

**Appellate Case No. 308316-III**

**COURT OF APPEALS  
DIVISION III OF THE STATE OF WASHINGTON**

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In re the Marriage of:

JOHN E. JONES, Appellant,

v.

DEBRA R. GORE, Respondent.

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**Brief of Respondent**

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## II. Introduction

The parties were married on January 13, 1999 and were divorced on February 25, 2009. CP 8, CP 21. This matter was brought back before the court in September 2010 for a modification of the parenting plan. CP 25. Dr. Jones objected to the modification and attempted to revise the commissioner's ruling. The revision was denied and the parties eventually agreed to a parenting plan wherein Dr. Jones' residential time was reduced. CP 393.

This child support modification was filed on May 23, 2011. CP 35. The prior order was more than a year old, the expenses for the children have increased with age, and two of the parties' three children have turned 12 since the last order. CP 37-38.

The parties are both medical doctors. Dr. Gore is a family practitioner with Group Health. Dr. Gore has remained with Group Health since the parties' divorce. Dr. Gore provides primary care to the parties' three children. CP 200. At that time Maggie was a toddler and the twin boys were in elementary school. Currently the twin boys are in middle school and Maggie started kindergarten in the Fall of 2012. Dr. Gore has expanded her work hours and is on call an additional amount of time each

month. CP 199. Dr. Gore's income is reflected on her W-2 (CP 390) as filed with the court. Dr. Gore works 35-40 hours per week. CP 394.

Dr. Jones was employed by a corporation of which he was an owner. CP 394. This corporation has since dissolved and Dr. Jones now works for a partnership and is a physician partner. CP 394. The partnership is called Northwest Pacific Emergency Physicians, LLP ("NPEP, LLP"). Dr. Jones' income has increased significantly. CP 394. Additionally, Dr. Jones has a second income stream from emergency room work he performs in Colville, WA. CP 146. The extent of the income from this secondary source is unknown but it is anticipated that this will include 2-4 shifts per month of 8-10 hours per shift at approximately \$175 per hour. CP 394. This is an estimated gross income increase of \$33,600 to \$84,000 annually. CP 394. This is in addition to Dr. Jones' primary employment with NPEP, LLP. CP 394.

In his primary employment Dr. Jones' contract provides for 120-140 hours per month at \$175 per hour. This equals from \$21,000 - \$24,500 per month as Dr. Jones' base pay. Dr. Jones also receives various benefits from his employer including payment of his malpractice insurance at \$30,591 annually or almost \$2,600 per month. CP 394.

**I. Statement of the Case**

Dr. Jones attempts to confuse some very simple matters. Dr. Jones works less actual hours than Dr. Gore. CP 397. Dr. Gore works approximately 35-40 hours per week and Dr. Jones works less than 30 hours per week. CP 199 & 397. Dr. Jones used to work in a trauma center, however he now works in a much less stressful urgent care center at Deaconess while Sacred Heart Medical Center provides all trauma care for Spokane County. CP 202.

Dr. Jones asks this court to find that these professionals working in similar employment and similar hours should be treated differently. RPOA 19, RPOR 3. Dr. Jones asks you to find his 20-25 hours per week to be fulltime while he asks this court to find Dr. Gore's employment of 35-40 hours per week to be less than fulltime. CP 202. It is amazing and absurd that Dr. Jones applies one standard to himself and another to his former spouse. CP 203.

Equally confusing and absurd is Dr. Jones' interpretation of a common term: income. Dr. Jones' contorted view of a simple and common term is conjured solely to attempt to increase the "income of Dr. Gore" in order to minimize his child support payment. CP 203. Dr. Jones' distortion is contrary to logic and law.

#### IV. Argument

The party challenging a trial court's decision, [here Dr. Jones], has the burden of demonstrating that the trial court manifestly abused its discretion. In re Marriage of Griffin, 114 Wash.2d 772, 776, 791 P.2d 519 (1990). "Here, there is no evidence the court abused its discretion. A trial court abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds or untenable reasons." In re Marriage of Littlefield, 133 Wash.2d 39, 46-47, 940 P.2d 1362 (1997). The court in this case applied the statute and case law to the facts before it and arrived at a reasonable decision. A court's decision is manifestly unreasonable if it is based on an incorrect legal standard. Id. There is no basis to find the trial court abused its discretion and this appeal is frivolous.

