Patricia Krum's net cash flow would be \$41,786 per year (maintenance is non-taxable). Patricia Krum would have a windfall of \$3,924.

B. Viktor Krum's Income is \$160,000 and the Maintenance Award was \$44,473 Per Year

1. Under the pre-2019 law, the net cost to Viktor Krum would have been \$30,479 per year (\$44,743 maintenance award - \$14,264 tax benefit).
2. Under the pre-2019 law, Patricia Krum's net cash flow would have been \$40,285 per year (\$44,473 maintenance award - \$4,458 in taxes).

3. Under the new law, Viktor Krum will payout a total of \$59,007 per year (\$44,473 maintenance award + \$14,264 in additional taxes). This will cost Viktor Krum \$28,528 more than under the pre-2019 tax law.
4. Under the new law, Patricia Krum's net cash flow would be \$44,473 per year (maintenance is non-taxable). Patricia Krum would have a windfall of \$4,458.

C. Viktor Krum's Income is \$180,000 and the Maintenance Award was \$50,656 Per Year

1. Under the pre-2019 law, the net cost to Viktor Krum would have been \$34,422 per year (\$50,656 maintenance award - \$16,234 tax benefit).
2. Under the pre-2019 law, Patricia Krum's net cash flow would have been \$45,124 per year (\$50,656 maintenance award - \$5,532 in taxes).
3. Under the new law, Viktor Krum will payout a total of \$66,890 per year (\$50,656 maintenance award + \$16,234 in additional taxes). This will cost Viktor Krum \$32,468 more than under the pre-2019 tax law.
4. Under the new law, Patricia Krum's net cash flow would be \$50,656 per year (maintenance is non-taxable). Patricia Krum would have a windfall of \$5,532.

D. Viktor Krum's Income is \$200,000 and the Maintenance Award was \$56,569 Per Year

1. Under the pre-2019 law, the net cost to Viktor Krum would have been \$37,123 per year (\$56,569 maintenance award - \$19,446 tax benefit).
2. Under the pre-2019 law, Patricia Krum's net cash flow would have been \$49,563 per year (\$56,569 maintenance award - \$7,006 in taxes).
3. Under the new law, Viktor Krum will payout a total of \$76,015 per year (\$56,569 maintenance award + \$19,446 in additional taxes). This will cost Viktor Krum \$38,892 more than under the pre-2019 tax law.
4. Under the new law, Patricia Krum's net cash flow would be \$56,569 per year (maintenance is non-taxable). Patricia Krum would have a windfall of \$7,006.

E. Viktor Krum's Income is \$220,000 and the Maintenance Award was \$62,428 Per Year

1. Under the pre-2019 law, the net cost to Viktor Krum would have been \$39,792 per year (\$62,428 maintenance award - \$22,636 tax benefit).

2. Under the pre-2019 law, Patricia Krum's net cash flow would have been \$53,779 per year (\$62,428 maintenance award - \$8,649 in taxes).
3. Under the new law, Viktor Krum will payout a total of \$85,064 per year (\$62,428 maintenance award + \$22,636 in additional taxes). This will cost Viktor Krum \$45,272 more than under the pre-2019 tax law.
4. Under the new law, Patricia Krum's net cash flow would be \$62,428 per year (maintenance is non-taxable). Patricia Krum would have a windfall of \$8,649.

F. Viktor Krum's Income is \$240,000 and the Maintenance Award was \$68,287 Per Year

1. Under the pre-2019 law, the net cost to Viktor Krum would have been \$41,499 per year (\$68,287 maintenance award - \$26,788 tax benefit).
2. Under the pre-2019 law, Patricia Krum's net cash flow would have been \$57,994 per year (\$68,287 maintenance award - \$10,293 in taxes).
3. Under the new law, Viktor Krum will payout a total of \$95,075 per year (\$68,287 maintenance award + \$26,788 in additional taxes). This will cost Viktor Krum \$53,576 more than under the pre-2019 tax law.
4. Under the new law, Patricia Krum's net cash flow would be \$68,287 per year (maintenance is non-taxable). Patricia Krum would have a windfall of \$10,293.

SUGGESTIONS TO RESOLVE ADDITIONAL TAX COSTS RELATING TO MAINTENANCE

Option #1 – Split the additional tax burden equally among the parties

Viktor Krum and Patricia Krum will equally share in the additional taxes as a result of the tax law changes. In arriving at the reduced amount of maintenance paid to Patricia Krum, we calculated the amount that would need to be paid to equalize the net costs under the new tax law that were to be incurred by Viktor Krum as compared to the old costs under the old tax law.

