

# news + views

## DM Forms Cloud Now Entering “Beta”

The wait is nearly over! This fall we will be releasing a “Beta” version of our new DM Forms Cloud software for Ontario and BC. The new DM Forms Cloud software resembles the forms program in our desktop version and will give you the ability to create all your day to day court forms, financial statements, net family property statements, as well as mediation friendly forms, quickly and efficiently. You’ll now be able to create and then access your forms and tools calculations anytime, from any location and on any device! It will join DM Tools Cloud as the second product of our DM Cloud product line.

An exciting new feature of our DM Cloud platform is the creation of a centralized lawyer database with all of the pertinent contact information pre-populated for you. In other words, we will be providing and maintaining a central list of lawyers that all users will be pulling from.

To assist us in ensuring that the database is comprehensive and accurate, **log in to your DM Cloud account to ensure that your firm information, including the list of all family lawyers in your firm, is accurate and up-to-date.**

DM Cloud is where you go to access your DM Cloud software and also where you will now go to manage your DivorceMate account including updating contact information, ordering software and more! Check it out. You will need your email address and password to log in. If you haven’t yet accessed your DM Cloud account, it’s simple – click [here](#) and use your email address and Account Number (found under “setup” in desktop software) to set it up.

## What does Beta mean?

The purpose of the Beta version is to have the software subjected to real world application by the intended audience before official release. The goal is to find any hidden issues or bugs that were not caught during the vigorous testing done by us. You may experience some minor issues, but you shouldn’t come across anything critical. Any issues that are detected are to be reported to us for fixing before we release the software commercially.

## Who can use it?

It will be available to all current Pay Per Use / Annual Subscribers in Ontario and BC that hold a valid licence of our Forms One program. And the best part of our Beta version is that there is no additional costs to use it! You’ll be able to log into your account and start creating matters! (Note that there is no conversion between the desktop and DM Cloud version, so forms created in one platform will not be available in the other.)

## I want DM Forms Beta version when available please!

If you are interested in giving DM Forms Cloud Beta a test drive or have any questions about DM Cloud, please call or email Kohji, our new DM Cloud Product manager at tel: [416-718-3461 x420](tel:416-718-3461) or email: [knagata@divorcemate.com](mailto:knagata@divorcemate.com).

A big thank you to all of you who have participated in many focus groups. Your input and feedback has been invaluable.

Next up... *DM Precedents Cloud...* which will round out our development and bring our DM Cloud product line on par with our desktop software. Stay tuned for more info.

## WE’RE CELEBRATING 30 YEARS!

This November marks the 30th anniversary of DivorceMate Software! For the past 30 years, we have had the privilege of providing essential tools for the family law profession in Canada. We would like to thank all of our current and former clients for your support and for putting your trust in our company and services. DivorceMate would not have reached this milestone without you!

To thank our clients, and have a bit of fun celebrating our anniversary, we will be launching **30 DAYS OF GIVEAWAYS this November**. Yes, that’s right – **30 DAYS of FREE STUFF!** And, the best part is, our clients do not have to do a thing! For every day in November, we will be drawing one name per day from our client database. Prizes are to be determined over the coming months and additional contest rules will be shared in the Fall.

We will also be publishing a series of articles on [AdvocateDaily.com](http://AdvocateDaily.com) that reflect on our last 30 years. Our first article highlights our early start-up years and has already been published. Click [here](#) to give it a read!

Watch out for more information regarding this contest in our Fall/Winter newsletter and be sure to check our website and/or read emails that you receive from us so that you can learn more about our upcoming events and contests!

## Beware of New Tax Court Ruling

The allocation of the “eligible dependant credit” (formerly, the equivalent-to-spouse credit) in a shared parenting arrangement has recently come under intense discussion and scrutiny as a result of a recent decision of the Tax Court of Canada, *Harder v. R.*, 2016 TCC 197.

Until this decision, it was generally understood that in shared parenting, so long as any court order or written separation agreement provided that both parties were paying support, even if ultimately a “setoff” payment was made from one to the other for convenience, this would suffice to allow the parties to allocate the credit to the higher income parent. The basis for this understanding came from the Income Tax Act (“ITA”) and various guides and folios published by CRA.

