

Past Income Loss, Net of Income Taxes and/or Employment Insurance Premiums

The Court's valuation of past "gross" income loss for a plaintiff must be reduced for provincial and federal income taxes. If the plaintiff is an employee, the past income loss must also be reduced for his or her portion of Employment Insurance (EI) premiums. These deductions may be made using the "year-by-year" approach applied in *Lines v. W & D Logging Co. Ltd* (2009 BCCA 106) or *Laxdal v. Robbins* (2010 BCCA 565).

Under the "year-by-year" approach suggested in *Lines*, the gross "without accident" and "with accident" incomes in a particular calendar year are reduced for income taxes and/or EI premiums based on legislation in effect at the end of the previous calendar year. According to the *Laxdal* decision, the gross "without accident" income in a particular calendar year is reduced using legislation in effect at the end of the preceding calendar year, while deductions from the gross "with accident" income in a particular calendar year are based on legislation effective in that calendar year.

After applying deductions for income taxes and/or EI premiums as suggested by either the *Lines* or *Laxdal* approach, the estimates of "without accident" and "with accident" incomes are then compared to determine the past "net" income loss in that year. This process is repeated for each past calendar year and the resulting annual losses are summed to obtain the total past net income loss.

The four tables which follow provide estimates of percentage deductions for income taxes and/or the employee's portion of EI premiums for the years 2008 to 2016. The deductions in these tables take into account provincial and federal non-refundable income tax credits, as well as the basic personal exemption. They do not take into account possible tax deductions, such as registered pension plan contributions, RRSP contributions, and union dues. As such, the percentages in these tables could overestimate the total tax and/or EI deductions for some individuals.

Tables A and **B** provide calendar year estimates of percentage deductions for income taxes and the employee's portion of EI premiums. **Tables C** and **D** provide calendar year estimates of percentage deductions for income taxes only.

Tables A and **C** show deductions which apply to two-person households, where only the plaintiff earns income. **Tables B** and **D** show deductions which apply to a single plaintiff, or to a plaintiff who has a partner with an annual income of about \$11,000 or more.

Table A**Two-Person Households, Where “Employee” Plaintiff Is The Only Income Earner**

YEAR	GROSS INCOME (in thousands)															
	\$10 or less	\$15	\$20	\$25	\$30	\$35	\$40	\$45	\$50	\$55	\$60	\$70	\$80	\$90	\$100	\$150
2008	1.7%	1.7%	1.7%	4.5%	7.6%	9.4%	11.5%	13.4%	15.1%	16.4%	17.5%	19.2%	21.1%	23.0%	24.6%	30.5%
2009	1.7%	1.7%	1.7%	3.5%	6.8%	8.7%	10.5%	12.5%	14.2%	15.6%	16.8%	18.6%	20.3%	22.2%	23.8%	29.9%
2010	1.7%	1.7%	1.7%	2.7%	6.2%	8.2%	10.0%	12.0%	13.8%	15.2%	16.4%	18.3%	20.2%	21.9%	23.6%	29.7%
2011	1.8%	1.8%	1.8%	2.6%	6.0%	8.1%	9.9%	11.9%	13.6%	15.1%	16.3%	18.2%	19.9%	21.8%	23.4%	29.6%
2012	1.8%	1.8%	1.8%	2.3%	5.6%	7.8%	9.6%	11.5%	13.2%	14.7%	16.0%	17.9%	19.6%	21.3%	23.0%	29.2%
2013	1.9%	1.9%	1.9%	2.2%	5.8%	8.0%	9.7%	11.4%	13.2%	14.7%	16.0%	17.9%	19.6%	21.2%	22.9%	29.1%
2014	1.9%	1.9%	1.9%	2.2%	5.8%	8.0%	9.7%	11.4%	13.2%	14.7%	15.9%	17.9%	19.5%	21.1%	22.9%	29.0%
2015	1.9%	1.9%	1.9%	2.0%	5.5%	7.8%	9.5%	11.1%	13.0%	14.5%	15.7%	17.7%	19.4%	20.9%	22.7%	28.8%
2016	1.9%	1.6%	1.6%	1.7%	5.3%	7.6%	9.4%	10.9%	12.7%	14.0%	15.2%	17.1%	18.6%	20.0%	21.8%	28.2%

