RE: Common Questions and Answers

Dear Client:

Thank you for considering my office for your QDRO/DRO needs. I know this is an important matter to you and I hope you will be satisfied with the service I provide. This letter answers the most common questions I receive from my clients. If after reading this letter you have more questions, please contact me so I can answer all of your questions.

TIMELINES: How long is this going to take?

The QDRO/DRO process typically takes between 6 and 7 months to finish. However, the process can be shorter or longer depending on the cooperation of the parties, the efficiency of the courthouse where your case is located, and the Plan Administrator processing the QDRO/DRO. The timeline works out something like this:

- 2-4 Weeks to draft the QDRO/DRO-assuming all the information I have requested has been provided by the parties.
- 2-4 Months to obtain pre-approval from the Plan Administrator. (You can help us make this step go faster by calling the plan administrator)
- 1-2 Weeks to obtain signatures from both parties (typically). Once signatures are received the QDRO/DROs are sent to court.
- 1-2 Months to receive the QDRO/DROs back from court. Some courts take longer than others.
- 1-2 Months for Plan Administrator to process the QDRO/DRO. Some take longer.

COOPERATION: What if my Ex doesn't cooperate?

While most parties cooperate with the QDRO/DRO process, occasionally, an ex-spouse wants to be difficult and just doesn't cooperate or sign the QDRO/DRO. In some cases-the QDRO/DRO can be filed anyway with a declaration regarding efforts to work with the difficult party. However, some judges will require a fully noticed motion-meaning you have to go back to Court to get the QDRO/DRO filed if your ex decides not to sign. The options and costs can be discussed when necessary.

CASHING OUT-Common Questions Regarding Cashing Out from Defined Contribution Plans

I have bills to pay. Can I cash out my interest in my former spouse's 401(k)/403(b)/457(b) Plan via QDRO?

Yes, usually you can.

If I cash out my interest and I am under the age of 59 ½ will I have to pay the 10% federal tax penalty I have heard about?

No. Under Internal Revenue Code 72(t)(2)(c) QDRO payments are an exception to the normal penalty rules.

Will I have to pay any taxes on the money?

Yes. You must pay ordinary taxes based on your own personal tax bracket. The Plan Administrator will withhold 20% of the funds payable to you for estimated taxes. Your actual taxes will be determined after you file your tax return. Depending on your own personal income tax bracket, the 20% may be an overestimate or underestimate-resulting in a refund or additional tax liability.

Can I do a partial cash out? I don't want to cash out the entire account.

Yes. Once you cash out your portion of the funds, you must roll over the portion you would like to keep tax deferred within 60 days into another tax deferred account, such as a traditional IRA. This is a hard deadline by the IRS. Consult with a financial advisor and make sure you have all the accounts lined up before you start this process.

I am the account holder. Can I cash out my interest via QDRO and avoid the 10% penalties?

Yes and No. You cannot 'pay yourself' via the QDRO process, however, if your former spouse is cooperative, you can award your former spouse more than he/she is entitled to under the judgment, with a promise that your former spouse return that money to you, less the tax liability.

Can I cash out my interest from my former spouse's Individual Retirement Account (IRA) and avoid the 10% federal tax penalty?

No. under Internal Revenue Code 72(t)(3)(A) the QDRO tax exception does not apply to IRA accounts. Talk to your CPA to find out if other exceptions apply, such as the first time homebuyers or higher education expense exceptions.

DISCOVERY: What if I suspect my ex has accounts that have not been disclosed? What if I have a separate property claim, but my company tells me I need a subpoena to obtain the records I need to prove it?

While David T. Ruegg will problem solve simple discovery issues such as providing an authorization and release form, David does not accept retention to complete 'formal discovery'. David can refer cases to an outside document preparation service, who can help clients with the subpoena process outside David's office.

FINANCIAL PLANNING: Is it a good idea to cash out my interest to pay down my bills?

David T. Ruegg is an attorney, not a financial advisor. Seek advice from a financial professional before deciding what to do with your money.

TAX PLANNING: I have tax issues unrelated to the QDRO process. Who should I call?

If you do not already have a CPA you work with, David T. Ruegg recommends this CPA:

David F. Prenovost, CPA
(909) 628-3945
cpa@qdrodivision.com

FAMILY LAW: I have family law issues-can you help me?

David T. Ruegg is a QDRO attorney and does not accept retention on family law issues. If you have unresolved family law issues, you can either circle back to the family law attorney who assisted you with your matter previously or retain new family law counsel.

GETTING STARTED: I am ready to get started-what do you need?

The first step is to set up a no fee initial phone conference to discuss your matter (951) 523-7376. After that, if you wish to retain our office, we will need:

1- retainer signed
2- retainer paid
3- new client intake form filled out (Addendum or online intake form)
4-copy of relevant court orders (judgment if you have it)

Sincerely,

DAVID T. RUEGG

CREDIT CARD AUTHORIZATION FORM
OR Pay Online Here: http://www.qdrodivision.com/make-a-payment/
(OPTIONAL-CHECK OR MONEY ORDER ALSO ACCEPTED)

I: ______________________, as the card holder, hereby authorize the following credit card to be charged $_____________________________ on ________________________________ (Date).