It is against this backdrop that the Tax Court of Canada released its *Harder v. R.* decision, and threw the family law bar into a tizzy. In this case, the parties had two children and had resolved all issues arising out of their separation pursuant to a written consent that was filed with the court. Despite the fact that the consent outlined both parties’ child support obligations in a shared parenting arrangement, and specifically provided that each party would each claim one of the children as a dependant for the eligible dependant tax credit, the Tax Court disallowed the allocation of the credit because ultimately a single setoff payment was paid by the higher income parent to the other.

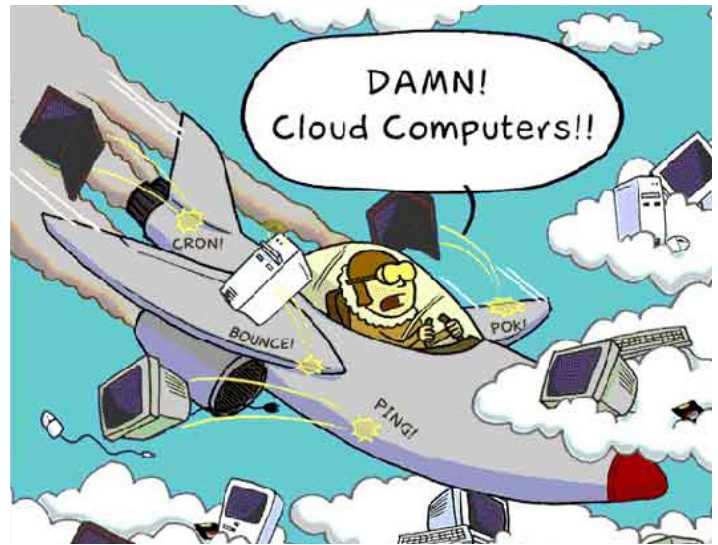
The court held that the “combined effect of subsections 118(5) and 118(5.1) [of the ITA], at a minimum, requires a comprehensive documentary and evidentiary record... Surely cheques, or even their more modern replacement of recurring e-transfers, may evidence a clearly enumerated, reciprocal and mandatory support amount paid by each spouse to the other” (par 11).

The unfortunate conclusion of this case is that it now appears necessary to not only provide that **both parties are paying support to one another** in any written court order or agreement, **but the parties must now actually do so, creating the necessary “documentary and evidentiary record”**. Aside from the unnecessarily cumbersome two-way exchange of money, this raises concerns where one parent pays his/her share, but the other parent does not. This leads to a particularly ridiculous result when the “deadbeat” parent is the higher income earner - not only would the lower income parent not get the support required, but he/she would be supplementing the deadbeat parent as well!

Unfortunately, until such time as the court or the legislators revisit this issue, this is the result with which we are left.

## Latest Federal Budget Taxes WIP

[The Federal Budget released March 22, 2017](#) (see “Billed-basis Accounting” section) proposes changes to the tax treatment of a professional’s Work in Progress (“WIP”). This change affects lawyers, and essentially provides that lawyers will now have to include work that has not yet been billed in their income for tax purposes (i.e. pay tax on income not yet billed/collected). This will be particularly difficult for lawyers who work on a set fee or contingency basis, and who often do not bill clients for several years. It will be important to ensure that any WIP you carry on your books will in fact be billed, and not written off or reduced. Contact your accountant to determine the effect of these changes on your own practice.



## New Pilot Project for Long Motions in Central East Ontario

Effective June 19, 2017, for all long family motions (1 hour or more) in the SCJ in the Central East Region, parties will be required to submit motions materials in paper, as required by the Rules, and electronically on a USB stick. This affects all SCJ locations in Barrie, Bracebridge, Cobourg, Lindsay, Newmarket, Oshawa and Peterborough. This excludes all child protection cases. Pursuant to Part VII of the Practice Direction Concerning Civil Proceedings in Central East Region, presumably the USB stick must include the factum, the Joint Compendium (or separate Compendium), and case brief in either Microsoft Word format (.doc or .docx) or text searchable PDF format. The USB key should be accompanied by a covering letter which identifies a list of the files contained on the USB key, along with the title of proceedings, Court File #, Counsel Name(s), where applicable, and Party Name. If possible, the key should be labelled with the short style of cause and the Court File #. Click [here](#) for more information.