Table B**Single “Employee” Plaintiff,
or “Employee” Plaintiff with Partner Earning About \$11,000 Or More Per Year**

YEAR	GROSS INCOME (in thousands)															
	\$10 or less	\$15	\$20	\$25	\$30	\$35	\$40	\$45	\$50	\$55	\$60	\$70	\$80	\$90	\$100	\$150
2008	1.7%	5.3%	8.9%	11.9%	13.7%	14.7%	16.1%	17.5%	18.7%	19.7%	20.6%	21.9%	23.4%	25.1%	26.4%	31.7%
2009	1.7%	4.5%	8.2%	11.3%	13.3%	14.3%	15.4%	16.8%	18.1%	19.1%	20.0%	21.4%	22.7%	24.4%	25.8%	31.2%
2010	1.7%	4.5%	7.7%	10.9%	13.0%	14.1%	15.1%	16.6%	17.9%	18.9%	19.8%	21.2%	22.6%	24.2%	25.6%	31.1%
2011	1.8%	4.4%	7.6%	10.8%	12.9%	14.0%	15.1%	16.5%	17.7%	18.8%	19.7%	21.2%	22.5%	24.1%	25.5%	31.0%
2012	1.8%	4.1%	7.2%	10.5%	12.7%	13.9%	14.9%	16.2%	17.5%	18.6%	19.5%	21.0%	22.3%	23.7%	25.2%	30.6%
2013	1.9%	3.9%	7.3%	10.6%	12.8%	14.0%	15.0%	16.1%	17.4%	18.5%	19.5%	20.9%	22.2%	23.5%	25.0%	30.5%
2014	1.9%	3.8%	7.3%	10.6%	12.8%	14.0%	15.0%	16.0%	17.4%	18.5%	19.4%	20.9%	22.2%	23.5%	25.0%	30.4%
2015	1.9%	3.6%	6.9%	10.3%	12.6%	13.9%	14.9%	15.8%	17.3%	18.3%	19.3%	20.8%	22.0%	23.3%	24.8%	30.2%
2016	1.9%	3.4%	6.7%	10.2%	12.5%	13.8%	14.8%	15.7%	17.0%	17.9%	18.8%	20.1%	21.3%	22.4%	23.9%	29.6%

Table C**Two-Person Households, Where “Self-Employed” Plaintiff is Only Income Earner**

YEAR	GROSS INCOME (in thousands)															
	\$10 or less	\$15	\$20	\$25	\$30	\$35	\$40	\$45	\$50	\$55	\$60	\$70	\$80	\$90	\$100	\$150
2008	0.0%	0.0%	0.0%	2.8%	5.8%	7.6%	9.2%	11.2%	13.0%	14.5%	15.8%	17.8%	19.7%	21.7%	23.4%	29.6%
2009	0.0%	0.0%	0.0%	1.7%	5.0%	6.9%	8.5%	10.2%	12.1%	13.7%	15.0%	17.1%	18.9%	20.8%	22.6%	29.0%
2010	0.0%	0.0%	0.0%	1.3%	4.3%	6.4%	8.0%	9.7%	11.6%	13.2%	14.6%	16.8%	18.6%	20.5%	22.3%	28.8%
2011	0.0%	0.0%	0.0%	1.1%	4.1%	6.2%	7.9%	9.5%	11.3%	13.0%	14.4%	16.6%	18.4%	20.3%	22.1%	28.6%
2012	0.0%	0.0%	0.0%	0.7%	3.7%	5.9%	7.5%	9.0%	10.8%	12.5%	14.0%	16.2%	18.0%	19.8%	21.6%	28.2%
2013	0.0%	0.0%	0.0%	0.5%	3.8%	6.0%	7.6%	9.0%	10.8%	12.4%	13.9%	16.1%	17.9%	19.6%	21.5%	28.0%
2014	0.0%	0.0%	0.0%	0.4%	3.8%	6.1%	7.6%	9.1%	10.7%	12.3%	13.8%	16.1%	17.9%	19.5%	21.4%	27.9%
2015	0.0%	0.0%	0.0%	0.1%	3.6%	5.9%	7.4%	8.9%	10.5%	12.1%	13.5%	15.9%	17.6%	19.3%	21.1%	27.7%
2016	0.0%	0.0%	0.0%	0.0%	3.3%	5.7%	7.3%	8.8%	10.2%	11.6%	13.0%	15.2%	16.8%	18.4%	20.2%	27.0%