Name as it appears on the Card:

____

Type of Card: □ VISA □ MASTERCARD □ DISCOVER □ AMEX

Credit Card Number _______-________- ________- ________ Expiration Date ______/______

Security Code BACK of Card (3 Numbers) ____

Credit Card Billing Address: Street: ____

City: _____________________________State:_________________ Zip Code: _____________

Telephone: ____

To offer clients the convenience of credit card charges, we are charged a fee by the credit card companies and payment processing company in the amount of 4%. That fee is passed on to any client choosing to pay by credit card under our dual pricing system and can be avoided by paying with electronic ACH bank transfers or check mailed to our office. This 4% fee will be automatically added to the amount you authorize in this form. The Law Office receives none of the additional fees.

Please sign below for authorization:

Cardholder Signature: ___________________________________ Date: ______/______/______

This Authorization may be returned as follows:
Mail: 19510 Van Burn Buren Blvd, Ste 1040, Riverside, CA 92508;
Fax: 855-880-0098;
E-mail: david@qdrodivision.com

STOP: Did you know you can fill this out online on my website?

Go to: qdrodivision.com/make-a-payment/ to fill out and make a payment when ready.

Petitioner Information: Accounts in Petitioner's Name To Divide:

Name: ________________________ Plan 1: ________________________________

Date of Birth: ________________________ Plan 2: ________________________________

Social Security Number: ________________ Plan 3: ________________________________

Address: ________________________ Plan 4: ________________________________

Address Line2: ________________________ Collecting Retirement Checks? □ Yes □ No

Phone: ________________________ Any separate property claims? □ Yes □ No

E-Mail: ________________________

Respondent Information: Accounts in Respondent's Name To Divide:

Name: ________________________ Plan 1: ________________________________

Date of Birth: ________________________ Plan 2: ________________________________

Social Security Number: ________________ Plan 3: ________________________________

Address: ________________________ Plan 4: ________________________________

Address Line2: ________________________ Collecting Retirement Checks? □ Yes □ No

Phone: ________________________ Any separate property claims? □ Yes □ No

E-Mail: ________________________

Date of Marriage: ______________________

Date of Separation: ____________________

Date of Judgment: ______________________

Superior Court County ______________ Superior Court Case #___________________

Please note-contact information listed here will be provided to both parties. If you wish to keep your address private, you must provide an alternate address for this process. You will have an opportunity to update your address privately with the Plan upon completion of the QDRO/DRO process.

Defined Contribution QDRO Division Flowchart-NO Premarital

Employee marries and during the course of the marriage purchases 100 shares of Green stock at $5 a share.
Total Dollar Value of $500 at time of purchase.

↓

Employee separates from spouse and at the time of separation the 100 shares of Green stock have increased in value to $10/share.
Total Dollar Value of $1,000 at separation.

↓

The parties litigate for 2 years before getting around to completing the QDRO. During this time, Employee purchases 25 more Green stock and the value of the Green Stock increases from $10 a share to $20 a share.

Total Dollar Value of $2,500 at time of QDRO.

↓

Former Spouse receives 50 community property Green stocks. 50 shares at $20/share = $1,000 in investments at QDRO time.

Employee receives: 50 community property Green stocks and 25 separate property Green stocks. 75 shares at $20/share = $1,500 in investments at QDRO Time.

QDRO DIVISION

Phone (Riverside/Main): (951) 523-7376
Facsimile: (855) 880-0098
david@qdrodivision.com

Defined Benefit QDRO Division Flowchart-For most cases

Employee works 30 years and is entitled to $3,000/month at the time of retirement from pension. During 20 of those 30 years Employee was married to Former Spouse.

Since Employee was married to Former Spouse for 2/3 the length of employment, 2/3 of the $3,000/month is community property. (meaning $2,000/month belongs to the marriage)

$3,000/month paid by pension for 30 years of service.

$2,000/month community property for the 20 years worked during married.

$1,000/month separate property for the 10 years worked before the date of marriage and/or after the date of separation

Former Spouse receives 1/2 the community property Interest = $1,000/month

Employee receives 1/2 the community interest $1,000/month + $1,000/month separate property interest = $2,000/month

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Defined Contribution QDRO Division Flowchart-WITH Premarital

Employee works before marriage and purchases 100 shares of Gold Stock in a retirement account at a price of $1/share. (New Investments $100)

Employee marries and during the course of the marriage 80 additional shares of Gold stock are purchased at a price of $2/share. Employee also purchases 50 shares of Silver stock, at a price of $1/share. (New Investments $210)

Employee separates from spouse. The 401(k) has 180 shares of Gold stock with a new current value of $3/share and 50 shares of Silver Stock with a new current value of $2/share. ($640 Total Value)

80 Gold stock and 50 Silver stock shares purchased during marriage belong to the community. Gold stock is $3/share and Silver stock is $2/share. ($340 Total Value)

100 shares of Gold stock shares are the separate property of Employee from before marriage. Gold stock is valued at $3/share. ($300 Total Value)

Former Spouse receives 1/2 the community: 40 Gold stocks (valued at $120) and 25 Silver Stocks (valued at $50).
Total value: $170

Employee receives: 40 community property Gold stocks (valued at $120), 100 separate property Gold stocks (Valued at $300), and 25 Silver Stocks (valued at $50) Total value: $470

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