The appellate court is charged with the duty to review the trial court's findings of fact for substantial evidence. In re Marriage of Skarbek, 100 Wash.App. 444, 447, 997 P.2d 447 (2000). "Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise." Bering v. Share, 106 Wash.2d 212, 220, 721 P.2d 918 (1986). Where the trial court has weighed the evidence, the reviewing court's role

is simply to determine whether substantial evidence supports the findings of fact and, if so, whether the findings in turn support the trial court's conclusions of law. In re Marriage of Greene, 97 Wash.App. 708, 714, 986 P.2d 144 (1999). An appellate court should "not substitute [its] judgment for the trial court's, weigh the evidence, or adjudge witness credibility." Here, the trial court decision is based on the substantial evidence before it and the court did not abuse its discretion. This court should deny the appeal in its entirety.

Basic child support must first be calculated by the court prior to an adjustment upward for other reasonable expenses. RCW 26.19.071. The court is charged with the duty of determining the parent's income for the purpose of calculating child support. "Income sources included in gross monthly income. Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source..." RCW 26.19.071. The correct starting point, and the one used by the trial court, is to first determine the parties' "actual" income.

Dr. Jones appears to dispute the court's definition of and determination of the word "income." The common determination of income by the courts involves a very simple process. The court can simply look at paystubs and/or tax returns. This is exactly what the court did in the instant case for both parties.

Dr. Jones is unhappy with the court's determination of "income" because Dr. Gore receives certain "perks" as part of her employment. These perks are not "income" as it is not money Dr. Gore can use or opt to receive in lieu of receiving the "perk" of her employment. One of the items Dr. Jones would like this court to add into Dr. Gore's "income" is the employer's portion of her medical coverage.

No court has ever included the employer's contribution to employee benefits to increase the employee's income. The employee has no control over how the employer spends these funds and the employee cannot collect the funds in lieu of the benefit. Thus, for purposes of income the employer paid benefits or "perks" is not "income" for purposes of child support. Similarly, the IRS does not include these employer paid benefits as income to the employee. CP 377-390.

Dr. Jones' position that these items paid for by the employer is frivolous, unsupported by any case law and is absurd. If we take this analysis one step further, is the employer share of employee income taxes withheld also to be included as "income" to the employee?

Income to the parents for purposes of child support is based on income actually received or capable of being received now or in the future. RCW 26.19.071. This includes deferred income and/or retirement contributions. Retirement contributions are different than employer paid

benefits or “perks” because the employee becomes the owner of these retirement funds. There may be penalties or other incentives to leave the funds in the retirement account but the difference between these funds and other employee benefits is that the employee is the owner of this “deferred” income.

The sole reason Dr. Jones attempts to include these employer paid perks is because he currently does not receive any of these perks. Previously when Dr. Jones did receive these perks, and in the prior child support calculation, neither party asserted that these employer paid benefits were “income” of the parents. CP 1-6.

Several different sources support the history of the courts regarding the interpretation of “income” as money that the employee actually receives either now or as a future cash benefit.

Blacks Law Dictionary 7<sup>th</sup> Edition, page 766 (Attached)  
*income. The money or other form of payment that one receives, usu. periodically, from employment...*

<http://dictionary.reference.com/browse/Income>

*in·come [in-kuhm] noun*

1. The **monetary** payment received for goods or services, or from other sources, as rents or investments.
2. something that comes in as an addition or increase, especially by chance.
3. Archaic. a coming in.

<http://www.merriam-webster.com/dictionary/income>

*in·come; noun \in-,kəm also in-kəm or ɪŋ-kəm\*

*Definition of INCOME*

*1: a coming in : entrance, influx <fluctuations in the nutrient income of a body of water. 2: a gain or recurrent benefit usually **measured in money** that derives from capital or labor; also: the amount of such gain received in a period of time; has an income of \$30,000 a year.*

<http://thelawdictionary.org/income/>

*The return in money from one's business, labor, or capital invested; gains, profit, or private revenue. Braun's Appeal, 105 Pa. 415; People v. Davenport, 30 llun (N.Y.) 177; In re Slocum, 109 N. Y. 153, 02 N. E. 130; Waring v. Savannah, 00 Ga. 99. "Income" means that which comes in or is received from any business or investment of capital, without reference to the outgoing expenditures; while "profits" generally means the gain which is made upon any business or investment when both receipts and payments are taken into account. "Income," when applied to the affairs of individuals, expresses the same idea that "revenue" does when applied to the affairs of a state or nation. People v. Niagara County, 4 Hill (N..Y.) 20; Bates v. Porter, 74 Cal. 224, 15 Pac.732.*

(Emphasis added).

