

# Spousal Maintenance in New York

*How New York's maintenance formula works, the income cap, how long payments last, taxes, and when courts deviate.*

## 1. — What Maintenance Is

Maintenance (what many people call alimony) is financial support paid by one spouse to the other. New York uses a **statutory guideline formula** for both temporary maintenance (while the divorce is pending) and post-divorce maintenance, set out in Domestic Relations Law § 236(B).

## 2. — The Guideline Formula

The court runs **two calculations and uses the lower result**. Which pair of percentages applies depends on whether the maintenance payor is also paying child support:

- **If the payor also pays child support** (payor is the non-custodial parent): the lower of (20% of the payor's income – 25% of the payee's income) and (40% of combined income – the payee's income).
- **Otherwise**: the lower of (30% of the payor's income – 20% of the payee's income) and (40% of combined income – the payee's income).

If either result is negative, the guideline amount is zero.

## 3. — The Income Cap

**The formula applies to the payor's income only up to a cap, which is \$241,000 effective March 1, 2026** (adjusted every two years by the Office of Court Administration). Above the cap, awarding additional maintenance is discretionary; the court weighs the statutory factors and explains its reasoning.

## 4. — How Long Maintenance Lasts

There is no rigid rule, but the statute provides an **advisory duration schedule** tied to the length of the marriage (measured from the date of marriage to the commencement of the divorce):

Length of marriage	Suggested duration (% of marriage length)
Up to 15 years	15% – 30%
More than 15, up to 20 years	30% – 40%
More than 20 years	35% – 50%

Long marriages, or a spouse who cannot become self-supporting (due to age, health, or caregiving), can justify longer or even non-durational maintenance.

## 5. — Temporary (Pendente Lite) Maintenance

While the divorce is pending, the lower-earning spouse can request **temporary maintenance** under DRL § 236(B)(5-a), using the same formula. It keeps both households afloat during the case and ends when the final judgment sets post-divorce maintenance (if any).

## 6. — Taxes

For any divorce or separation agreement executed after December 31, 2018, maintenance is no longer deductible by the payor and is not taxable income to the recipient under federal law (the Tax Cuts and Jobs Act). This is a major change from older cases and affects how much after-tax support each side actually keeps.

## 7. — When Courts Deviate

The guideline is a starting point. A judge may adjust the amount or duration after weighing factors such as the age and health of the parties, present and future earning capacity, the need for education or training, the standard of living during the marriage, care of children or family members, and wasteful dissipation of marital assets.

## 8. — Modification & Termination

Post-divorce maintenance generally **ends on the death of either party or the recipient's remarriage**. It may also be modified on a showing of a substantial change in circumstances, or terminated where the recipient is cohabiting with another person in a relationship resembling marriage. Maintenance set by a validly negotiated agreement may be non-modifiable, depending on its terms.

## 9. — Frequently Asked Questions

### Is maintenance the same as child support?

No. They are separate. A spouse may receive maintenance, child support, or both. When both apply, maintenance is generally calculated and deducted first, which affects the child support numbers.

### Will I get lifetime alimony?

Lifetime (non-durational) maintenance is uncommon and usually reserved for long marriages or where a spouse cannot realistically become self-supporting. Most awards are for a set number of years.

### Does cheating affect maintenance?

New York is a no-fault state and marital misconduct rarely changes maintenance. The narrow exception is egregious conduct, which courts apply sparingly. Wasteful dissipation of assets is more commonly relevant.

### What if my spouse's income is above \$241,000?

The formula is mandatory only up to the cap. Above it, the court decides whether to award more based on the statutory factors, so outcomes vary widely. Try our free maintenance calculator for an estimate.

### Can we agree on our own number?

Yes. Spouses can settle maintenance by agreement, including opting out of the formula, provided the agreement meets statutory requirements and is properly executed.

## Ready to speak with an attorney?

Call **(716) 759-4529** for a free, confidential consultation, or book online at [www.weinrieblaw.com/contact-us.html](http://www.weinrieblaw.com/contact-us.html)

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