

To: Robertson + Easterling Clients and Potential Clients  
From: M. Craig Robertson, Esq. and Matthew S. Easterling, Esq.  
Re: How to Complete the 8.05 Financial Declaration

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In Mississippi, every party to a domestic relations case where there are economic issues must provide a detailed statement of their assets, liabilities and income called an “8.05” after its Uniform Chancery Court Rule number. I recommend that you read the rule where you can also find the forms. [http://courts.ms.gov/rules/msrulesofcourt/uniform\\_chancery\\_rules.pdf](http://courts.ms.gov/rules/msrulesofcourt/uniform_chancery_rules.pdf) The long form is not being commonly used at this time, so I will spend time talking about each section of the short form which we have been using my entire career with little change. The key to properly completing the 8.05 is to be consistent and to use historical data wherever possible. In our office, we prefer for our clients to neatly complete the 8.05 by hand so that we can use their handwritten notations to put the document in our system for later review by one of our attorneys and you, before being edited and finalized. Not only is the 8.05 relevant for your current legal dispute, it will also be used as the baseline for future financial modifications, so spend as much time as it takes to make it as accurate as possible.

#### **General Information**

The general information section is relatively straightforward. You should use your current address. I would recommend that you only provide the last four digits of your social security number. While you will rarely see 8.05s filed these days, they are always put into evidence and they become a part of the record in your case. Also, while the statement only asks for the name of your “Minor Children”, I would recommend that you include the names of all of your children from all relationships if you provide financial support for them in any way.

#### **Income Statement**

The income statement creates a great deal of confusion for some people. If you have one job and you are given a W-2 at the end of the year, you can usually ascertain most of the information from the year-to-date portion of your most recent paycheck stub and by doing a little division. You should report your income only. If you are a stay home parent and you are not receiving an income, simply report your income as zero. If you are self-employed and/or your income varies greatly from month to month, you may need to use your last several years’ tax returns to create an average. A good snapshot of one’s income can be ascertained using the social security earnings statement periodically mailed to participants and available online. <http://www.socialsecurity.gov/mystatement/> This will usually not assist a person in completing the Income Statement on the 8.05, but it can certainly be used to show a snapshot of income over a long period of time –which is often useful to show income trends.

People often confuse the “Itemized Monthly Deductions” on the 8.05 as to how child support is computed. Essentially, the person obligated to pay child support can deduct the actual federal, state and local taxes, social security contributions and mandatory retirement and disability contributions. Usually, only government employees have mandatory retirement and disability contributions. The purpose of the Income Statement and calculation of New Monthly Pay on the 8.05 is to determine cash flow, not to calculate child support. If your income situation is overly complex, we may employ an accountant to help us with the Income Statement, but for most people this is not necessary. It is important to accurately report income. Your integrity is worth more than the little bit of money you may possibly save or gain by falsifying your 8.05.

### **Expense Statement**

Probably the most important section of the 8.05 is the Expense Statement. The expense statement is where you report to the Court what you spend or what you need each month. While we want to report these expenditures accurately, most people will eventually have to adjust their budget if they are setting up or maintaining a separate household, although when completing the 8.05 is not the time to adjust one's budget. If expenses are more than your income, it is okay for now, although lifestyle changes are common after a family law dispute.

It is important for you to be able to reasonably substantiate an expenditure based on historical billing statements, bank statements, check registries or other means. With that said, for example, if your electricity bill usually runs around \$175 and you live in a 2500 square foot house, most reasonable people will not question the expenditure and it is okay to make an estimate. However, if your cellular telephone bill runs \$700 per month, you will need to be prepared to prove the expenditure with billing statements from your service provider with reasonable explanation for the extraordinary expense.

Many people are confused by the multiple columns on the 8.05 which are labeled "Self" and "Children." Remember, consistency and provability is the key to completing one's 8.05. In the new form, much of this was clarified with "Pre-Separation" and "Current" columns and by breaking out the monthly expenses for children in a more detailed fashion. If the new form is easier for you to complete than the old form, we can certainly use it. The columns labeled "As of \_\_\_\_\_" can be used to show the changes in "Pre-Separation" and "Current" expenses or in some cases, "Current" versus "Expected Future" expenses. In many cases, we only use one column and simply put the current date in the blank at the top.