The key issue is whether expenses and incentives paid by the employer but incapable of being received directly by the employee are income. No court has ever found employer paid benefits that the employee has no control over to be income. These types of employer paid benefits are never "received" by the employee. These benefits are not payments "to the employee" and are not "received" by the employee. Thus, when income is not received or paid to the employee it is unavailable for the employee to use/control how it is used and is therefore not income of the employee.

RCW 26.19 requires the court to consider all sources of “income” or money actually paid to the employee. The court does **not** include employer paid benefits UNLESS the employee may cash in the benefit to receive the money as income instead of the benefit. If the employee has no choice in the decision regarding the employee funded perks, the funds expended by the employer cannot be imputed to the employee. The employee has no decision-making ability and cannot use the money for their support. The employer has 100% control of these funds and it never becomes the income or money of the employee.

The statute lists several potential sources of “income” in enumerated sections 3(a) –(u) are examples of the potential sources of “income” to be considered if they are “income” or actually money received by the employee.

Dr. Jones admits in his appellate brief at page 7, that these are “non-cash” employment perks and are not “income” to Dr. Gore and not available for her to use to support herself or the children. There is no dispute that these employer expenses for the benefit of the employee are not “paid to” the employee and are not “income” to the employee.

The court correctly determined the “income” of the parties to be the payments they received from their respective employers for the work performed. Dr. Gore’s gross “income” as determined by the trial court is

correct and accurate at \$13,067 per month. CP 254. Dr. Jones' gross monthly income is correct and accurate at \$25,482 per month. CP 254.

The next issue is whether the parties are employed fulltime or less than fulltime. The court accepted, and it is unrebutted, Dr. Gore's assertion that she was "technically" employed FTE 0.7 but that she was also required to work on-call and conduct other office work, attend meetings, etc. and worked 35-40 hours per week. CP 199.

In the cases the court cites where courts have imputed income based on underemployment, the parents worked far fewer than 40 hours per week. Schumacher v. Watson, 100 Wn.App. 208, 997 P.2d 399 (2000) (underemployed father worked 8.9 days per month); DewBerry v. George, 115 Wn.App. 351, 357, 62 P.3d 525 (underemployed father worked 20 hours per week), review denied, 150 Wn.2d 1006 (2003); In re Marriage of Didier, 134 Wn.App. 490, 140 P.3d 607 (2006) (father an unemployed missionary), review denied, 160 Wn.2d 1012 (2007); In re Marriage of Pollard, 99 Wn.App. 48, 52, 991 P.2d 1201 (2000) (mother an unemployed homemaker).

Dr. Jones, in contrast, only worked 1250 hours in all of 2010 and this is less than FTE 0.6 over the year. CP 200. There were also many months when Dr. Jones worked less hours. Dr. Jones even admitted to working fewer hours in 2011 and that his hours were cut. The court found

that Dr. Jones worked only 86 hours for the entire month of January 2011. RPOR at page 3. This is only 20.5 hours per week or barely one-half of the hours worked by Dr. Gore.

Dr. Jones then attempted to provide the trial court with information regarding the hours worked by emergency room physicians. CP 224. However Dr. Jones provided only part of the report and excluded the majority of the report. CP 223-226.

Additionally, Deaconess does not provide any Level II trauma care. This is the type of care Dr. Jones used to provide in 2009. Only Sacred Heart provides Trauma II care in the Inland Northwest. Dr. Jones provides urgent care to mainly walk in patients and low level trauma. This is much less stressful and easier work for Dr. Jones. CP 202.

If there is any error, the court should have imputed income to Dr. Jones and found that Dr. Jones was underemployed and was doing so to reduce his child support obligation. The plethora of cases cited above show clearly that working 8-10 days per month or 20 hours per week is underemployment.

The court simply found that both of the parents were gainfully employed at the professional level and consistent with their past employment levels and wages. CP 410. Additionally, professional employment does not typically require the punching of a time clock and

that there are demands in addition to the actual work performed. RPOR at page 3. CP 410.

The court then identified the issues with trying to impute to each of the parents and trying to determine what should be considered fulltime for each of these parents when they are both engaged in professional employment that has demands of the profession in addition to the actual hours worked or compensated.

The court correctly determined that both parties are employed at a reasonable level for their profession. The court determined that it would use the “actual income” for both of the parties. RPOR at page 4. CP 410-411. This is exactly the type of discretion the statutes allows. When the parties are both earning a significant income, their income is consistent with past employment history and earnings, the court can and must accept their actual earnings. CP 411.

