

HELP FOR COMPLETING QDRO PROS DATA SHEETS

Detailed information is required to accurately complete your QDRO. For that reason, QDRO Pros, Inc. encourages you to use the Help function whenever a question is not clear to you. Sometimes, the Help function will suggest what is “normally” done.

However, the inclusion of that information is for illustrative purposes only.

QDRO Pros, Inc. does not represent nor suggest that what is “normally” done applies to or is appropriate in your case. Any questions about the specifics of your case should be directed to your family law attorney.

Type of Employer:

Private Employer: This means an employer other than a government entity. This includes self-employment.

Federal Government Employer: This means any federal governmental employer with the exception of Military Personnel.

Military Employer: This means any **Non-Civilian** Military Personnel. Civilian Military Personnel are considered Non-Military Federal Government Employees.

Government - Other Employer: This means any governmental employer other than the federal government. For example, state, county, city, municipal.

Defined Benefit Plan:

Defined Benefit Plan: A Defined Benefit plan is one that provides a specific pre-determinable amount of benefit to a participant at retirement, usually based upon a formula that incorporates years of service (creditable service) and salary.

Prior QDRO: If the participant had a prior marriage, they may have a pre-existing QDRO in place to provide a benefit to their prior former spouse. It is important to be aware of what benefit the prior former spouse is entitled to. For QDRO Pros to prepare the current QDRO we will need a copy of any prior QDROs, including amended QDROs and supplemental QDROs.

Is Participant Retired: It is important to understand the difference between not currently working for the company that is providing the retirement plan and having reached actual retirement age and elected to begin receiving retirement benefit. This means that Participant is in Pay Status.

What lifetime benefit is Alternate Payee to receive:

Time Rule is also known in California as the “Brown Formula”. It is a very common formula used to determine the community property interest in a Defined Benefit Plan only. The numerator is the creditable service or number of months participant was in

the Plan during the marriage (Date of Separation through Date of Marriage) and the Denominator is Participant's total creditable service upon retirement date times the actual benefit amount. The Alternate payee's share of the community property is 50% of this fraction x benefit amount at the earliest of Alternate Payee's elected retirement date or participant's retirement date.

Monthly Dollar Amount or Flat Percentage is sometimes used in lieu of the time rule formula based upon an agreement by the parties.

What form of benefit did Participant Elect upon Retirement:

Life Only Annuity mean that Participant elected a form of benefit that is paid over the Participant's lifetime, with no survivor benefit payable to anyone, including the Alternate Payee. If Alternate Payee and Participant were married at the time of retirement, Alternate Payee would have been required to waive their right to a survivor benefit.

Joint and Survivor Annuity is a form of benefit that pays a lifetime benefit to the Participant and some amount of survivor benefit to the named beneficiary. When a Joint and Survivor Annuity is elected, the monthly benefit paid to Participant upon retirement will be less than a Life Only Annuity. This is because in the event Participant predeceases the beneficiary, the Plan will be paying some percentage (up to 100%) of the Participant's benefit to the survivor for the survivor's lifetime.

Does Plan Allow a Change in the form of survivor benefit after marital dissolution

Normally, Plans do not allow such a change. However, it is worth asking the plan if it is possible.

Should Election at Retirement Remain Unchanged

If the parties' intent is to change the election (either add the alternate payee as a beneficiary or delete them), it is important to check with the plan first to determine if this possible.

What form of benefit is Alternate Payee to receive

Shared Approach means that Alternate Payee must wait until Participant retires to begin receiving their benefit. In the Shared Approach, Alternate Payee's benefit will end upon Participant's death unless Participant elected a survivor benefit naming the Alternate Payee as the beneficiary.

Segregated Approach means that the Alternate Payee may begin receiving their benefit at any time after Participant and Alternate Payee attain earliest eligible retirement age under the Plan. The Alternate Payee normally will receive their benefit over their lifetime.

