

**Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP**  
**Answers to pressing questions on Family Law.**

**All sources of revenue count.**

**Question:** I have a modest income. However, I am supported by my parents who are better off than me. I receive a few hundred dollars from them monthly and have been for years. My wife and I just separated. We have two children who reside with their mother. In calculating child and spousal support I've been told that the law only looks at my tax return and my job slips. Is that correct?

**Answer:** No. It's not correct. The courts have interpreted the Child Support Guidelines and spousal support laws to include all sources of revenue from one or more sources, even if it is a gift then those monies are considered "income" for child or spousal support law, even though you haven't "earned" it. The policy behind these court decisions for child support began with the Supreme Court of Canada decision called Willick. Willick states that a child's lifestyle should not be any different than that of the payer (usually his father), and many courts have since ruled that it doesn't matter how that lifestyle was created. However, a lady, the impact of this principle works both ways. The person asking for child support must also declare any periodic gifts of support received from third parties, usually parents or lovers, when making such a claim, as part of their "income." Most taxpayers don't associate such gifts as income because the money is not earned. But this is a family law, not income tax law. If the gift is an isolated display of kindness or for a specific purpose, such as to assist a poor person with legal fees. It may not form part of income. However, if you're one of those payers who think you can hide behind your income tax return at \$30,000 yearly while driving that turquoise Porsche with GPS and supple leather seats that your dad leases for you, think again. The courts aren't stupid. Oh, and if you're claiming in court for spousal support because of a tiny income while your ex-husband is earning a modest one, just remember one thing. It's going to be tough to hide those monthly credit card statements showing regular transactions with Holt Renfrew or the local spa for that certain masseur, pedicure and facials paid by your mother.

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