RCW 26.19 and the associated case law demand that the court determine the actual income of the parties. “A parent’s actual income may not be calculated in disregard of the evidence in the record or by guesswork. State ex rel. Stout v. Stout, 89 Wn. App. 118, 125, 948 P.2d 851 (1997). The court followed the case law exactly as intended. The court disregarded the “guesswork” Dr. Jones asked the court to engage in and instead used the parties’ “actual” income. CP 411.

Whether or not Dr. Gore should be imputed income is addressed above and the trial court correctly found that the nature of the parties' professions and the work histories of the parties were consistent and did not require the imputation of income to either parent. CP 411. The court also found that to impute income to both parties would be mind-boggling and that it would not do "anybody any good" because it would necessarily be based on so much guesswork and multiple assumptions to render the calculation worthless. RPOR at page 4, CP 411.

In order to impute income to a parent for purposes of child support the court must find that 1) the parent is underemployed and 2) that they are underemployed for the purpose of avoiding child support. RCW 26.19.071. Here, the court did not find that Dr. Gore was underemployed. However, even if the court did find her underemployed it would also have to find that she was underemployed to avoid a child support obligation.

Dr. Gore was previously employed at technically FTE 0.6. Yet, there was no imputation by agreement of the parties because this was her historic work schedule as agreed by the parties. CP 1-7. Dr. Gore is currently a FTE 0.7 position with additional on-call hours each month. Dr. Gore works approximately 35-40 hours per week in her FTE 0.7 position. CP 394. Additionally, when the parties divorced Dr. Gore only worked FTE 0.6 and she was not underemployed as agreed by the parties due to

her past work history. In reality, Dr. Gore works more hours per month than Dr. Jones. CP 397.

Thus, it is impossible for the court to find underemployment when the parties agreed that FTE 0.6 was fulltime for Dr. Gore based on her work history. Furthermore, she has now increased her employment to FTE 0.7. This is especially true when considering the un rebutted fact that Dr. Gore actually works 35-40 hours per week. Dr. Gore is not underemployed for the purpose of avoiding child support and this claim by Dr. Jones is clearly frivolous.

The claim by Dr. Jones that his YTD for wages earned through November 30, 2011 was for 12 month is entirely without any factual basis. The year to date reflects income earned between January 2011 and November 2011. The court correctly divided this amount by 11 months to determine Dr. Jones' income. This income is also consistent with Dr. Jones' tax returns. CP 73 and CP 92.

Finally, Dr. Jones challenges the court's discretionary ruling limiting his "business expenses" for purposes of child support. Dr. Jones, solely for the purpose of trying to limit his child support obligation, provided a child support worksheet enumerating over \$15,000 in alleged expenses annually. CP 162. However, the better information before the court was his 2009 and 2010 tax returns that were not created solely for

this litigation. CP 73 and CP 92. Dr. Jones' 2009 tax return identifies \$0.00 for business related expenses. CP 75. Dr. Jones' 2010 tax return identifies \$7,058 in business related expenses. CP 106. This equates to \$588 per month in business expenses not the nearly \$1,300 alleged by Dr. Jones just to reduce his child support obligation.

The trial court had ample evidence before it to determine that Dr. Jones' asserted "business expenses" were unsupported, unreasonable, inflated, and an obvious fraud upon the court. The court's use of the information in Dr. Jones' own tax returns were credible evidence of his actual business expenses. The trial court did not error in correcting the fraudulent and baseless information supplied by Dr. Jones.

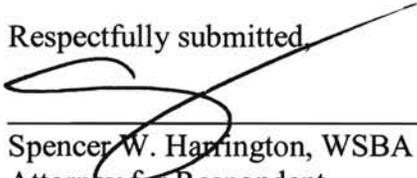
#### V. Conclusion

The petitioner respectfully requests this court to uphold the decision of the trial court as the court is required to use the actual income of the parties and it was not an abuse of discretion by the trial court to find the actual income of the parties based on the records before the court. Additionally, both parties are fully employed based on their work history and as such there is no basis to impute to either party. Dr. Jones' fabricated business expenses were proved false by his own tax records provided to the court.

Dr. Gore respectfully requests attorney fees for responding to this appeal as Dr. Jones has significant ability to pay and as the court can see from Dr. Gore's financial declaration she has a need for an award for fees. CP 49. Additionally, this appeal is frivolous and this court has authority to award fees in a frivolous appeal.