Does Alternate Payee's benefit freeze on:

Date of Alternate Payee's Retirement – this means that at the date the Alternate Payee's elects to retire under the Segregated Approach, or upon Participant's retirement date under the Shared Approach. This is different than the date that is used to determine the community property portion in the Time Rule. This is the date that is most often used.

Date of Separation – this would mean that Alternate Payee would not participate in any

potential benefit increases that Participate may receive based upon increases in salary or years of service. In essence this date would limit the Time Rule and apply it to what the Participant's benefit would have been if they retired upon date of Separation.

Date of Dissolution - this would mean that Alternate Payee would not participate in any potential benefit increases that Participate may receive based upon increases in salary or years of service. In essence this date would limit the Time Rule and apply it to what the Participant's benefit would have been if they retired upon date of Dissolution.

Is Alternate Payee Entitled to Early Retirement Enhancements

An Early Retirement Enhancement is benefit offered to a Plan Participant to encourage them to retire earlier than they may have normally done. If Participant receives these enhancements Alternate Payee may receive their community property share of the benefit. The legal theory is that many of these enhancements are offered to long term employees based upon length of service and the years that Participant was in the Plan during the marriage would give the Alternate a community property interest. However, if Alternate Payee elects to retire prior to the Participant many plans will not allow the Alternate Payee's benefit to be increased for this enhancement.

Is Alternate Payee Entitled to Cost of Living Adjustments (COLA)

Most retirement plans do provide annual COLAs. Under California law the Alternate Payee would be entitled to their community property share of these COLAs.

Who Receives Alternate Payee's Benefit if Participant Alternate Payee pre-deceases Participant

If Alternate Payee elects Segregated Approach, then they may elect a form of benefit available under the Plan and elect a beneficiary upon retirement. However, any benefit elected other than Life Annuity will reduce their monthly benefit.

If Alternate Payee elects the Shared Approach, then this benefit will continue to a beneficiary during the Participant's lifetime. Upon the Participant's death, the beneficiary will cease to receive a benefit.

Does Alternate Payee receive a Survivor Benefit

If the shared approach is elected, the community property share includes a Survivor Benefit. However, the parties may agree that Alternate Payee is compensated in some other way, ie. Life Insurance. This is because the Participant's benefit terminates upon their death and the only benefit that would continue to the Alternate Payee would be a survivor benefit.

Who Pays for the Survivor Benefit

When a Survivor Benefit is elected under the Shared Approach the total monthly benefit paid by the retirement plan will be reduced from what it would be as a Life Only Annuity. The Plan will default to applying the reduced benefit pro-rata from both the Participant and the Alternate Payee. However, the parties may agree to have the reduction apply to only the Participant's share or only the Alternate Payee's share.

How Much of the Survivor Benefit is Alternate Payee to receive.

QDRO Pros defaults to pro rata share. This allows the Participant to potentially name another survivor beneficiary for the remaining share of the survivor benefit if they are already remarried or remarry in the future. However, many times the parties agree that the Alternate Payee will receive either 100% of the Survivor Benefit or some other percentage. This is different than the actual percentage of the Participant's benefit that is available for any Survivor Benefit. Some retirement plans have available 100% survivor benefit (Survivor would receive 100%) of the Participant's benefit after Participant's death or 50% survivor benefit (Survivor would receive 50%) of Participant's benefit after Participant's death.

Is Alternate Payee to receive a Qualified Pre-retirement Survivor Benefit (QPSA)

In the event the Participant dies prior to Participant receiving any retirement benefit, then the Plan will pay a QPSA to Participant's named beneficiary. Most often the cost of the QPSA is paid by the retirement plan.

Military Retirement

10/10 Rule:

In order for a former spouse to be entitled to be able to receive their community property share of a retirement benefit directly from the government they must have been married to the Participant for at least 10 years during the time that the Participant received 10 years of creditable service. For calculating the 10/10 requirement, date of dissolution will be used, not date of separation.