In my opinion, when using the old form, it may be best to omit the column for "Children." However, in some instances it may make sense to use the column to highlight for the Chancellor or the other party why we may be requesting a deviation from the child support guidelines. We will need to use a consistent percentage for any fixed items that may vary based on the presence or absence of children, such as the expenditure for the mortgage, taxes, utilities, cable television, lawn and related items one would be consuming whether or not they have kids.

Finally, if you are married and the 8.05 is being completed as it relates to a dispute concerning a former marriage or relationship, it may be necessary to remove certain expenditures which exist because of your current marriage that are no direct benefit or responsibility for you. Your spouse's automobile is a good example of one such expenditure. Obviously, there will be items you and your new spouse share, and it is okay to list these things on your 8.05, possibly including a footnote that this expense is being shared. Again, consistency is the key to completing the 8.05.

The worksheet below will assist you in completing the Expense Statement section. All expenses must be stated on a monthly basis. If an expense is paid annually (i.e. property taxes), simply divide by 12. If an expense is paid weekly (i.e. child care) multiply by 4.3 to calculate the monthly average.

**Rent and/or Mortgage Payments** (residence – including vacation home)

Primary Residence  
1<sup>st</sup> mortgage payment (balance \$ \_\_\_\_\_) ..... \_\_\_\_\_  
2<sup>nd</sup> mortgage payment (balance \$ \_\_\_\_\_) ..... \_\_\_\_\_  
Vacation Home  
1<sup>st</sup> mortgage payment (balance \$ \_\_\_\_\_) ..... \_\_\_\_\_  
2<sup>nd</sup> mortgage payment (balance \$ \_\_\_\_\_) ..... \_\_\_\_\_  
**TOTAL..... (to line 1) \$ \_\_\_\_\_**

**Real Property Taxes** (residence; primary and secondary) (If separate)

Primary Residence  
City real estate taxes..... \_\_\_\_\_  
County real estate taxes ..... \_\_\_\_\_  
Other real estate taxes ..... \_\_\_\_\_  
Vacation Home  
City real estate taxes..... \_\_\_\_\_  
County real estate taxes ..... \_\_\_\_\_  
Other real estate taxes ..... \_\_\_\_\_  
**TOTAL..... (to line 2) \$ \_\_\_\_\_**

**Real Property Insurance** (residence; primary and secondary) (If separate)

Primary Residence  
Homeowner's insurance ..... \_\_\_\_\_  
Renter's insurance ..... \_\_\_\_\_  
Flood, earthquake and other insurance ..... \_\_\_\_\_  
Vacation Home  
Homeowner's insurance ..... \_\_\_\_\_  
Renter's insurance ..... \_\_\_\_\_  
Flood, earthquake and other insurance ..... \_\_\_\_\_  
**TOTAL..... (to line 3) \$ \_\_\_\_\_**

**Maintenance** (residence; primary and secondary)

Primary Residence  
Ordinary maintenance, upkeep & repairs ..... \_\_\_\_\_  
Major repairs ..... \_\_\_\_\_  
Appliance repair & replacement..... \_\_\_\_\_  
Furnishings & fixtures, repair & replacement (including small ..... \_\_\_\_\_  
    appliances, cooking utensils, broken dishes/glasses)  
Pool Maintenance..... \_\_\_\_\_  
Window Cleaning..... \_\_\_\_\_  
Decorating..... \_\_\_\_\_  
Furniture ..... \_\_\_\_\_

Fresh flowers/houseplants & care ..... \_\_\_\_\_  
Security ..... \_\_\_\_\_  
Contracts for servicing ..... \_\_\_\_\_  
Hardware store items (small tools, repair items, etc.) ..... \_\_\_\_\_  
Vacation Home  
Ordinary maintenance, upkeep & repairs ..... \_\_\_\_\_  
Major repairs ..... \_\_\_\_\_  
Appliance repair & replacement..... \_\_\_\_\_  
Furnishings & fixtures, repair & replacement (including small ..... \_\_\_\_\_  
    appliances, cooking utensils, broken dishes/glasses)  
Pool Maintenance..... \_\_\_\_\_  
Window Cleaning..... \_\_\_\_\_  
Decorating..... \_\_\_\_\_  
Furniture ..... \_\_\_\_\_  
Fresh flowers/houseplants & care..... \_\_\_\_\_  
Security ..... \_\_\_\_\_  
Contracts for servicing ..... \_\_\_\_\_  
Hardware store items (small tools, repair items, etc.) ..... \_\_\_\_\_  
**TOTAL..... (to line 4) \$ \_\_\_\_\_**

