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<p style="text-align: center;">FINANCIAL PRINCIPLES OF FAMILY LAW Andrew J. Freedman & Timothy Martin Release No. 3, June 2024</p>

This reference comprehensively brings together such varied family law financial issues as valuation, taxation, Federal Child Support Guidelines, income determination, and case law analysis. Preparation for examination for discovery and cross-examination of other experts on valuation issues is supported by a detailed analysis of valuation concepts, terminology, and methodologies for the valuation of business interests and other types of assets and liabilities.

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What's New In This Update

This release features caselaw updates to Chapter 38 - Spousal Support.

Highlights

Support — Spousal Support — Case Law — Imputed Income — Parties married in 1983, separated in May 2019 and divorced in April 2023. The family home was sold in April 2023; after mortgage and various other debts were paid subject to adjustment, net sale proceeds of \$713,648.55 were paid into trust. Wife brought summary trial application for division of assets and spousal support. The application was granted. Husband did not challenge wife's entitlement to spousal support or seek to impute income to wife. Wife was entitled to spousal support on compensatory grounds due to end of parties' long traditional marriage; wife was also entitled to spousal support on non-compensatory grounds because of economic hardship caused as result of breakdown of marriage. Wife was entitled to spousal support at high end of range set out in Spousal Support Advisory Guidelines. It was unlikely that wife would be able to find employment at this stage of life—Husband's income was imputed at \$200,000 from November 2021 onwards: *Lopez v. Romanova*, 2023 CarswellBC 3040 (B.C.S.C.).

Support — Spousal Support — Case Law — Imputed Income — Parties married in 1990, divorced in 2005, and remarried in 2007. Wife worked as physician in China from 1987 to 2002, and as administrative staff in parties' businesses in China from 2002 to 2010. Husband owned supermarket chain, which was sold in 2000. Husband began working in father's construction and development business. Commencing in 2002, husband incorporated various corporations in China that owned buildings and shopping malls. Wife held shares in some corporations. After immigrating to Canada in 2010, various corporations were created with husband as majority shareholder. Canadian financial empire was primarily involved in purchase, sale, financing and development of golf courses, and land earmarked for residential development. Wife learned husband had another family and was transferring assets to members of that family and to newly created corporations. Wife brought motion for retroactive and ongoing spousal support. Motion granted; parties were married for at least 29 years and raised one child together. Wife ceased employment as doctor and worked with husband in China and later in Canada. Wife earned only nominal income. Parties had lavish lifestyle. Wife had financial needs and was disadvantaged by marriage; wife was entitled to spousal support. Issue of retroactive support was left to trial. Husband's annual income was imputed at \$550,000, which was amount needed to cover expenses listed in husband's sworn financial statements, and those not included. Husband was ordered to pay amount of \$20,000 per month commencing September 1, 2023. Given start date of support, sum of \$180,000 was payable forthwith: *Yu v. Xiao*, 2023 CarswellOnt 13077 (Ont. S.C.J.).

Support — Spousal Support — Case Law — Spousal Support Advisory Guidelines — Parties were married for almost 13 years; they had one child together, and wife had two children from previous relationship. Wife was not

currently working, and she had health issues. Wife applied for spousal support. The application was granted. Wife was not entitled to spousal support on compensatory basis as she had not been disadvantaged by her role in marriage. Wife was entitled to spousal support on non-compensatory basis to alleviate economic hardship arising from breakdown of marriage. Wife had not worked in number of years, her qualifications and skills were outdated, and she had health issues that must be considered in determining her ability to achieve self-sufficiency. Husband was younger, healthy and working in stable job, and was making more money and benefits than wife was capable of making in future without significant retraining. Wife's health issues did not prevent her from working in sedentary administrative position, and it was appropriate to impute income to her. It was reasonable to impute income of \$25,000 per year to wife for 18 months, and then \$50,000 per year from July 2024 on. Considering condition, means, needs and other circumstances of parties, as well as length of cohabitation, ages, health, education and earning potential of parties, it was reasonable for husband to pay spousal support at mid-range of Spousal Support Advisory Guidelines for 10 years. Based on husband's income of \$117,432.97 per year, he was ordered to pay spousal support of \$1,870 per month to June 2024, and then \$1,050 per month from July 2024 to March 2030: *JS v. JD*, 2023 CarswellAlta 666 (Alta. K.B.).