What to consider if parties do not meet the 10/10 requirement

- A) Explore an offset with other community assets. In order to do this it is important to engage the services of qualified valuation expert to determine how much that offset should be
- B) Characterize as spousal support and seek payment through an allotment directly from DFAS

Is Participant Retired: It is important to understand the difference between not currently working for the company that is providing the retirement plan and having reached actual retirement age and elected to begin receiving retirement benefit. This means that Participant is in Pay Status.

What form of benefit did Participant Elect upon Retirement?

Life Only Annuity mean that Participant elected a form of benefit that is paid over the Participant's lifetime, with no survivor benefit payable to anyone, including the Alternate Payee. If Alternate Payee and Participant were married at the time of retirement, Alternate Payee would have been required to waive their right to a survivor benefit. Joint and Survivor Annuity is a form of benefit that pays a lifetime benefit to the Participant and some amount of survivor benefit to the named beneficiary. When a Joint and Survivor Annuity is elected, the monthly benefit paid to Participant upon

retirement will be less than a Life Only Annuity. This is because in the event Participant predeceases the beneficiary, the Plan will be paying some percentage (up to 100%) of the Participant's benefit to the survivor for the survivor's lifetime. For Military Plans this is called the Survivor Benefit Plan.

What happens if Military Member is not retired or is a Reservist. Effective January 2017, changes were made to the Uniformed Services Former Spouses' Protection Act which regulates the division of military retirements in divorce. Under the new law, a Former Spouse share of the retirement benefits will be frozen on date of dissolution and the Former Spouse will not get the benefit of any increase in Military Retirement benefits earned by the Member after date of dissolution. This issue should be fully addressed in the Parties Dissolution by their attorneys. This division runs contrary to California community property rules and it may be necessary to provide other assets to the Former Spouse in the dissolution to try minimize the negative effect.

CSRS and FERS

Threshold Questions

There are two threshold questions for these plans:

- 1) Was employee married to this spouse at least 9 months
- 2) Did employee participate in the Plan for at least 18 months

If the answers to either of these questions is "NO" then no COAP can be prepared

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Joint and Survivor Annuity is a form of benefit that pays a lifetime benefit to the Participant and some amount of survivor benefit to the named beneficiary. When a Joint and Survivor Annuity is elected, the monthly benefit paid to Participant upon retirement will be less than a Life Only Annuity. This is because in the event Participant predeceases the beneficiary, the Plan will be paying some percentage (up to 100%) of the Participant's benefit to the survivor for the survivor's lifetime.

What lifetime benefit is Alternate Payee to receive:

Time Rule is also known in California as the "Brown Formula". It is a very common formula used to determine the community property interest in a Defined Benefit Plan only. The numerator is the creditable service or number of months participant was in the Plan during the marriage (Date of Separation through Date of Marriage) and the Denominator is Participant's total creditable service upon retirement date times the actual benefit amount. The Alternate payee's share of the community property is 50% of this fraction x benefit amount at the earliest of Alternate Payee's elected retirement

date or participant's retirement date.

Monthly Dollar Amount or Flat Percentage is sometimes used in lieu of the time rule formula based upon an agreement by the parties.

Is Alternate Payee Entitled to Cost of Living Adjustments (COLA)

Most retirement plans do provide annual COLAs. Under California law the Alternate Payee would be entitled to their community property share of these COLAs.

Who Receives Alternate Payee's Benefit if Participant Alternate Payee pre-deceases

Participant

If Alternate Payee elects Segregated Approach, then they may elect a form of benefit available under the Plan and elect a beneficiary upon retirement. However, any benefit elected other than Life Annuity will reduce their monthly benefit.

If Alternate Payee elects the Shared Approach, then this benefit will continue to a beneficiary during the Participant's lifetime. Upon the Participant's death, the beneficiary will cease to receive a benefit.

Does Alternate Payee receive a Survivor Benefit

If the shared approach is elected, the community property share includes a Survivor Benefit. However, the parties may agree that Alternate Payee is compensated in some other way, ie. Life Insurance. This is because the Participant's benefit terminates upon their death and the only benefit that would continue to the Alternate Payee would be a survivor benefit.