**Food and Household Supplies**

Food products ..... \_\_\_\_\_  
Beverages..... \_\_\_\_\_  
Paper goods ..... \_\_\_\_\_  
Household & cleaning supplies (not including "laundry & cleaning" category) ..... \_\_\_\_\_  
**TOTAL..... (to line 5) \$ \_\_\_\_\_**

**Utilities & Telephone**

Water and sewer (including tap charge if applicable)  
Primary residence ..... \_\_\_\_\_  
Secondary residence ..... \_\_\_\_\_  
**TOTAL..... (to line 6) \$ \_\_\_\_\_**

Electricity  
Primary residence ..... \_\_\_\_\_  
Secondary residence ..... \_\_\_\_\_  
**TOTAL..... (to line 7) \$ \_\_\_\_\_**

Gas  
Primary residence ..... \_\_\_\_\_  
Secondary residence ..... \_\_\_\_\_  
**TOTAL..... (to line 8) \$ \_\_\_\_\_**

Telephone

Cellular telephone..... \_\_\_\_\_  
Primary residence (basic service including long distance charges) ..... \_\_\_\_\_  
Secondary residence (basic service including long distance charges)..... \_\_\_\_\_

**TOTAL..... (to line 9) \$ \_\_\_\_\_**

Cable television

Primary residence ..... \_\_\_\_\_  
Secondary residence ..... \_\_\_\_\_

**TOTAL..... (to line 9a) \$ \_\_\_\_\_**

**Laundry and Cleaning**

Laundry supplies (not included in "Food & Household Supplies") ..... \_\_\_\_\_  
Dry cleaning (include clothing, draperies, winter coats, fur storage)..... \_\_\_\_\_  
Uniform service..... \_\_\_\_\_

**TOTAL..... (to line 10) \$ \_\_\_\_\_**

**Clothing**

(Determine average monthly expenses whether or not paid for by cash, credit or credit card, being sure to include Christmas and back to school)

Yourself ..... \_\_\_\_\_  
Children..... \_\_\_\_\_

**TOTAL..... (to line 11) \$ \_\_\_\_\_**

**Insurance** (not including real estate and auto insurance)

Life..... \_\_\_\_\_  
Health/hospitalization (portion attributable to children is \$ \_\_\_\_\_) ..... \_\_\_\_\_  
Dental..... \_\_\_\_\_  
Accident ..... \_\_\_\_\_  
Disability..... \_\_\_\_\_  
Other ..... \_\_\_\_\_

**TOTAL..... (to line 12) \$ \_\_\_\_\_**

**Medical** (not paid by insurance)

Co-pays..... \_\_\_\_\_  
Prescription drugs..... \_\_\_\_\_  
Vitamins/nonprescription drugs ..... \_\_\_\_\_  
Outstanding Dr. bills requiring monthly payments (divide balance by 12) ..... \_\_\_\_\_  
Anticipated Dr. bills..... \_\_\_\_\_  
Corrective lenses/contacts ..... \_\_\_\_\_  
Counseling, psychologist, psychiatrist, etc ..... \_\_\_\_\_

**TOTAL..... (to line 13) \$ \_\_\_\_\_**

**Dental** (not paid by insurance)

Regular office visits and cleaning (not covered by insurance) ..... \_\_\_\_\_  
Anticipated extensive dental work ..... \_\_\_\_\_  
Orthodontics ..... \_\_\_\_\_  
Other (specify) \_\_\_\_\_ ..... \_\_\_\_\_  
**TOTAL**..... (to line 14) \$ \_\_\_\_\_

**Child care** (not provided by employer)

Babysitting ..... \_\_\_\_\_  
In-home care ..... \_\_\_\_\_  
Daycare ..... \_\_\_\_\_  
After school care ..... \_\_\_\_\_  
Diaper service ..... \_\_\_\_\_  
**TOTAL**..... (to line 15) \$ \_\_\_\_\_

**Children's Allowance**..... (to line 16) \$ \_\_\_\_\_

**Payment of Child Support and/or Spousal Support**

This marriage: Child support..... \_\_\_\_\_  
Spousal support ..... \_\_\_\_\_  
Prior marriage: Child support..... \_\_\_\_\_  
Spousal support ..... \_\_\_\_\_  
**TOTAL**..... (to line 17) \$ \_\_\_\_\_