Table D

**Single “Self-Employed” Plaintiff,
or “Self-Employed” Plaintiff with Partner Earning About \$11,000 Or More Per Year**

YEAR	GROSS INCOME (in thousands)															
	\$10 or less	\$15	\$20	\$25	\$30	\$35	\$40	\$45	\$50	\$55	\$60	\$70	\$80	\$90	\$100	\$150
2008	0.0%	4.3%	7.3%	10.1%	11.9%	12.8%	13.7%	15.3%	16.7%	17.9%	18.9%	20.4%	22.0%	23.7%	25.2%	30.9%
2009	0.0%	3.5%	6.7%	9.6%	11.5%	12.5%	13.4%	14.5%	16.0%	17.2%	18.2%	19.9%	21.3%	23.0%	24.5%	30.3%
2010	0.0%	3.5%	6.2%	9.2%	11.2%	12.2%	13.1%	14.3%	15.7%	17.0%	18.0%	19.7%	21.2%	22.8%	24.3%	30.2%
2011	0.0%	3.3%	6.0%	9.0%	11.1%	12.2%	13.0%	14.1%	15.5%	16.8%	17.9%	19.5%	21.0%	22.6%	24.2%	30.0%
2012	0.0%	3.0%	5.7%	8.7%	10.8%	12.0%	12.8%	13.7%	15.1%	16.4%	17.5%	19.3%	20.7%	22.2%	23.8%	29.6%
2013	0.0%	2.8%	5.7%	8.8%	10.8%	12.1%	12.8%	13.7%	15.0%	16.3%	17.4%	19.1%	20.6%	21.9%	23.6%	29.4%
2014	0.0%	2.7%	5.7%	8.8%	10.8%	12.1%	12.9%	13.7%	14.9%	16.2%	17.3%	19.1%	20.5%	21.8%	23.5%	29.3%
2015	0.0%	2.5%	5.3%	8.5%	10.7%	12.0%	12.8%	13.6%	14.7%	15.9%	17.1%	18.9%	20.3%	21.7%	23.3%	29.1%
2016	0.0%	2.4%	5.2%	8.3%	10.5%	11.9%	12.7%	13.6%	14.5%	15.6%	16.6%	18.3%	19.5%	20.8%	22.4%	28.5%

The following **sample calculation** illustrates how the deductions in Tables A, B, C, or D could be used to approximate the plaintiff’s past income loss, net of income taxes and/or his or her portion of EI premiums.

Assume that the plaintiff is single and self-employed. Further assume that it is decided that gross “without accident” income is \$30,000 in 2013 and gross “with accident” income is \$15,000 in 2013. Using the *Laxdal* approach, if the percentage for 2012 from **Table D** is applied to the “without accident” income, and the percentage for 2013 is applied to the “with accident” income, the past net income loss in 2013 is estimated as:

$$\begin{aligned}
 & \$30,000 \times (1 - 0.108) - \$15,000 \times (1 - 0.028) \\
 & = \quad \$26,760 - \$14,580 \\
 & = \quad \$12,180.
 \end{aligned}$$

As noted earlier, these calculations can be repeated for each past year, and then the losses in each year can be added together to determine the plaintiff’s total past net income loss. In this particular example, if the plaintiff had no “with accident” income in 2013, the past net income loss would be \$26,760.