



The In Marriage QDRO®



Who am I? How did I get here?



Why am I here with you?



What is a QDRO?

Qualified Domestic Relations Oder (QDRO)

A **Domestic Relations Order (DRO)** that is signed by the appropriate *state court judge* that:

- 1) Recognizes or creates a marital property right in a retirement plan pursuant to state domestic relations law; and
- 2) Provides for the plan benefits between the parties
 - Plan Participant
 - Alternate Payee

The DRO is then approved or **Qualified** by the retirement plan administrator.



What is a QDRO?

A QDRO is an exception to the Employee Retirement Security Act of 1974 (ERISA).

- A **qualified domestic relations order** (or QDRO, pronounced "cue-dro" or "qua-dro"), is a judicial order in the United States, entered as part of a property division in a **divorce** or legal separation that splits a retirement plan or pension plan by recognizing joint marital ownership interests in the plan, specifically ...

[Qualified domestic relations order - Wikipedia](#)

[https://en.wikipedia.org > wiki > Qualified_domestic_relations_order](https://en.wikipedia.org/wiki/Qualified_domestic_relations_order)

- (8) The term "alternate payee" means any **spouse**, former spouse, child or other dependent of a participant **who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.**



Divorce is not required.

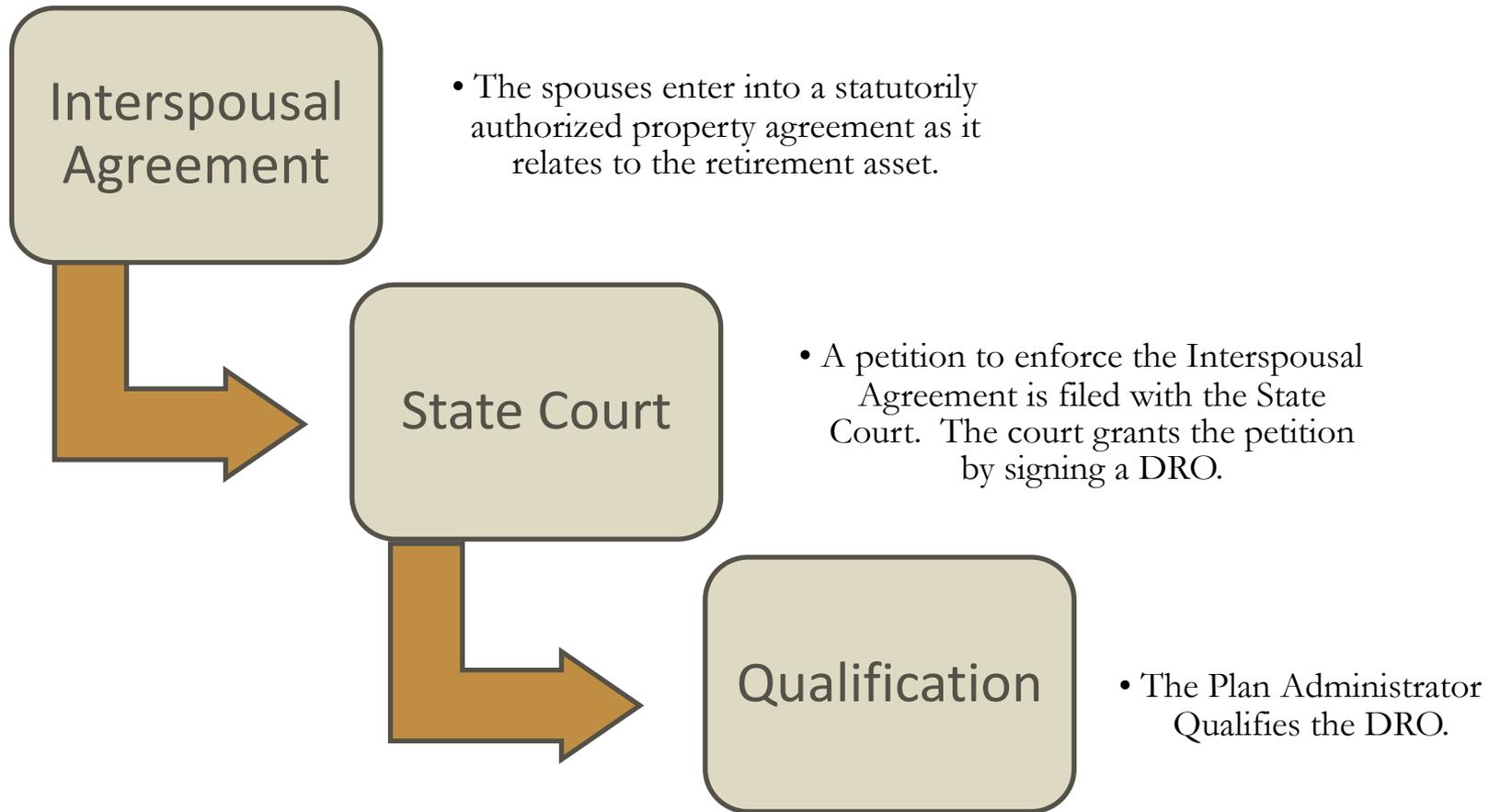
On the Department of Labor website,
Frequently Asked Question No. 4 states the following:

**“Must a domestic relations order be issued
as part of a divorce proceeding to be a QDRO?”**

No. A domestic relations order that provides for child support or *recognizes marital property rights* may be a QDRO, without regard to the existence of a divorce proceeding. Such an order, however, must be issued pursuant to state domestic relations law and create or recognize the rights of an individual who is an alternate payee (spouse, former spouse, child, or other dependent of a participant).”



What is the process?



What are the consequences?

There are two important issues to keep in mind when considering the In Marriage QDRO®.

1. This has an effect on spousal property rights.
2. An In Marriage QDRO®, alone, does not constitute a financial plan or an estate plan. It can – when appropriate – be used as part of a comprehensive plan.



What are the consequences?

See IRS Code 26 U.S. Code 72(t)(2)C, which provides as follows:

(t)10-percent additional tax on early distributions from qualified retirement plans

(1)Imposition of additional tax

If any taxpayer receives any amount from a qualified retirement plan (as defined in section 4974(c)), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

(2)Subsection not to apply to certain distributions Except as provided in paragraphs (3) and (4), paragraph (1) shall not apply to any of the following distributions:

(A)In general Distributions which are—

- (i)** made on or after the date on which the employee attains age 59½,
- (ii)** made to a beneficiary (or to the estate of the employee) on or after the death of the employee,
- (iii)** attributable to the employee's being disabled within the meaning of subsection (m)(7),
- (iv)** part of a series of substantially equal period payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of such employee and his designated beneficiary,
- (v)** made to an employee after separation from service after attainment of age 55,
- (vi)** dividends paid with respect to stock of a corporation which are described in section 404(k),
- (vii)** made on account of a levy under section 6331 on the qualified retirement plan, or
- (viii)** payments under a phased retirement annuity under section 8366a(a)(5) [3] or 8412a(a)(5) of title 5, United States Code, or a composite retirement annuity under section 8366a(a)(1) or 8412a(a)(1) of such title.

(B)Medical expenses

Distributions made to the employee (other than distributions described in subparagraph (A), (C), or (D)) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 to the employee for amounts paid during the taxable year for medical care (determined without regard to whether the employee itemizes deductions for such taxable year).

(C)Payments to alternate payees pursuant to qualified domestic relations orders

Any distribution to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)(1)).



What We Will Discover: What's In This for Me?

A tool previously associated with divorcing spouses works for married couples, allowing them unrestricted access to retirement benefits without penalty.

Unrestricted, non-penalized access offers more effective estate planning and protection opportunities for those who serve married clients.



The In Marriage QDRO®

Example:

Delay of Required Minimum Distributions



Delay of Required Minimum Distributions



Mr. Richardson owned his own business and was still working at age 69. He had accumulated over \$800,000 in his 401(k) plan. He knew that he would be required to start taking RMDs at age 70 ½, but he neither needed nor wanted the extra income. His wife, to whom he had been married for over 20 years, was 14 years younger than him (age 55).



Delay of Required Minimum Distributions

The financial implications may be significant.

Required Minimum Distributions for Mr. Richardson at age 70 ½ with \$800,000 in his 401(k) would be approximately:

Year One: \$28,000 (pre-tax)

Year Two: \$29,000 (pre-tax)

Year Three: \$31,000 (pre-tax)

By age 82, annual RMDs would be approximately \$42,000

- What would the benefit be if the total amount in the 401(k) were allowed to continue to grow?
- What are the savings to Mr. and Mrs. Richardson if the RMDs are avoided?



Delay of Required Minimum Distributions

The financial implications may be significant.
When does this type of planning work best?



Target age group to consider: early 60s.



The In Marriage QDRO®

Example:

Liquidation Prior to Age 59 ½



Liquidation Prior to Age 59 ½



Liquidation Prior to Age 59 ½

What do the numbers say?

In Service Distribution (aka In Service Rollover)

| Financial Considerations: | Financial Consequences: |
|--------------------------------------------------------------------|------------------------------------|
| Income Tax (Assumed minimum of 20%) | $\$130,000 \times 20\% = \$26,000$ |
| Ten Percent (10%) Excise Tax Early Withdrawal Penalty | $\$130,000 \times 10\% = \$13,000$ |
| Suspension from Contribution to 401(k) for Period of Six Months | \$_____ (assumed amount) |
| Suspension of Matching Funds for Period of Six Months | \$_____ (assumed amount) |
| Total Amount Available to Jones Family: | \$91,000 |



Liquidation Prior to Age 59 ½

What do the numbers say?