**School expenses**

Kindergarten fees..... \_\_\_\_\_  
Private school tuition ..... \_\_\_\_\_  
Building fund fees ..... \_\_\_\_\_  
Other school fees ..... \_\_\_\_\_  
Books and supplies..... \_\_\_\_\_  
School lunches ..... \_\_\_\_\_  
School bus ..... \_\_\_\_\_  
School insurance ..... \_\_\_\_\_  
Uniforms ..... \_\_\_\_\_  
School activities (field trips, band, sports, gifts for children and teachers,  
photographs, annual, locker rentals, etc.)..... \_\_\_\_\_  
Summer camps ..... \_\_\_\_\_  
College expenses..... \_\_\_\_\_  
    Tuition ..... \_\_\_\_\_  
    Allowance..... \_\_\_\_\_  
    Room and board ..... \_\_\_\_\_

Travel to and from college..... \_\_\_\_\_  
Books..... \_\_\_\_\_  
Registration fees ..... \_\_\_\_\_  
Apartment expense ..... \_\_\_\_\_  
Other (specify) \_\_\_\_\_..... \_\_\_\_\_

**TOTAL (divide by 12 for monthly amount) ..... (to line 18) \$ \_\_\_\_\_**

**Entertainment**

Vacations and trips (including hotel and travel accommodations) ..... \_\_\_\_\_  
Unreimbursed business entertainment..... \_\_\_\_\_  
Social obligations/recreation (including clubs/fraternal organizations) ..... \_\_\_\_\_  
Dinner parties ..... \_\_\_\_\_  
Meals out of home..... \_\_\_\_\_  
Movies/plays/cultural and sports events ..... \_\_\_\_\_  
Hobbies/sports..... \_\_\_\_\_  
Boats, trailers and other recreational vehicles..... \_\_\_\_\_  
Personal property taxes on boats and other vehicles ..... \_\_\_\_\_

**TOTAL..... (to line 19) \$ \_\_\_\_\_**

**Incidentals**

Beauty/barber..... \_\_\_\_\_  
Cosmetics ..... \_\_\_\_\_  
Cigarettes ..... \_\_\_\_\_  
Stationary..... \_\_\_\_\_  
Film and camera supplies ..... \_\_\_\_\_  
Jewelry ..... \_\_\_\_\_  
Gifts (birthday, graduation, wedding, baby, etc.)..... \_\_\_\_\_  
Bank service fees and check charges ..... \_\_\_\_\_  
Safety deposit box rent..... \_\_\_\_\_  
Post Office Box rental ..... \_\_\_\_\_  
Accounting fees & tax return preparation..... \_\_\_\_\_  
Other (specify) \_\_\_\_\_..... \_\_\_\_\_

**TOTAL..... (to line 20) \$ \_\_\_\_\_**

**Transportation other than vehicle**

Parking & tolls..... \_\_\_\_\_  
Public transportation ..... \_\_\_\_\_  
Auto club dues ..... \_\_\_\_\_  
Other (specify) \_\_\_\_\_..... \_\_\_\_\_

**TOTAL..... (to line 21) \$ \_\_\_\_\_**

**Auto gasoline & oil** ..... (to line 22) \$ \_\_\_\_\_

**Auto repairs, tuning, tire replacement, & other maintenance** ..... (to line 23) \$ \_\_\_\_\_

**Auto insurance** ..... (to line 24) \$ \_\_\_\_\_

**Auto registration & inspection (car tag & inspection fees)** ..... (to line 25) \$ \_\_\_\_\_

**Auto payments**

<u>Owed To</u>	<u>Balance</u>	<u>Monthly Payment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**TOTAL**..... (to line 26) \$ \_\_\_\_\_

**Church and Charitable Donations** ..... (to line 27) \$ \_\_\_\_\_

**Subscriptions**

Magazines ..... \_\_\_\_\_  
Newspaper ..... \_\_\_\_\_

**TOTAL**..... (to line 28) \$ \_\_\_\_\_

**Pet Expenses**

Pet food..... \_\_\_\_\_  
Grooming ..... \_\_\_\_\_  
Shots ..... \_\_\_\_\_  
Checkups ..... \_\_\_\_\_  
Other (specify) \_\_\_\_\_ .....