## Did You Know, Excluded Property...

Excluded property must be included in your Form 13.1 (ON Financial Statement) **twice** – once as a date of separation asset in the applicable Part 4 category and then again as an excluded asset in Part 7. This way, the software knows to exclude the asset from the calculation of the Net Family Property. Some other things to keep in mind about excluded assets:

- **Excluded assets can be traced into other assets** and still qualify for the exclusion. For example, assume that an inheritance of \$100,000 received during the marriage is used to purchase a painting that is subsequently sold to purchase \$100,000 worth of stocks. In the Financial Statement, the stocks should be reflected in Part 4(c) with a date of separation value of \$100,000. In addition, the excluded amount of \$100,000 traceable from the original inheritance must also be reflected in Part 7 in order to properly calculate the NFP.

- The traceability of the original excluded asset must be **supported by the evidentiary record**. In the above example, if there was no documentation supporting the purchase of the painting from the inheritance, the party would lose the exclusion.

- Only the traceable amount of the **excluded asset existing at the date of separation** (whether or not the asset appreciates or depreciates) should be entered in Part 7. For instance, assume the \$100,000 inheritance is used to finance a \$25,000 vacation, a \$50,000 painting (that depreciates to \$25,000), and a \$25,000 car that is worth \$3,000 at the date of separation. In the Financial Statement, only the painting and the car should be reflected in Part 4(b), with separation date values of \$25,000 and \$3,000, respectively. Similarly, only \$28,000 should be reflected in Part 7 as the traceable amount of the exclusion.

- If an excluded asset is used to fund only part of an asset, it is *usually* the **pro rata share of the ultimate asset that is excluded** in Part 7. For example, if the \$100,000 inheritance funds one half of the purchase of a painting worth \$200,000 (that retains its value), then the painting should be reflected in Part 4(b) with a separation date value of \$200,000, and \$100,000 should be reflected in Part 7 as the traceable exclusion. If the painting appreciates and is worth \$300,000 at the date of separation, then this value is included in Part 4(b), and the traceable amount of the exclusion, namely \$150,000 (or one-half of the painting's value – i.e. the pro rata share) would likely be reflected in Part 7.

- Be aware that an asset will **lose its ability to be excluded if it is traceable into a matrimonial home**. So if the \$100,000 inheritance was used to purchase a matrimonial home, then the home's value on the date of separation must be reflected in Part 4(a), and there is no corresponding exclusion in Part 7.

## JULY 2017 UPDATES NOW AVAILABLE

The following Forms have been updated as per Ontario Regulation 226/17:

- Form 08B Application (child protection and status review)
- Form 08B.1 Application (Status Review for Crown Ward)
- Form 08B.2 Application (General) (Child and Family Services Act)
- Form 33C Statement of Agreed Facts (Child Protection)
- Form 33D Statement of Agreed Facts (Status Review)
- Form 33B.1 Answer and Plan of Care (Parties other than CAS)
- Form 33B.2 Answer (Child and Family Services Act)
- Form 34A Affidavit of Parentage
- Form 34F Parent's or Custodian's Consent to Adoption
- Form 34I Parent's Consent to Adoption by Spouse
- Form 35.1 Affidavit in Support of Claim for Custody or Access

*To update immediately, open DivorceMate, click "Setup", click "Software Updates" and follow instructions. (You will otherwise be prompted to update in the general course of using the software)*

## DivorceMate Sparkled at Camp Sparkle

On March 17th, DivorceMate's President Michael Perlman, and MSC's General Manager Faith Feldman, visited **Gilda's Club Greater Toronto's Camp Sparkle** - a March Break Camp for children living with or touched by cancer.

