

# What We Know

## ARTICLES & INSIGHTS

### ABOUT THE AUTHOR



[Max Rodden](#) is a North Carolina Bar Board Certified Family Law Specialist and has been practicing family law since 1991. He represents clients in all aspects of family law, and has extensive trial experience at all levels of North Carolina courts including district, superior, special proceedings, juvenile, small claims, administrative proceedings, the Court of Appeals and the Supreme Court.

## Alimony Under the Tax Cuts and Jobs Act of 2017

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The [current federal tax laws enacted in late 2017](#) have been the subject of many news stories and articles. Although most aspects of the legislation took effect in 2018, the changes to the tax treatment of alimony went into effect in 2019. Under the former law, alimony was taxable to the recipient and tax-deductible for the payor. Under the new law, alimony is no longer taxable as income to the recipient and no longer deductible for the payor. The changes apply to alimony established by agreements and court orders signed on or after January 1, 2019.

Commentary about this tax law change reflects the disagreement about whether it is good or bad policy. Regardless of opinion about the new tax treatment of alimony, the law will change the analysis used to arrive at the appropriate amount of an alimony obligation. Under the former law, important considerations in establishing the alimony obligation were the amount of alimony the recipient received after tax as well as the after-tax cost for the payor. For example, if the recipient needed \$3,000 per month in alimony from the other spouse, the recipient's objective was to receive an amount high enough for the recipient to pay the income tax on the alimony and still have \$3000 left over. Conversely, the actual financial burden on the payor was determined by approximating the tax savings to the payor. For example, an alimony obligation to pay \$3000 might cost the payor only \$2000 because of the tax deduction. The after-tax amount to the recipient and the after-tax cost to the payor were dictated mainly by each party's effective tax rate.

The former tax code allowed parties to agree for the alimony to be nontaxable and nondeductible. Parties sometimes took advantage of this option for reasons unique to their case that justified doing so.

Beginning in 2019, the significant consideration of income taxes with respect to arriving at the appropriate amount of alimony no longer exists. Establishing the proper amount of alimony is now based on the traditional factors, which are mainly each party's income and reasonable financial needs and the supporting party's ability to pay.

Even without tax considerations, the complexity of the alimony issue makes having

competent legal counsel essential. The North Carolina legislature has not promulgated any guidelines for establishing the amount or duration of alimony. Therefore, skilled advocacy and the experience of seasoned [family law](#) attorneys increase the likelihood of arriving at an amount of alimony that strikes a good balance between the needs of a dependent spouse and the ability of a supporting spouse to meet those obligations.

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