Dated: 12/28/12

Respectfully submitted,



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DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the state of Washington that on the 28<sup>th</sup> day of December, 2012 I deposited a copy of the attached *Brief of Respondent* with Eastern Washington Attorney Services, Inc. directed to:

Peter S. Lineberger  
900 N. Maple Street #102  
Spokane, WA 99201

I instructed Eastern Washington Attorney Services, Inc. to deliver, copy receive and file said document with the Division III Court of Appeals for the State of Washington.

Dated: 12/28/12

  
Joanne M. McAtee,  
Harrington Law Office, PLLC



**incitement**, *n.* 1. The act or an instance of provoking, urging on, or stirring up. 2. *Criminal law.* The act of persuading another person to commit a crime; SOLICITATION (2). — **inciteful**, *adj.*

"An inciter is one who counsels, commands or advises the commission of a crime. It will be observed that this definition is much the same as that of an accessory before the fact. What, then, is the difference between the two? It is that in incitement the crime has not (or has not necessarily) been committed, whereas a party cannot be an accessory in crime unless the crime has been committed. An accessory before the fact is party to consummated mischief; an inciter is guilty only of an inchoate crime." Glanville Williams, *Criminal Law* 612 (2d ed. 1961).

"Emphasis upon the theory of one offense with guilt attaching to several is quite appropriate because it is still part of the groundwork of our legal philosophy, so far as perpetrators, abettors and inciters are concerned, despite the fact that some of the statutes require lipservice to the notion of a separate substantive offense, in the effort to avoid certain procedural difficulties. It explains how one may be guilty of a crime he could not perpetrate, by having caused or procured it as a result of his abetment or incitement." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 732-33 (3d ed. 1982).

**inciter**. A person who incites another to commit a crime; an aider or abettor.

**incivile** (in-siv-ə-lee), *adj.* [Law Latin] Irregular; out of the due course of law.

**incivism** (in-si-viz-əm). Unfriendliness toward one's own country or its government; lack of good citizenship.

**inclausa** (in-klaw-zə). [Law Latin] *Hist.* An enclosure near a house; a home close. See CLOSE.

**inclose**, *vb.* See ENCLOSE.

**inclosure**. See ENCLOSURE.

**include**, *vb.* To contain as a part of something. • The participle *including* typically indicates a partial list <the plaintiff asserted five tort claims, including slander and libel>. But some drafters use phrases such as *including without limitation* and *including but not limited to* — which mean the same thing. Cf. NAMELY.

**included offense**. See *lesser included offense* under OFFENSE.

**inclusionary-approach rule**. The principle that evidence of a prior crime, wrong, or act is admissible for any purpose other than to show a defendant's criminal propensity as long as it

is relevant to some disputed issue and its probative value outweighs its prejudicial effect.

**inclusio unius est exclusio alterius**. See EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS.

**incognito** (in-kog-nee-toh or in-kog-ni-toh), *adj.* Without making one's name or identity known <Binkley flew incognito to France>.

**incola** (in-kə-lə). [Latin "an inhabitant"] *Roman law.* A foreign resident without full civil rights. — Also termed *incolant*.

**income**. The money or other form of payment that one receives, usu. periodically, from employment, business, investments, royalties, gifts, and the like. See EARNINGS. Cf. PROFIT.

**accrued income**. Money earned but not yet received.

**accumulated income**. Income that is retained in an account; esp., income that a trust has generated, but that has not yet been reinvested or distributed by the trustee.

**accumulated taxable income**. The income of a corporation as adjusted for certain items (such as excess charitable contributions), less the dividends-paid deduction and the accumulated-earnings credit. • It serves as the base upon which the accumulated-earnings tax is imposed. See *accumulated-earnings tax* under TAX.

**active income**. 1. Wages; salary. 2. Income from a trade or business.

**adjusted gross income**. Gross income minus allowable deductions specified in the tax code. — Abbr. AGI.

**adjusted ordinary gross income**. A corporation's gross income less capital gains and certain expenses. • The IRS uses this calculation to determine whether a corporation is a personal holding company. If 60% or more of a corporation's AOGI consists of certain passive investment income, the company has met the test for personal-holding-company classification. IRC (26 USCA) § 543(b). — Abbr. AOGI. See *personal holding company* under COMPANY.

**aggregate income**. The combined income of a husband and wife who file a joint tax return.

**blocked income**. Money earned by a foreign taxpayer but not subject to U.S. taxation because the foreign country prohibits changing the income into dollars.

**current income.** Income that is due within the present accounting period. — Also termed *current revenue*.

**deferred income.** Money received at a time later than when it was earned, such as a check received in January for commissions earned in November.