Michael and Faith, together with the children that attended the weeklong camp, participated in different activities including an art project, "pin-the-tail", and dress-up for "photo opps" and "selfies". The children also presented a handcrafted card thanking DivorceMate Software for their support. The pictures here show the fun and excitement we all shared!



The Camp Sparkle program continues to be a great success and we're happy to be able to contribute to making March Break a special one for those who attend.

For more information about **Gilda's Club Greater Toronto** and their programs, visit [www.gildasclubtoronto.org](http://www.gildasclubtoronto.org).



**Lunch On Us Contest**

Congratulations are owed to Theodore Nemetz from Toronto, Ontario! Theodore's entry into our *Fall/Winter 2016 news + views* won him a FREE lunch for two (worth \$150) at his favourite restaurant in the city. His winning caption for the image to the right was **"So far this marriage has not gotten off to a swimming start"**. Thank you to all of those who participated in the contest.



In light of our 30th anniversary, we would like to journey back in time and reflect on the early years at DivorceMate Software! The image below captures a few decades of



the technology of computers. For your chance to WIN a lunch for two, carefully study the image above and email your caption phrase to: **info@divorcemate.com** by **Thursday, August 31, 2017**. Your caption will be judged based on creativity and relativity. The selected winner will be notified by Friday, September 8, 2017.

Good luck!

*For contest rules and regulations, please contact us.*

**Incredible Advertising Opportunity on MSC**

We recently launched a new, more impactful way for you to advertise your services on [MySupportCalculator.ca](http://MySupportCalculator.ca). Available immediately, [MySupportCalculator.ca](http://MySupportCalculator.ca) is offering Banner advertising to all Family Law professionals across Canada. There are a number of options available including a top banner ad (the leaderboard), two big box ads on the right side, and one banner towards the bottom of the page. You can also choose to advertise within your own province, or if it's beneficial to your business, you can run a national ad. **SPECIAL OFFER:** For current DivorceMate users, we are offering a 15% discount off the list price on all banner ad spaces. This promotion will be available to any new sales until the end of July. Please contact Faith Feldman at [416-787-8515](tel:416-787-8515) or [ffeldman@mysupportcalculator.ca](mailto:ffeldman@mysupportcalculator.ca) to discuss pricing and other details. Click [here](#) to view the website and the new advertising space available.

**Sanity has been Restored!**

On May 5th, the Ontario Court of Appeal handed down their judgment on the much anticipated case, [Dagg v. Cameron Estate](#), 2017 ONCA 366, where the court confirmed the efficacy of life insurance "irrevocable beneficiary clauses" as security for child and spousal support. In restoring what the family law bar thought to be the law in the first place, the C.A. held that a former spouse irrevocably designated as a beneficiary of the deceased's life insurance policy, was a "creditor" under s.72 (7) of the SLRA and therefore entitled to retain the portion of the proceeds necessary to satisfy any support obligations owing to her. Interestingly, however, the clause was not a windfall to the former spouse, only security, and so the proceeds in excess of the prior support obligations, were "clawed back" into the estate to satisfy the dependents' relief claims by the deceased's subsequent spouse and child. Because the clause in the case was in a consent court order, the C.A. is being asked to clarify that this decision applies to clauses in agreements as well.

**PLEASE WELCOME OUR NEWEST TEAM MEMBER**

We are pleased to introduce to you our newest employee, Kohji Nagata. Kohji has accepted the position of *DM Cloud Product Manager* here at DivorceMate Software, and has joined us to help make the DM Cloud suite of products a success. We are thrilled to have him on our team!

Kohji always has his head in the clouds! He is an expert at both developing cloud-based software and the legal computing industry. Spending most of his professional career in the legal vertical, Kohji has 10 years experience in cloud-based legal practice management software.

When not working on legal software, Kohji spends his time in front of a microphone. He is the host of 3 podcasts as well as the director of a podcast network.

If you have any questions or comments about DM Cloud, Kohji will be happy to assist you. He can be reached by email at **knagata@divorcemate.com** or by telephone, **416.718.3461 ext: 420**.