In Marriage QDRO®

| Financial Considerations: | Financial Consequences: |
|--------------------------------------------------------------------|------------------------------------|
| Income Tax (Assumed minimum of 20%) | $\$130,000 \times 20\% = \$26,000$ |
| Ten Percent (10%) Excise Tax Early Withdrawal Penalty | NOT APPLICABLE |
| Suspension from Contribution to 401(k) for Period of Six Months | NOT APPLICABLE |
| Suspension of Matching Funds for Period of Six Months | NOT APPLICABLE |
| Total Amount Available to Jones Family: | \$104,000 |



Liquidation Prior to Age 59 ½

Sometimes two tax years are better than one.
The In Marriage QDRO® for Mr. and Mrs. Jones' was broken into two tax years.

- If the In Marriage QDRO® was done in one year, \$130,000 would have been added to the Jones' family income.
- Rather than increase the family income by that amount, an In Marriage QDRO® was done at the end of 2016, transferring \$60,000. In January 2017, the remaining \$70,000 was transferred.
- This allowed us to break up income taxes over two years.



The In Marriage QDRO®

Example:

Liquidation Prior to Age 59 ½

(Payment of Educational Expenses)



Sallie Mae vs. Family

Get the money you need for school

Whether you're an undergrad, grad student, or a parent, we have loans to meet your needs.

- Competitive interest rates
- Multiple repayment options
- No origination fee or prepayment penalty

Get started ▶



Sallie Mae vs. Family



Payment of Educational Expenses

What do the numbers say?

| Financial Considerations: | Financial Consequences: |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------|
| Annual cost of college (Baylor University) | \$62,527 (per child, regardless of residency) |
| Expected Education Savings Contribution | \$40,000 per child held in an education savings account (\$10,000 per year) |
| Scholarship Benefits | \$20,000 per year, per child |
| Expected Family Contribution | Determines how much financial aid each child would be eligible to receive. \$_____ (assumed amount) |
| Family Plus Loan | @ 7.5% annual interest |



Payment of Educational Expenses

What do the numbers say?

In Marriage QDRO®

| Financial Considerations: | Financial Consequences: |
|--------------------------------------------------------------------|------------------------------------|
| Income Tax (Assumed minimum of 20%) | $\$240,000 \times 20\% = \$48,000$ |
| Ten Percent (10%) Excise Tax Early Withdrawal Penalty | NOT APPLICABLE |
| Suspension from Contribution to 401(k) for Period of Six Months | NOT APPLICABLE |
| Suspension of Matching Funds for Period of Six Months | NOT APPLICABLE |
| Total Amount Available to Family: | \$192,000 |

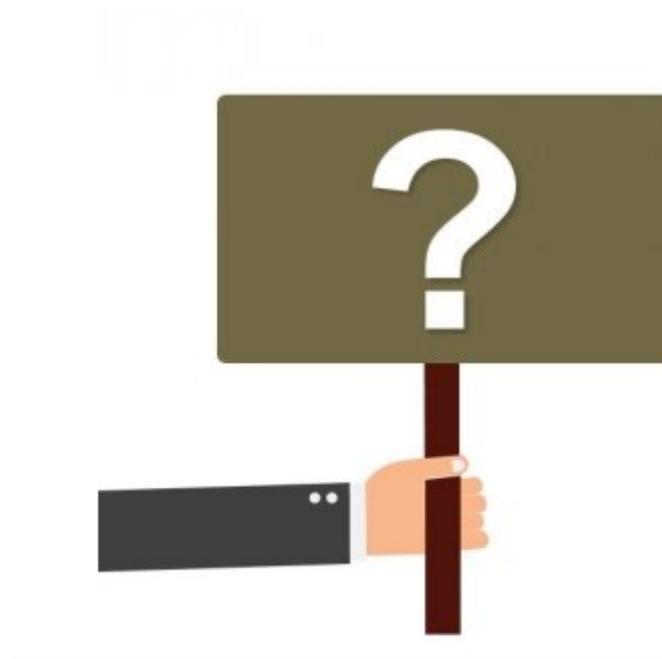


Other legal and financial applications of the In Marriage QDRO®

- Long Term Care
- Diversification of investments ahead of market correction
- Creation and funding of self directed IRAs
- Creation of guaranteed stream of income through annuities
- Purchase “air” time in spouse’s retirement plan
- Rolling funds to the older spouse (to supplement income)
- Parties that are physically separated, but not wanting to divorce
- Married, but filing separately
- ROTH Conversions



Questions?



Where Do We Go From Here?

Please feel free to call!

- Open calls on Thursdays from 10 to 10:45 a.m. (Central time)
 - Call **(712) 775-7031**
 - Enter Meeting ID **833-282-719**
 - Either Stephanie N. Prestridge or Marcus Foote will lead the call to answer your IMQ questions.
- Or you may email us with your questions: **sprestridge@inmarriageqdro.com**.



Thank You!



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