**disposable income.** Income that may be spent or invested after payment of taxes and other primary obligations. — Also termed *disposable earnings*.

**dividend income.** The income resulting from a dividend distribution and subject to tax.

**earned income.** Money derived from one's own labor or active participation; earnings from services. Cf. *unearned income* (2).

**exempt income.** Income that is not subject to income tax.

**fixed income.** Money received at a constant rate, such as a payment from a pension or annuity.

**gross income.** Total income from all sources before deductions, exemptions, or other tax reductions. — Also termed *gross earnings*.

**imputed income.** The benefit one receives from the use of one's own property, the performance of one's services, or the consumption of self-produced goods and services.

**income in respect of a decedent.** Income earned by a person, but not collected before death. • This income is included in the decedent's gross estate for estate-tax purposes. For income-tax purposes, it is taxed to the estate or, if the estate does not collect the income, it is taxed to the eventual recipient. — Abbr. I.R.D.

"If a decedent has earned income that he or she had not received before death and was not entitled to receive before death, such income is known — for Federal Income Tax purposes — as 'income in respect of a decedent' (I.R.D.). For example, if the decedent earned fees or salary or wages for work done before death but not payable until later, and if decedent was a cash method taxpayer (versus an accrual method taxpayer), that earned but unpaid income would not properly be shown on the final income tax return filed for the decedent, for that taxable period ends with the date of death. Rather it is I.R.D. that becomes taxable to the estate of the decedent." John K. McNulty, *Federal Estate and Gift Taxation in a Nutshell* 89 (5th ed. 1994).

**investment income.** See *unearned income*.

**net income.** Total income from all sources minus deductions, exemptions, and other tax reductions. • Income tax is computed on net income. — Also termed *net earnings*.

**net operating income.** Income derived from operating a business, after subtracting operating costs.

**nonoperating income.** Business income derived from investments rather than operations.

**ordinary income.** 1. For business-tax purposes, earnings from the normal operations or activities of a business. — Also termed *operating income*. 2. For individual income-tax purposes, income that is derived from sources such as wages, commissions, and interest (as opposed to income from capital gains).

**other income.** Income not derived from an entity's principal business, such as earnings from dividends and interest.

**passive income.** Income derived from a business activity over which the earner does not participate directly or have immediate control, such as copyright royalties. See PASSIVE ACTIVITY.

**passive investment income.** Investment income that does not involve or require active participation, such as gross receipts from royalties, rental income, dividends, interest, annuities, and gains from the sale or exchange of securities. IRC (26 USCA) § 1362(d).

**personal income.** The total income received by an individual from all sources.

**portfolio income.** Income from interest, dividends, rentals, royalties, capital gains, or other investment sources. • Portfolio income is not considered passive income; therefore, net passive losses cannot be used to offset net portfolio income.

**prepaid income.** Income received but not yet earned. — Also termed *deferred revenue*.

**previously taxed income.** An S corporation's undistributed taxable income taxed to the shareholders as of the last day of the corporation's tax year. • This income could usu. be withdrawn later by the shareholders without tax consequences. PTI has been replaced by the accumulated adjustments account. — Abbr. PTI.

**real income.** Income adjusted to allow for inflation or deflation so that it reflects true purchasing power.

**regular income.** Income that is received at fixed or specified intervals.

**split income.** An equal division between spouses of earnings reported on a joint tax return, allowing for equal tax treatment in community-property and common-law states.

**taxable income.** Gross income minus all allowable deductions and exemptions. • Taxable income is multiplied by the applicable tax rate to compute one's tax liability.

**unearned income.** 1. Earnings from investments rather than labor. — Also termed *investment income*. 2. Income received but not yet earned; money paid in advance. Cf. *earned income*.

**unrelated business income.** Taxable income generated by a tax-exempt organization from a trade or business unrelated to its exempt purpose or activity.

**income approach.** A method of appraising real property based on capitalization of the income that the property is expected to generate. Cf. MARKET APPROACH; COST APPROACH.

**income averaging.** *Tax.* A method of computing tax by averaging a person's current income with that of preceding years.

"A distinct departure from the strict annual system of taxing income is the concept of averaging income, allowed until repeal by the 1986 T.R.A. . . . [T]he rate at which the item was taxed was made to depend not only on the rates and level of income for that year, but upon the taxpayer's experience over the past four years. The item was (sometimes) taxed as if it had been received over a four-year period. Especially for authors, actors, athletes, and other taxpayers who have fluctuating or bunched income and face graduated tax rates that apply on an annual basis, income averaging was most important." John K. McNulty, *Federal Income Taxation of Individuals in a Nutshell* 353 (5th ed. 1995).