**TOTAL**..... (to line 29) \$ \_\_\_\_\_

**Yard Expenses**

Yard service..... \_\_\_\_\_  
Fuel/oil for law equipment ..... \_\_\_\_\_  
Fertilizers..... \_\_\_\_\_  
Plants/shrubs ..... \_\_\_\_\_  
Other (specify) \_\_\_\_\_ .....

**TOTAL**..... (to line 30) \$ \_\_\_\_\_

**Maid Service**..... (to line 31) \$ \_\_\_\_\_

**Retirement Contributions (other than withheld from paycheck)**..... (to line 32) \$ \_\_\_\_\_

**Pest Control..... (to line 33) \$ \_\_\_\_\_**

**\*\*Please make sure that all amounts are MONTHLY amounts.\*\***

### **Statement of Assets**

The Statement of Assets is critical in divorce cases, but it is not as important in post-divorce modification cases and other situations wherein the Court will not be making a division of assets. If the Court will not be making a division of assets and the item does not represent a relevant expense or an income source, it may be okay to simply list a description of the item and write the phrase “Not at Issue” where details are requested. If you do not know what an asset is worth, it is not a good idea to speculate. You can make an educated guess as to the value of an asset if you have a reasonable basis to support your estimation, but if you do not know, simply put “Unknown.” A reasonable estimation can be based upon a current appraisal or on the purchase price if the item was recently purchased. For motor vehicles, values can easily be obtained online at <http://www.kbb.com/> or <http://www.edmunds.com/> or <http://www.nadaguides.com/>. Be consistent when describing the condition of the vehicles and print the final results. Expensive lawn equipment, golf carts, ATVs, boats, jet skis and other big ticket items can be listed under “Other Personal Property.” In a divorce case, the value of an asset is the “fair market value” –what a reasonable price would be if both buyer and seller were fully informed and neither was under pressure to buy or sell. It is important to list all assets, whether or not you believe the item is marital property. Outstanding balances for real estate, motor vehicles and other financed items should be taken from the most recent account statements, if available. If recent account statements are not available, put “Unknown” before you make an uneducated guess.

I recommend listing household items on a separate sheet of paper and including the phrase “List to Be Provided” under personal property on the 8.05. While artwork, antiques, jewelry and certain items of personal property do hold their value or appreciate, most regular household items do not. It is a mistake to list items of household goods and write the purchase price. Often times, simply making an inventory of items of personal property will suffice. If your personal property is so valuable that we will need a more precise valuation, we can retain a professional to complete it for us.

For checking and savings accounts, use your most recent statement to determine balances. We obviously want to know about all accounts, but for the purposes of your 8.05, only list those that are at least jointly in your name. For accounts that are used for household expenditures or have balances that greatly vary throughout the month, put “Varies” where the form asks for the account balance. For investment accounts, use the most recent statement available, because market prices can change from day to day. If your account is extremely volatile, you may want to access your account online to get the most precise balance available. There is also a space to list details about life insurance. The face amount means the payment upon death and the “cash value” means the amount one could cash out –these are not the same thing.

Finally, use the “All Other Assets” to list other valuable assets that are not listed in other places, such as business interests, cash on hand and other items not specifically requested in the old 8.05 form. Again, if you do not have a good way to estimate the value of an asset, it is best to simply state “Unknown.”

### **Liabilities**

The liabilities section of the 8.05 has some redundant information because you list monthly payments on this section of the 8.05 as well as under the Expense Statement. It is important to use your account statements to list the current balance due.

**Acknowledgement of Truthfulness and Final Thoughts**

The Acknowledgement of Truthfulness is where you are executing your 8.05 declaring that it is true and correct. There is no reason to sign your draft 8.05. You will be presented with a final copy of the document after it has been reviewed by one of our attorneys and edited. When we do provide the document to the opposing party or counsel, an attorney in our office will execute the Certificate of Compliance which is located on the following page. We will also need to report your employment history and a copy of your most recent Federal and State Tax Returns in full form as filed for the most recent tax year to which you have a statement.

We are hopeful that this Memorandum will be a good starting point as you are working through the process of completing your 8.05. If you have any questions about this or any other aspect of your case, please contact someone from our office and we will get you back on the right track.