

## **Alimony FAQ**

*What is alimony?*

- Alimony is financial support paid by one's ex-spouse to the other after the marriage has legally ended.

*Is separate maintenance the same as alimony? What about spousal support?*

- Separate maintenance, alimony, and spousal support are all forms of financial assistance between spouses or ex-spouses. Alimony specifically refers to support payments after divorce, while separate maintenance is for spouses legally separated or living apart without obtaining or necessarily asking for a divorce. Use of the term "spousal support," often used interchangeably with alimony, has grown in popularity to accommodate different marital dynamics.

*Can I request alimony after my divorce is finalized if I didn't originally ask for it?*

- Once a divorce decree is finalized, alimony can only be modified based on a qualifying change of circumstances. Failure to obtain alimony in the original decree is a final and binding conclusion that no alimony is or will be necessary or appropriate.

*How long can I receive alimony?*

- If the judge decides how long the alimony award should last, the duration of alimony will depend on several factors. The main guideline or limitation is that the time alimony is awarded cannot be longer than the duration of the marriage. The divorcing spouses can also negotiate any length of an alimony award. Alimony typically terminates when either spouse dies or when a recipient remarries or cohabitates.

*What do I do if my spouse wants alimony, but I don't think I can pay, or I don't think he or she needs financial support from me?*

- When there is disagreement between spouses regarding alimony, the judge will decide if an alimony award should be made and for how much. To help support your case, consult an attorney to understand your options and the best strategies for your specific situation.

*What if I am receiving alimony and I get remarried?*

- In most cases, alimony is automatically terminated upon the remarriage of the recipient unless the divorce decree states otherwise.

*What do I do if my ex is behind in alimony payments?*

- If an ex-spouse is behind in alimony payments, you can file a motion with the court to hold your ex-spouse in contempt for failing to make payments. This can lead to various results including wage garnishment, seizure of assets, or interest on missed payments.

*Can an alimony order be changed after a divorce?*

- Alimony orders can be modified under specific circumstances. Common reasons include changes in income, remarriage or cohabitation, health issues, retirement, or employment changes. While it is not common for alimony payments to increase, it can happen. It might be adjusted upwards if there is a significant change in the financial needs of the recipient or if the income or the payor increases substantially.

*Is alimony taxable in Utah?*

- For agreements made or modified after December 31, 2018, alimony payments are no longer deductible for the payer nor taxable for the recipient. This is a result of the 2017 Tax Cuts and Jobs Act.

*Does cohabitation affect alimony?*

- Many people may choose to start living with a new partner without getting married to continue receiving alimony payments from a previous marriage. They will live as a married couple would (living together, sharing bills and responsibilities, and combining income), but will not be married legally. If someone is cohabiting, that is typically a ground for terminating alimony.

*Can men receive alimony?*

- Utah alimony laws are gender neutral, meaning that either the male or female ex-spouse can receive alimony. The payments will be designated to help the low-income spouse to maintain the same living standards they had while married.

*What's the difference between property division and alimony?*

- Property division settles ownership of shared assets and liabilities, typically in a one-time event during divorce. Alimony provides ongoing financial support to one spouse, aimed at covering living expenses or promoting financial independence.

*Do I have to pay child support if I pay alimony?*

- Child support and alimony are determined separately. So yes, child support may still be required for parties ordered to pay alimony. In many cases, both child support and alimony may be awarded, as they serve different purposes. Child support is typically paid to support the children's financial needs, covering expenses like housing, education, and healthcare. Alimony, on the other hand, is intended to support a former spouse's financial needs or help them maintain a certain standard of living post-divorce. While alimony may be influenced by the presence of minor or dependent children, children are not the main factor in its determination. If there is a child support award, that will be factored into the alimony award.

*What disqualifies you from alimony?*

- Several factors can disqualify someone from receiving alimony in divorce. Adultery, financial independence, marital misconduct, remarriage or cohabitation, significant financial changes, or prenuptial agreements can all lead to disqualification.

*What factors are relevant when determining alimony?*

- The standard of living during the marriage, including income and value of property
- Financial condition and needs of the receiving spouse
- Financial condition and ability to pay of the paying spouse
- The length of the marriage
- Parental responsibilities
- Health and age of the spouses
- Education and employability
- Contributions to the marriage

*Can adultery affect alimony awards in Utah?*

- In Utah, adultery can affect alimony awards, but it's just one of many factors considered by the judge. Utah law requires judges to consider various factors when determining alimony awards, and adultery is among them (Utah Code § 30-3-5(10)). However, the decision isn't solely based on adultery. The impact of adultery on alimony awards will depend on the specific circumstances of each case as assessed by the court.

*How long do you have to be married to get alimony in Utah?*

- In Utah, there isn't a specific requirement for the duration of marriage to qualify for alimony. However, courts typically consider the length of the marriage when determining alimony awards. Generally, shorter-term marriages may not result in alimony awards, as the court aims to restore the spouses to their pre-marital economic positions. However, alimony may be awarded even in shorter marriages, depending on factors of the marriage.