**income-based plan.** See CHAPTER 13.

**income-basis method.** A method of computing the rate of return on a security using the interest and price paid rather than the face value.

**income beneficiary.** See BENEFICIARY.

**income bond.** See BOND (3).

**income exclusion.** See EXCLUSION.

**income fund.** See MUTUAL FUND.

**income in respect of a decedent.** See INCOME.

**income property.** See PROPERTY.

**income-shifting.** The practice of transferring income to a taxpayer in a lower tax bracket,

such as a child, to reduce tax liability. See *kiddie tax* under TAX.

**income statement.** A statement of all the revenues, expenses, gains, and losses that a business incurred during a given period. — Also termed *statement of income*; *profit-and-loss statement*; *earnings report*. Cf. BALANCE SHEET.

**income stock.** See STOCK.

**income tax.** See TAX.

**income-tax deficiency.** See DEFICIENCY.

**income-tax return.** See TAX RETURN.

**income-tax withholding.** See WITHHOLDING.

**income-withholding order.** A court order providing for the withholding of a person's income, usu. to enforce a child-support order.

**income yield.** See CAPITALIZATION RATE.

**in common.** Shared equally with others, without division into separate ownership parts. See *tenancy in common* under TENANCY.

**in communi** (in kə-myoo-ni). [Law Latin] In common.

**incommunicado** (in-kə-myoo-ni-kah-doh), *adj.* [Spanish] 1. Without any means of communication. 2. (Of a prisoner) having the right to communicate only with a few designated people.

**incommutable** (in-kə-myoot-ə-bəl), *adj.* (Of an offense) not capable of being commuted.

**incompatibility**, *n.* The quality or state of being incompatible; irreconcilability. • Incompatibility is recognized as a no-fault ground for divorce in many states. See *no-fault divorce* under DIVORCE.

**incompetence**, *n.* 1. The state or fact of being unable or unqualified to do something <the dispute was over her alleged incompetence as a legal assistant>. 2. INCOMPETENCY <the court held that the affidavit was inadmissible because of the affiant's incompetence>.

**incompetency**, *n.* Lack of legal ability in some respect, esp. to stand trial or to testify <once the defense lawyer established her client's in-



**income**

Ads

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**in·come**  [in-kuhm] [Show IPA](#)**noun**

1. the monetary payment received for goods or services, or from other sources, as rents or investments.
2. something that comes in as an addition or increase, especially by chance.
3. *Archaic.* a coming in.

**Origin:**

1250–1300; Middle English: literally, that which has come in, noun use of *incomen* (past participle of *incomen* to come in), Old English *incuman*; see [in](#), [come](#)

**Related forms****in·come·less**, *adjective*.**Synonyms**

1. interest, salary, wages, [annuity](#), gain, return, earnings.

**Antonyms**

1. outgo, expenditure.

**Relevant Questions**

What Is Income?

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What Is Income Tax Used ...

What Is Considered Low I...

**Income** is always a great word to know. 00:08  
So is **bezoar**. Does it mean:

a screen or mat covered with a dark material for shielding a camera lens from excess light or glare.

a calculus or concretion found in the stomach or intestines of certain animals, esp. ruminants, formerly reputed to be an effective remedy for poison.

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**income** ('ɪnkʌm, 'ɪnkəm) — *n*

1. the amount of monetary or other returns, either earned or unearned, accruing over a given period of time
2. receipts; revenue
3. *rare* an inflow or influx

[C13 (in the sense: arrival, entrance): from Old English *incumen* a coming in]

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## Word Origin &amp; History

*Etymonline***income**

c.1300, "entrance, arrival," lit. "what enters," perhaps a noun use of the late O.E. verb *incuman* "come in," from *in* (adv.) + *cuman* "to come" (see [come](#)). Meaning "money made through business or labor" first recorded 1601. Income tax is from 1799, first introduced in Britain