Who Pays for the Survivor Benefit

When a Survivor Benefit is elected under the Shared Approach the total monthly benefit paid by the retirement plan will be reduced from what it would be as a Life Only Annuity. The Plan will default to applying the reduced benefit pro-rata from both the Participant and the Alternate Payee. However, the parties may agree to have the reduction apply to only the Participant's share or only the Alternate Payee's share.

How Much of the Survivor Benefit is Alternate Payee to receive.

QDRO Pros defaults to pro rata share. This allows the Participant to potentially name another survivor beneficiary for the remaining share of the survivor benefit if they are already remarried or remarry in the future. However, many times the parties agree that the Alternate Payee will receive either 100% of the Survivor Benefit or some other percentage. This is different than the actual percentage of the Participant's benefit that is available for any Survivor Benefit. Some retirement plans have available 100% survivor benefit (Survivor would receive 100%) of the Participant's benefit after Participant's death or 50% survivor benefit (Survivor would receive 50%) of Participant's benefit after Participant's death.

Is Alternate Payee to receive a Qualified Pre-retirement Survivor Benefit (QPSA)

In the event the Participant dies prior to Participant receiving any retirement benefit, then the Plan will pay a QPSA to Participant's named beneficiary. Most often the cost

of the QPSA is paid by the retirement plan.

Did Alternate Payee Remarry prior to age 55 – FERS ONLY

If the Alternate Payee remarries prior to age 55 they cannot receive a Survivor Benefit from FERS. If this is the case the parties may want to consider replacing a survivor benefit with life insurance.

Does Participant have a military retirement as well

Participant may elect to waive their military retirement and combine with their CSRS or FERS retirement. If they have already done this or intend to do this then we will need the creditable service earned and/or reservist points earned during the marriage. If there are reservist points as well creditable service from active duty in the military, everything must be converted to points.

SDCERS – San Diego City Employees’ Retirement System

Name of Employer

We will need the name of the Participant’s (Member’s) Employer, as there are many employers covered by the City Retirement Plan.

Was a Joinder filed

SDCERS requires that a joinder be filed with the court that makes SDCERS a party to the divorce action. SDCERS cannot enforce a court order to divide a Member’s benefits unless they are made a party to the divorce action via a joinder.

Is Participant Retired: It is important to understand the difference between not currently working for the company that is providing the retirement plan and having reached actual retirement age and elected to begin receiving retirement benefit. This means that Participant is in Pay Status.

What form of benefit did Participant Elect upon Retirement?

Life Only Annuity (Maximum Lifetime Benefit) mean that Participant elected a form of benefit that is paid over the Participant’s lifetime, with no survivor benefit payable to anyone, including the Alternate Payee. If Alternate Payee and Participant were married at the time of retirement, Alternate Payee would have been required to waive their right to a survivor benefit. However, if the Participant elected the Maximum Lifetime Benefit the Plan provides for a 50% continuation to the Spouse. However, if the Participant retired after 2008 and made this election the Former Spouse would not be able to receive a Survivor Benefit upon dissolution.

Joint and Survivor Annuity is a form of benefit that pays a lifetime benefit to the Participant and some amount of survivor benefit to the named beneficiary. When a Joint and Survivor Annuity is elected, the monthly benefit paid to Participant upon retirement will be less than a Life Only Annuity. This is because in the event Participant predeceases the beneficiary, the Plan will be paying some percentage (up to 100%) of the Participant’s benefit to the survivor for the survivor’s lifetime. If the Participant elected Former Spouse under an Option payment with Former Spouse as beneficiary,

this beneficiary designation will remain unchanged.

What lifetime benefit is Alternate Payee to receive:

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Monthly Dollar Amount or Flat Percentage is sometimes used in lieu of the time rule formula based upon an agreement by the parties.

Is Alternate Payee Entitled to Cost of Living Adjustments (COLA)

SDCERS provides annual COLAs. Under California law the Alternate Payee would be entitled to their community property share of these COLAs.

