

What is a Qualified Domestic Relations Order (QDRO)?

Minnesota divorces, property settlements, and federal law

If you are in the property division stage of a divorce proceeding, you may have heard reference to a qualified domestic relations order (QDRO). What is a [QDRO](#), and what do you need to know about them?



Hopefully, he is not managing your retirement account...

First off, a QDRO is a subcategory of domestic relations orders. Great, you think, what's a domestic relations order then? A domestic relations order is a court judgment, decree, or order that relates to child support, alimony payments, or marital rights. This includes court approval of a property settlement agreement.

A QDRO is a domestic relations order that deals with funds from retirement plans. A QDRO is used to assign these funds from the plan participant (let's say that's you) to what is called an alternate payee (this will usually be your ex, though it could also be a child). After your QDRO is entered, the alternate payee has ownership of whatever portion of retirement funds has been agreed on.

Relationship with federal law

QDROs only apply to plans that are subject to ERISA, the federal law regulating private sector pension and retirement plans. Because ERISA regulates the payment of funds from these plans, your QDRO must satisfy ERISA requirements. These requirements are complex; you may want to consult a tax attorney or accountant in addition to your divorce lawyer. Usually your divorce lawyer will suggest someone if the issue becomes too complex and most divorce lawyers are not tax lawyers!

A QDRO will be issued by a state court judge as part of your state court divorce proceedings. However, because the "qualified" in QDRO involves compliance with ERISA requirements, and ERISA is a federal law, whether or not a particular order entered in your divorce case is a QDRO is a question that is resolved first by the plan administrator and subsequently, if necessary, in a federal rather than state court.

Why does this matter?

ERISA contains a provision that prohibits a plan participant from alienating his or her benefits under the plan. This means that, under normal circumstances, a person would not be able to allocate a portion of

his or her benefits to someone else. However, the law contains an exception allowing the assignment of pension interests pursuant to a QDRO. If you are the ex-spouse who will be receiving an assignment of pension benefits, you want the QDRO to meet all applicable requirements so that it will be enforceable, allowing you to receive your assignment of funds. Additionally, if you are the plan participant, you want any domestic relations order allocating your retirement funds to your spouse to be treated as a QDRO, since otherwise the eventual distribution of the funds to your spouse will be treated as a taxable distribution to you.

Both QDROs and ERISA requirements are hugely complex areas of law, and this information is truly just the tip of the iceberg. The important thing to remember is that a QDRO is an essential part of your divorce proceedings if assignment of retirement benefits is involved, and that you should thoroughly discuss any potential court orders dealing with retirement benefits with your attorney as well as, if possible, with a tax attorney.

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While we appreciate our readers (we really do!) a few things to know before you send me an email with a "quick question" I'm a Minnesota only lawyer. I can't give any advice about the laws in any other state except Minnesota. Also, while I am a believer that clients needs to know as much information as they can (that's why I do these blogs) I do make my living as a divorce lawyer and generally can't give advice to you via email and unless we sign a retainer agreement.