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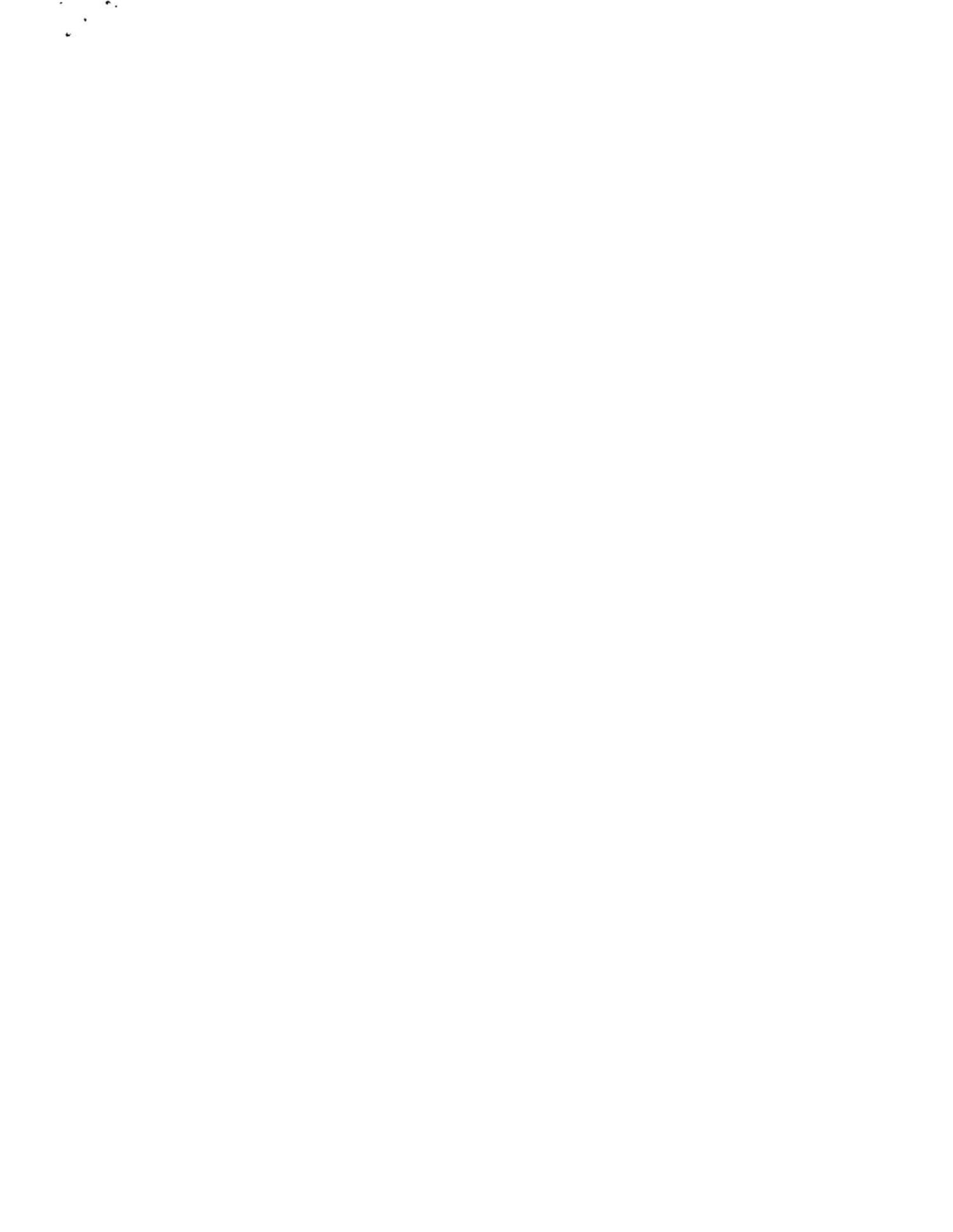


## Cultural Dictionary

*American Heritage***income definition**

The amount of money received during a period of time in exchange for labor or [services](#), from the [sale of goods](#) or property, or as a profit from financial [investments](#).

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- income account
- income basis

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**in·come** *noun* \ˈin-,kəm *also* ˈin-kəm *or* ˈɪŋ-kəm\

#### Definition of INCOME

- 1** : a coming in : ENTRANCE, INFLUX <fluctuations in the nutrient *income* of a body of water>
  - 2** : a gain or recurrent benefit usually measured in money that derives from capital or labor; *also*: the amount of such gain received in a period of time <has an *income* of \$30,000 a year>
- See *income* defined for English-language learners »  
See *income* defined for kids »

#### Examples of INCOME

- Any *income* from investments must be reported.
- Farming is his main source of *income*.
- Even on two *incomes*, we're having a hard time keeping up with our bills.
- He earns a good *income* as a consultant.
- What was the company's annual *income*?

#### First Known Use of INCOME

14th century

#### Related to INCOME

- Synonyms:** earnings, gain(s), incoming(s), proceeds, profit, return, revenue, yield
- Antonyms:** outflow, outpouring
- [+] more

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