Does Alternate Payee receive a Survivor Benefit

The community property share includes a Survivor Benefit. However, the parties may agree that Alternate Payee is compensated in some other way, ie. Life Insurance. This is because the Member’s benefit terminates upon their death and the only benefit that would continue to the Alternate Payee would be a survivor benefit.

Who Pays for the Survivor Benefit

When a Survivor Benefit is elected the total monthly benefit paid by the retirement plan will be reduced from what it would be as a Life Only Annuity. The Plan will default to applying the reduced benefit pro-rata from both the Member and the Alternate Payee. However, the parties may agree to have the reduction apply to only the Member’s share or only the Alternate Payee’s share.

How Much of the Survivor Benefit is Alternate Payee to receive.

QDRO Pros defaults to pro rata share. This allows the Member to potentially name another survivor beneficiary for the remaining share of the survivor benefit if they are already remarried or remarry in the future. However, many times the parties agree that the Alternate Payee will receive either 100% of the Survivor Benefit or some other percentage. This is different than the actual percentage of the Participant’s benefit that is available for any Survivor Benefit. SDCERS has available 100% survivor benefit (Survivor would receive 100%) of the Participant’s benefit after Participant’s death or 50% survivor benefit (Survivor would receive 50%) of Participant’s benefit after Participant’s death.

Is Alternate Payee to receive a Qualified Pre-retirement Survivor Benefit (QPSA)

In the event the Participant dies prior to Participant receiving any retirement benefit, then the Plan will pay a QPSA to Participant’s named beneficiary. Most often the cost of the QPSA is paid by the retirement plan.

Who Receives Alternate Payee's Benefit if Participant Alternate Payee predeceases

Participant

If the Member predeceases the Alternate Payee then this benefit will continue to a beneficiary during the Participant's lifetime. Upon the Participant's death, the beneficiary will cease to receive a benefit. Eligible beneficiaries are a) Member, b) minor children of the marriage, c) Alternate Payee's estate.

Is Member a participant in DROP (Deferred Retirement Option Plan)

The Deferred Retirement Option Plan, known as DROP, is a voluntary program which provides eligible Members an alternative method of accruing benefits from SDCERS while employed by the City of San Diego ("City"), in addition to their service retirement benefit. Only Members that meet certain age and service are eligible to participate in DROP, and they must have been hired by the City of San Diego before July 1, 2005. To participate, the Member must enter into an irrevocable contract with SDCERS and the City and agree that they will leave employment and retire no later than five years from the date they entered DROP.

Is Alternate Payee entitled to a pro rata portion of DROP

Alternate Payee may have a community property interest in DROP

SDCERA – San Diego County Employees Retirement Association

Name of Employer

We will need the name of the Participant's (Member's) Employer, as there are many employers covered by the County Retirement Plan.

Was a Joinder filed

SDCERA requires that a joinder be filed with the court that makes SDCERA a party to the divorce action. SDCERA cannot enforce a court order to divide a Member's benefits unless they are made a party to the divorce action via a joinder.

Is Participant Retired: It is important to understand the difference between not currently working for the company that is providing the retirement plan and having reached actual retirement age and elected to begin receiving retirement benefit. This means that Participant is in Pay Status.

What form of benefit did Participant Elect upon Retirement?

Life Only Annuity mean that Participant elected a form of benefit that is paid over the Participant's lifetime, with no survivor benefit payable to anyone, including the Alternate Payee. If Alternate Payee and Participant were married at the time of retirement, Alternate Payee would have been required to waive their right to a survivor benefit. Joint and Survivor Annuity is a form of benefit that pays a lifetime benefit to the Participant and some amount of survivor benefit to the named beneficiary. When a Joint and Survivor Annuity is elected, the monthly benefit paid to Participant upon

retirement will be less than a Life Only Annuity. This is because in the event Participant predeceases the beneficiary, the Plan will be paying some percentage (up to 100%) of the Participant's benefit to the survivor for the survivor's lifetime.

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Monthly Dollar Amount or Flat Percentage is sometimes used in lieu of the time rule formula based upon an agreement by the parties.

