



Child Support and Marital Support in Japan Computation Method and Rate Schedules

Koji Ono*

Introduction

A. Computation for Child Support

- 1. Basic Concept*
- 2. Basic Computation*
- 3. Using the Schedule*

B. Computation for Marital Support

- 1. Basic Concept*
- 2. Using the Schedule*

* Dean of Daito Bunka University Law School; Professor of Law, Attorney at Law; Tokyo Family Court mediator; specializes in civil law, particularly family law; teaches property law and family law. In the jurisprudence societies in Japan, serves on the board of directors for the Society of Socio-Legal Studies on Family Law, the Japan Association of Legal and Political Sciences, and the Japan Association of Medical, Legal and Political Sciences. In international academic bodies, is a member of the International Society of Family Law Executive Council, and the Law Association for Asia and the Pacific.

Introduction

This paper is a discussion on the computation of child support and marital support payments. The Japanese Family Court has been engaged in efforts to simplify the method for determining support amounts in divorce and separation cases, and to provide rate schedules to streamline the process. The purpose for establishing a child support schedule is to facilitate the computation of child support in a manner that ensures a level of support that is both appropriate and adequate for maintaining a child's standard of living. The schedule for marital support serves as the basis for computing payments to a spouse in cases of separation in a manner that ensures a level of support that is adequate for maintaining the spouse's standard of living.¹⁾

A. Computation for Child Support

1. *Basic Concept*

Parents have a duty to provide their child (under 20 years of age) with a standard of living equal to that enjoyed by the parent having the duty-to-pay. For this reason, the computation method should be formulated to ensure support levels that are both appropriate and adequate in performance of the parents' duty to protect the well-being of their child.

In formulating the computation method, the underlying concept is the establishment of the base income, which is computed as the sum total of the actual incomes of both the parent having the duty-to-pay (generally the father) and the parent having the right-to-receive (generally the mother). The amount in child's living expenses is determined by using the amount that had been expended during the period the duty-to-pay parent had been living with the child or that would have been expended had the duty-to-pay parent lived with the child. The duty-to-pay parent has a responsibility for that percentage of a child's living expenses that is equal to the percentage of his/her income to the sum total income.

2. *Basic Computation*

The computation method arrives at the amount of child support payable by the duty-to-pay parent by proportionally assigning responsibility for the child's living expenses between the duty-to-pay parent and the right-to-receive parent according to their proportional share of income to the sum total

1) This paper was written from the "Commentary on Rate Schedules for Child Support and Marital Support" issued by Tokyo Family Court for the mediation committee members in April 2003.

base income.

The methods for computing base income, child's living expenses, and amount of child support payable by the duty-to-pay parent are as follows:

$$\textcircled{1} \text{ Basic income} = \text{Total income} \times 0.34 \sim 0.42 \text{ (in the case of wages)}$$

or

$$\text{Total income} \times 0.47 \sim 0.52 \text{ (in the case of self-employed income)}$$

$$\textcircled{2} \text{ Child's living expenses} =$$

$$\text{Duty-to-pay parent's base income} \times \frac{55 \text{ or } 90 \text{ (child's index)}}{100+55 \text{ or } 90 \text{ (duty-to-pay parent's index + child's index)}}$$

$$\textcircled{3} \text{ Amount of child support payable by duty-to-pay parent} =$$

$$\text{Child's living expenses} \times \frac{\text{duty-to-pay parent's base income}}{\text{combined base incomes of both parents}}$$

(1) "Base income" as referred to above is the adjusted income after deductions for taxes and other public charges, work-related expenses (such as apparel, travel, entertainment) and "special expenses" (such as extenuating housing and medical expenses). "Base income" is "the income that serves as the base for the computation of child support."

① For wage earners, base income is generally about 34% ~ 42% of income.

② For self-employed persons, base income is generally about 47% ~ 52% of total receipts.

(2) The "child's index" is either a "55" for a child thru 14 years of age, or "90" for a child from 15 thru 19 years of age, on a scale of 0 to 100 where 100 represents the amount in living expenses expended by the adult parent for himself/herself. The index for the child's living expenses is computed by including educational expenses to the minimum living expenses as derived from the standards given in the Daily Life Protection Law, Article 8.

(3) The amount payable by the duty-to-pay parent is thus calculated by the above-mentioned method, however, in actual practice, this amount can also be easily and expeditiously determined by referring to the rate schedules included as appended.

