

- 1** State full names, addresses and Social Security numbers of Participant and Alternate Payee.
- 2** Identify Alternate Payee as spouse, former spouse, child, or other dependent of Participant.

**3** Nature of payments to be made to Alternate Payee under State law—alimony, child support, or property division.

**4** Section of State domestic relations statute under which payments are ordered (corresponding to item #3).

**5** Exact name and address of the plan.

**6** Date Participant's employment by the plan sponsor began and terminated. If Alternate Payee is a spouse or former spouse, dates of marriage, separation and divorce. If Alternate Payee is a child, date of birth.

**7** Specify the *dollar amount*, the *percentage*, or a *fractional formula* (duration of marriage/duration of employment) which determines Alternate Payee's share of Participant's plan benefits.

**8** If a *percentage* or *formula* is used, does Alternate Payee receive a share of Participant's accrued benefit, or Participant's vested benefit? What date is used to determine vesting/accrual?

**9** When will payments to Alternate Payee begin?

This may be a *date* (e.g., "June 2, 2015"), an *event* ("when Participant retires"), or an *option* ("at any time Alternate Payee chooses after Payee attains the earliest Retirement Age permitted by the plan").

**10** When will payments to Alternate Payee stop?

This may be death of Participant, death of Alternate Payee, remarriage of Alternate Payee, emancipation or change in custody of child Alternate Payee, receipt by Alternate Payee of fixed amount, etc.

#### **11 FOR DEFINED BENEFIT PLANS**

A. Will Alternate Payee receive a "Separate Interest" or a "Shared Interest"? (Shared interests may be paid to Alternate Payee only from the time Participant actually retires until Participant's or Alternate Payee's death. Separate Interests may be paid after Payee reaches retirement age, whether Participant actually retires or not, and continue after Participant's death until Alternate Payee's death.)

B. If Participant dies before Alternate Payee and before retirement, will Alternate Payee be protected by a Qualified Pre-Retirement Survivor Annuity (QPSA)? If a QPSA is awarded, who pays the cost, if any?

C. If Participant dies first but after retirement and the Shared Interest Approach is used, will there be (i) a Qualified Joint and Survivor Annuity (QJSA) for Participant and Alternate Payee, or (ii) a QJSA for Participant and Participant's new spouse of which a portion will be paid to Alternate Payee?

D. If Alternate Payee dies before all amounts due him or her have been received, will Alternate Payee's remaining benefits (i) revert to Participant, (ii) be paid to a Contingent Alternate Payee, or (iii) revert to the plan?

E. How will COLA increases after retirement, if any, be divided between Participant and Alternate Payee?

F. If plan becomes insolvent and the Pension Benefit Guaranty Corporation (PBGC) takes over, how will any reduction in the benefit be allocated between Participant and Alternate Payee?

G. Will Alternate Payee receive a share of any early retirement subsidy or bonus actually paid to Participant?

#### **12 FOR DEFINED CONTRIBUTION PLANS**

A. What date will be used to determine the extent of Participant's vested/accrued benefits?

B. What valuation date will be used?

C. Will post-divorce contributions for the year spanning the date of separation/divorce be pro-rated and a share of them awarded to Alternate Payee?

D. Will Alternate Payee receive a share of any employer contributions made during the marriage but vested after separation/divorce?

E. Will Alternate Payee receive a fixed dollar amount, or share in dividends, interest, gains and losses on his or her share of plan benefits until Alternate Payee has received payment in full?

F. Will the plan allow Alternate Payee to make separate investment decisions about his or her share prior to distribution to Alternate Payee in full of his or her share?

**13** Order Participant not to interfere with Alternate Payee's rights and to turn over to Alternate Payee any payments received by Participant in error.

**14** QDRO must not:

A. Require the plan to provide any type or for of benefit, or any option, not otherwise off by the plan;

B. Provide increased benefits (determined on basis of actuarial value); or

C. Pay benefits to Alternate Payee which are required to be paid to another alternate payee by an order previously accepted by the plan a QDRO.

**15** Appoint a representative (counsel for Alternate Payee) to receive copies of all notices sent to Alternate Payee by the plan during the qualification process.

**16** State who will pay Federal and State income taxes on distribution to Alternate Payee. Identify Participant's tax basis in his or her employee contributions to a Defined Contribution Plan and state how that basis will be allocated between Participant and Alternate Payee.

**17** Trial court should reserve jurisdiction to:

A. Amend its order during the qualification process in light of comments received from the plan;

B. Deal with any unexpected or unintended consequences and other problems arising out of the implementation of the order; and

C. Suspend or terminate payments upon the occurrence of events (death, remarriage, etc.) specified in the order.

#### **QUESTIONS OR PROBLEMS?**

Call

**QDRO SOLUTIONS, LLC**

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