Is Alternate Payee Entitled to Cost of Living Adjustments (COLA)

SDCERS provides annual COLAs. Under California law the Alternate Payee would be entitled to their community property share of these COLAs.

What form of benefit is Alternate Payee to receive Shared or Segregated

	SEPARATE ACCOUNT	SHARED PAYMENT
Retirement date and receipt of benefit payment	Member and nonmember make independent decisions on when to apply for retirement and begin receipt of monthly benefit. Nonmember is eligible to retire either when he/she meets the age and service credit requirements to retire or when the member meets the age and service credit requirement to retire.	Member and nonmember begin to receive monthly benefits when member retires.
Benefit payment option	Member and nonmember make independent elections for benefit payment option.	Member must select Option 4, which provides nonmember with a lifetime benefit based on his/her percentage interest in member's retirement.
Member or nonmember dies before retirement	Member's death: Standard death benefits available based on years of service remaining in account. Nonmember's death: Beneficiary receives a refund of accumulated contributions.	If member has not remarried, nonmember receives community property percentage interest in death benefit. If member has remarried, the court reserves jurisdiction over the nonmember's entitlement to monthly benefit of the surviving spouse.
Member or nonmember dies after retirement	Benefit continuance based on retirement benefit payment option selected at retirement.	Member's death: Monthly continuance available to beneficiary if named at date of retirement; nonmember's benefit is not affected by member's death. Nonmember's death: Monthly benefit will stop. An actuarial provision must be made for continuance to member or beneficiary.

Defined Contribution Plan: A Defined Contribution plan is one that provides for contributions directly into an account established by the Plan solely for the Participant. The contributions may consist of employee contributions, employer contributions or a combination of both. At retirement, the Participant receives the amount in the account. There are several types of defined contribution plans, including profit sharing plans, thrift plans, 401(k) plans, retirement savings plans, stock bonus plans, and employee stock ownership plans (ESOPs).

Parties Information

Petitioner: The Petitioner is the spouse that initiated the dissolution proceedings in the court. You should find this information on the front page of papers that were filed with the court on your behalf to dissolve your marriage.

Name: Complete legal name of Husband and Wife as they appear on the front page of Dissolution Judgment or Marital Settlement Agreement. If there is a difference between the Dissolution paperwork and retirement paperwork, or if Wife is now using another name, please note in special comments section of retirement plan worksheet.

Address: Complete current legal address for Husband and Wife

Husband's Attorney: This information must be completed if you are requesting QDRO Pros to send information to Husband's Attorney

Wife's Attorney: This information must be completed if you are requesting QDRO Pros to send information to Wife's Attorney

Date of Separation: This is the date that is used in your dissolution as the legal date of separation.

Date of Dissolution: This is the date that your dissolution becomes final

State where Dissolution was filed: This is the state where the dissolution was filed with the court. This may not be the State where you currently live.

County where Dissolution was filed: This is the county where the dissolution action was filed with the court. This may not be the County where you currently live.

Name of Court where Dissolution was filed: You will find this information on the front page of papers that were filed with the court to dissolve your marriage.

Case Number: You will find this information on the front page of papers that were filed

with the court on your behalf to dissolve your marriage.

Plan joined in dissolution: The retirement plan may have been joined as a party to the dissolution proceeding. The Joinder is a separate form called Pleading on Joinder - Employee Benefit Plan. The purpose of a Joinder is to give the Plan notice that the Alternate Payee has a potential claim to some of the retirement funds. If a Joinder was filed in your dissolution, please supply the date the plan was joined. The date of Joinder is the date stamped by the court on the Pleading.

Name of Judge: You will find this information on the front page of papers that were filed with the court on your behalf to dissolve your marriage.

Retirement Plan Information - Help

Participant: The Participant is the spouse whose retirement plan you are dividing. The spouse that is to receive benefits under the QDRO is the Alternate Payee

Plan Name: You must supply the complete legal name of the Retirement Plan. This information can be obtained from Retirement Plan statements received by the Participant, a Summary Plan Description provided by the employer, or a telephone call to the Retirement Plan or employer. A QDRO with an incorrect plan name will be rejected by the Plan.