3. *Using the Schedule*

(1) Determination of Total Incomes

In order to use the rate schedule, the total incomes of both the duty-to-pay parent and the right-to-receive parent should be determined. If the party is a wage earner, then the total income is the “paid amount” as shown on the tax withholding statement. If the party is self-employed, then the total income is the “taxable income” as shown on the final tax return.

(2) Example

An example of the schedule's application is given below:

A right-to-receive parent (mother) who has custody of and is caring for her 2-year-old child requests child support from a duty-to-pay parent (father) who is living alone.

- The right-to-receive parent is a wage earner, her income was 1,336,382 yen according to her last tax withholding statement.
- The duty-to-pay parent is a wage earner, his income was 5,105,573 yen according to his last tax withholding statement.

- ① The child is 2-years-of-age and an only child, thus the applicable schedule is Schedule 1, Child Support/Schedule for 1 Child (thru age 14 years).
- ② Verify the right-to-receive parent's income by the tax withholding schedule. Along the horizontal axis for the right-to-receive parent's “wages”, her base income will be rounded off to “125” since it is the best approximation between “125” and “150.”
- ③ Verify the duty-to-pay parent's income by the tax withholding schedule. Along the vertical axis for the duty-to-pay parent's “wages,” his base income will be rounded off to “500” since it is the best approximation between “500” and “525.”
- ④ The intersection of the column along “125” and the row along “500” falls within the framed area denoted by “40 - 60 thousand yen.”
- ⑤ Since the standard amount for a child's expenses falls within this range, the actual amount of payable child support is then settled by agreement between the parties and within this limit.

during the period that the spouses and children had lived together or what would have been their living expenses had they lived together, together with treating the sum total of the base incomes of both spouses as household income. The index for marital support as determined by the right-to-receive group is applied to this household income for purposes of computing the marital support payable by the duty-to-pay spouse to the right-to-receive spouse.

(2) Basic Computation

Consider the hypothetical case of a duty-to-pay spouse and a right-to-receive spouse who are separated, have 2 children under the ages of 15 years who are living with the right-to-receive spouse, and the duty-to-pay spouse is living alone. If the base income (X) of the duty-to-pay spouse is higher than the base income (Y) of the right-to-receive spouse, then the marital support amount payable by the duty-to-pay spouse to the right-to-receive spouse is computed as follows:

① Marital expenses (Z) applied to household of right-to-receive spouse

$$(Z) = (X + Y) \times \frac{100+55+55}{100+100+55+55}$$

② Marital support payable by duty-to-pay spouse = Z - Y

(3) Marital support may be computed by the above-mentioned method, but as in the case of child support, the schedule is used in actual practice for easily and expeditiously computing the payable amount.

2. Using the Schedule

(1) Determination of Total Incomes

Refer to same item under section for child support.

(2) Computation

The schedule is structured according to payable marital support amounts in increments of 10 to 20 thousand yen, and 10 categories according to the number of children (0 ~ 3) and the child's age (2 groups, thru age 14 years and from 15 thru 19 years).

The horizontal axis indicates the total income (annual income) of the spouse having the right-to-receive, and the vertical axis indicates the total income (annual income) of the spouse having the