The reduced maintenance paid to Patricia Krum would be as follows based on Viktor Krum's different income levels:

Option #1 - Both Parties Equally Share in Increased Tax Burden						
	Exhibit 1A	Exhibit 2A	Exhibit 3A	Exhibit 4A	Exhibit 5A	Exhibit 6A
Viktor Krum Income	\$ 150,000	\$ 160,000	\$ 180,000	\$ 200,000	\$ 220,000	\$ 240,000
Reduced Maintenance Paid to Patricia	\$ 26,495	\$ 28,250	\$ 31,656	\$ 33,620	\$ 35,468	\$ 36,353
Lost Tax Benefit	13,329	14,264	16,234	19,446	22,636	26,788
Total Cost - New Tax Law	39,824	42,514	47,890	53,066	58,104	63,141
Less Cost - Old Tax Law	28,457	30,479	34,422	37,123	39,792	41,499
Additional Cost to Viktor Krum	\$ 11,367	\$ 12,035	\$ 13,468	\$ 15,943	\$ 18,312	\$ 21,642
Net Cash Flow to Patricia Krum - New Tax Law	26,495	28,250	31,656	33,620	35,468	36,353
Less: Net Cash Flow - Old Tax Law	37,862	40,285	45,124	49,563	53,779	57,994
Reduction in Net Cash Flow to Patricia	\$ (11,367)	\$ (12,035)	\$ (13,468)	\$ (15,943)	\$ (18,312)	\$ (21,642)

As detailed in the table above, the additional costs to Viktor Krum are offset by the reduced payments he would have had to pay to Patricia under the old tax laws as she will share in the additional tax burden equally.

Option #2 – Make Patricia whole

Under this option, the maintenance is reduced to an amount equal to the net cash flow Patricia would have realized under the pre-2019 maintenance tax laws.

The reduced maintenance paid to Patricia Krum under this option would be as follows based on Viktor Krum's different income levels:

Option #2 - Make Patricia Whole						
	Exhibit 1B	Exhibit 2B	Exhibit 3B	Exhibit 4B	Exhibit 5B	Exhibit 6B
Viktor Krum Income	\$ 150,000	\$ 160,000	\$ 180,000	\$ 200,000	\$ 220,000	\$ 240,000
Reduced Maintenance Paid to Patricia	\$ 37,862	\$ 40,285	\$ 45,124	\$ 49,563	\$ 53,779	\$ 57,994
Lost Tax Benefit	13,329	14,264	16,234	19,446	22,636	26,788
Cost to Viktor Krum - New Tax Law	51,191	54,549	61,358	69,009	76,415	84,782
Less Cost - Old Tax Law	28,457	30,479	34,422	37,123	39,792	41,499
Additional Cost to Viktor Krum	\$ 22,734	\$ 24,070	\$ 26,936	\$ 31,886	\$ 36,623	\$ 43,283
Net Cash Flow to Patricia Krum - New Tax Law	37,862	40,285	45,124	49,563	53,779	57,994
Less: Net Cash Flow - Old Tax Law	37,862	40,285	45,124	49,563	53,779	57,994
Reduction in Net Cash Flow to Patricia	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

As detailed in the table above, the additional tax costs are absorbed by Viktor Krum and Patricia Krum would receive the amount she would have under the old tax laws. Under this method, Patricia Krum's reduced maintenance total helps Viktor Krum offset a portion of the additional tax burden.

Option #3 – Maintenance award between Option #1 and Option #2

A third suggestion is for Patricia Krum's maintenance amount be somewhere in between Options #1 and #2, based on Viktor Krum's taxable income levels.

Option #3 - Any Amount Between Option #1 and Option #2							
Viktor Krum Income	\$	150,000	\$	160,000	\$	180,000	\$ 200,000 \$ 220,000 \$ 240,000
Option #1	\$	26,495	\$	28,250	\$	31,656	\$ 33,620 \$ 35,468 \$ 36,353
Option #2	\$	37,862	\$	40,285	\$	45,124	\$ 49,563 \$ 53,779 \$ 57,994

Option #4 – Be Creative

One thought: have Patricia Krum pay expenses that would ordinarily have been paid by Viktor Krum to offset the additional costs to Viktor Krum.

Other thoughts??? Open to discussion.



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