Plan Administrator: You must supply the name of the Plan Administrator. The Plan Administrator may be the employer or it may be a third party. This information can be obtained from Retirement Plan statements received by the Participant, a Summary Plan Description provided by the employer, or a telephone call to the Retirement Plan or employer.

Plan Address: You must supply the complete address for the Retirement Plan. The judge may not sign a QDRO if the Plan Administrator's address is omitted.

Plan Telephone Number: You must supply the telephone number, including area code for the Retirement Plan.

Employer: You must supply the name of the employer whose retirement plan to being divided by the QDRO.

Date of Hire: This is the date that the Participant began working for the employer whose plan is being divided. This date may be before your marriage date.

Defined Contribution Plan:

If employee is retired, what form of benefit was selected?

Joint and Survivor annuity: A scheduled monthly payment to the

recipient for his/her life followed by a monthly payment to the recipient's named beneficiary for the beneficiary's life after the recipient's death. The beneficiary's monthly payment may or may not be the same amount as the monthly payment to the recipient, depending upon the type of Joint and Survivor Annuity.

Single Life annuity: A scheduled monthly payment to the recipient for his/her life only. Once the recipient dies, the monthly payments stop. Also known as a straight-life annuity.

Date of Division of Account: This means the date the account is to be valued and divided between Husband and Wife. This is usually the separation date, however, Husband and Wife can agree to use a different date. Normally, the Former Spouse's share is credited with any gains and losses between the Date of Division and actual distribution by the Plan.

Method of Division: There are two ways to determine the amount of money to be distributed to the Former Spouse. (1) A percentage of the account as of Date of Division can be used, or (2) an actual dollar amount. A Plan Administrator for a defined contribution plan will normally reject any other method of division.

Is former spouse's share adjusted for gains and losses after Date of Division through date of distribution? Normally, the former spouse does share in gains and losses after the Date of Division. This is because once the account is divided, each person's share becomes his/her separate property. If Date of Division is earlier than the date the funds are actually distributed by the Plan to Former Spouse, (for example date of division may be Date of Separation and Date of Distribution may be two years later) Former Spouse may be required to share in the gains and losses of the account during that interim period, if not stated otherwise in the QDRO. In other words, if the account gained in value during the interim period, the former spouse's share at Date of Division would be adjusted upward through Date of Distribution. Just as importantly, if the account lost value in the interim, the former spouse's share would be adjusted downward.

Separate account held by plan administrator or distribution from plan as soon as possible? Some plans will allow the Former Spouse to set up a separate account within the plan. Some plans will allow a distribution directly to the Former Spouse or a rollover to the former spouse's own Individual Retirement Account (IRA). We need to know which you prefer.

What is the difference between an outright distribution and a rollover to Former Spouse's IRA? If the Former Spouse elects an outright distribution there will most likely be income tax due on the balance that is distributed to the Former Spouse. If the Former Spouse elects a rollover to the Former Spouse's own IRA the taxes will normally be deferred until the former spouse begins taking distributions from their IRA. The Former Spouse should check with his/her tax advisor.

If a former spouse takes an outright distribution pursuant to a QDRO, he/she will avoid the 10% penalty that would apply if the participant took an early distribution.

Loans outstanding against the account balance: Many defined contribution plans allow the Participant to borrow from his/her account. Valuation of the Account Balance at Date of Division will be different depending upon whether the loan amount is then added back to the account balance for purposes of Valuation. Another issue: Who is responsible for repayment of the loan - Husband, Wife or both? This issue may have been addressed in your Marital Settlement Agreement.

Have any other QDROs been filed with the Plan: This would apply to any interim QDROs filed during your dissolution process, or any previous QDROs filed between the Participant and a spouse previous to the current Alternate Payee.

Have any other QDROs been filed with the Plan: This would apply to any interim QDROs filed during your dissolution process, or any previous QDROs filed between the Participant and a spouse previous to the current Alternate Payee.