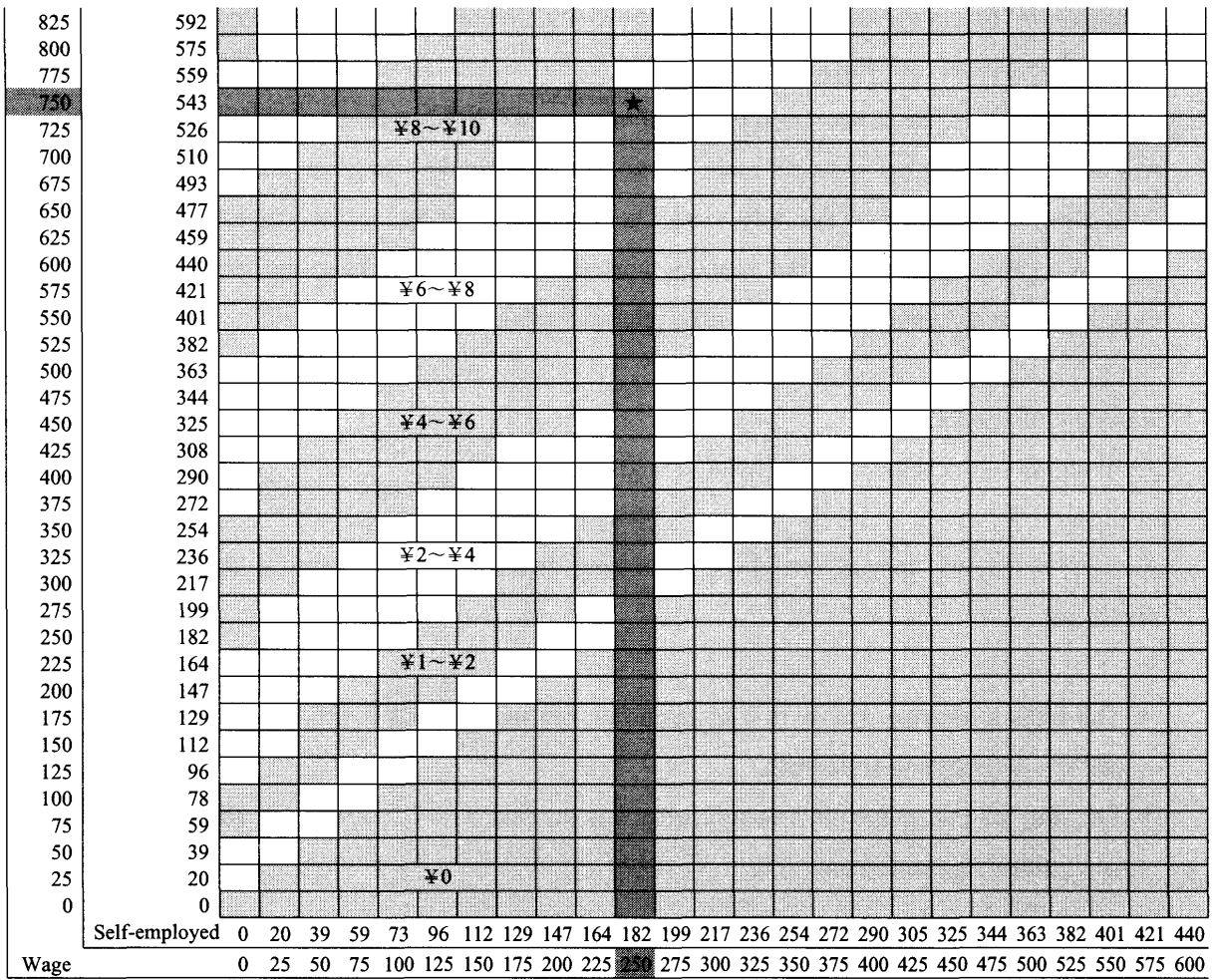
duty-to-pay. Select the schedule that matches the number of children and their ages, then find the appropriate part of the schedule corresponding to the wages/self-employment incomes for each of the two spouses. The intersection of the column for the right-to-receive spouse's income and the row for the duty-to-pay spouse's income indicates the standard payable marital support amount. In separation cases where the duty-to-pay spouse is paying the residential expenses (A) of the right-to-receive spouse and the amount corresponds to the right-to-receive spouse's special expenses, then the payable amount is the marital support amount minus (A).

(3) Example of Application

An example of the schedule's application is given below:

A right-to-receive spouse (wife) is requesting marital support from a duty-to-pay spouse (husband):

- The right-to-receive spouse is a wage earner, her income was 2,433,452 yen according to her last tax withholding statement.
 - The duty-to-pay spouse is a wage earner, his income was 7,394,958 yen according to his last tax withholding statement.
- ① Since the right-to-receive spouse (wife) has no children, "Schedule 10, Marital Support for a Couple with No Children" will be selected.
 - ② Verify the right-to-receive spouse's income by the tax withholding schedule. Along the horizontal axis for the right-to-receive spouse's "wages," her base income will be rounded to "250" since it is the best approximation between "125" and "250."
 - ③ Verify the duty-to-pay spouse's income by the tax withholding schedule. Along the vertical axis for the duty-to-pay spouse's "wages," his base income will be rounded to "750" since it is the best approximation between "725" and "750."
 - ④ The intersection of the column along "250" and the row along "750" falls within the framed area denoted by "60~80 thousand yen."
 - ⑤ Since the standard marital support falls within this range, the actual amount in payable marital support will be settled by agreement between the parties and within this limit.



[Annual income of right-to-receive spouse / Unit: ¥ 10,000]