



## NAGDCA NOTES

### QDROs: Quick Reference Guide for Plan Administrators

Public plan administrators find themselves dealing with QDROs (qualified domestic relations orders) more often as the national divorce rate rises and child support enforcement increases. The following information provides a short overview of what constitutes a QDRO, and how to find more information about the tax consequences and other effects on plan administration. The following information applies to ordered distributions and payments that are made after December 31, 2001.

A domestic relations order is a judgment, decree, or order (including an approved property settlement agreement) that relates to child support, alimony payments, or marital property rights for a spouse, former spouse, child, or other dependent of a plan participant (identified in QDROs as alternate payees), and is made pursuant to a State domestic relations law. A qualified domestic relations order recognizes an alternate payee's right to receive all or some of the retirement plan's benefits that would otherwise be payable to the plan participant (IRC 414(p)).

#### QDROs MUST:

1. Clearly state the name and last known mailing address of the plan participant and each alternate payee named in the order;
2. Specify the amount or percentage (or detail how the amount will be determined) of the plan participant's benefits that the plan must pay to each alternate payee identified in the order;
3. State the number of payments or period of time covered under the order; and
4. Which plan(s) is covered by the order.

#### QDROs MUST NOT:

1. Require a plan to provide benefits or options to alternate payees that are not otherwise provided by the plan.
2. Require payment of benefits to an alternate payee if those benefits have already been secured by another alternate payee under a previous QDRO.

Plans need to establish reasonable procedures for determining whether a domestic relations order is qualified, and how distributions will be made under such orders. Upon receipt of a domestic relations order, the plan administrator needs to notify the plan participant and each alternate payee identified in the order about the receipt of the order and the plan's measures for determining the order's qualified status. The plan administrator will then use those measures to determine whether the order is a qualified domestic relations order, and notify the plan participant and each identified alternate payee of the determination (refer to IRC 414(p)(6)).

QDRO distributions made to an alternate payee from a governmental 457 plan will be taxed according to qualified plan rules (refer to IRC 402(e)(1)(A)). If the alternate payee is a former spouse, the alternate payee may take an immediate payout and pay taxes on the amount received, or may roll the distribution (on a tax-deferred basis) into an IRA.

*For further information, refer to IRC 414(p), and IRC 402(e). More information may also be found in the EGTRRA Chapter of NAGDCA's 2003 Guidebook, available in the Members Only section on-line at [http://www.nagdca.org/users/epubs/guidebook\\_contents.cfm](http://www.nagdca.org/users/epubs/guidebook_contents.cfm). You may also contact NAGDCA's Senior Project Coordinator, Gina Vessels, at [gvessels@amrinc.net](mailto:gvessels@amrinc.net) or 859-514-9161.*

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