

Understanding the QDRO Process



QDRO | *direct, LLC*
QDRO and Pension Consultants

4800 N. Federal Hwy. | Suite E-302 | Boca Raton, FL 33431
Tel: (561) 394-2337 | Fax: (561) 394-2197 | www.qdrodirect.com

Step 1: Drafting & Client/Attorney Review

QDRO direct, LLC will do an initial draft QDRO for review by you and/or your attorneys to make sure the terms of the QDRO meets the terms and intent of the Settlement Agreement and/or Divorce Decree. A QDRO cannot re-write the terms of an Agreement/Divorce Decree.

- The initial draft will be done within 7-10 business days of receiving all the required information and documents required
- The initial draft will be sent to you and/or your attorneys for review and comment. (*QDRO direct, LLC are not attorneys and cannot give legal advice or file legal documents*)
- Once we receive approval from you and/or your attorney, we will send the QDRO to Plan for pre-approval, if elected and available. If we do not receive pre-approval and/or comments within 14 business days, we will automatically send to the Plan for pre-approval unless a specific Plan does not offer pre-approval services.

Step 2: Pre-approval by the Plan

Most Plans will review a draft QDRO prior to it being filed with the Court to ensure that the terms and intent of how the retirement plan is to be divided can be administered by the Plan. The plan will issue a determination letter either approving the QDRO or asking for specific changes. **Most plans deny the initial draft and will request changes. This is common.**

Timeframe: Most Plans have a 30-60 day pre-approval timeframe.

There are some plans that will not do pre-approvals (such as Fidelity) and therefore, will only review a court-executed, certified copy of the QDRO. If the initial QDRO is denied, an Amended QDRO will need to be filed with the Court and additional legal fees may apply.

Once we receive an approval, the pre-approved QDRO goes to you and/or your attorney to file with the Court. QDRO direct, LLC are not attorneys and cannot do court filings.

Step 3: Court Filing by You and/or Your Attorney

You and/or your attorney will be responsible for filing the QDRO with the Court. Once the Judge has signed the QDRO, an original, certified copy (with the original seal) will need to be obtained from the Clerk's office and sent to the Plan. Most, but not all, Plans require the original seal on the QDRO so it's important to make sure an original, certified QDRO is sent to the Plan, not just a copy signed by the Judge.

- File the QDRO with the Court and obtain the Judge's signature
- Obtain an original, certified copy (with a seal) from the Clerk of Court
- Submit the certified QDRO to the Plan for final processing

Step 4: Submit the certified QDRO to the Plan for Final Processing

After you and/or your attorney have obtained an original, certified copy of the QDRO signed by the Judge, you and/or your attorney will need to send the certified QDRO to the Plan and/or QDRO Administrator for final processing.

This process can take another 30-60 days, depending on the Plan procedures. Once the certified QDRO has been "qualified", the Plan will send a qualification letter outlining the process and timeframe for establishing a separate account and processing the transfer. Once the separate account is funded, the Plan will then send a final letter outlining what your account information is, how to access your account and may outline your distribution options.

Step 5: Distribution Consultation & Financial Planning

You and/or your client are entitled to a distribution consultation as part of the QDRO fees paid. The consultation will explain what your distribution, withdrawal, rollover and/or transfer options are, as well as any tax consequences and/or penalties that may be associated with each option. This consultation is voluntary, but most clients find it very useful to assess their financial position.

Additionally, we have strategic relationships with wealth and financial advisory firms who can assist you with more in-depth financial planning and also give you a second opinion on any advice you may have already received. It never hurts to get more than one opinion. We understand the unique financial challenges that exist after a divorce.

Once the Distribution Consultation is complete, our services are concluded. As we are not the custodian of the funds, any questions regarding timing of the distribution must be directed to the Plan.

F.A.Q:

1. What is a QDRO?

A qualified domestic relations order is a special court order that is required to allow a person a right to a portion of the retirement benefits his or her former spouse earned under an ERISA governed retirement plan. It allows the non-participant spouse to receive funds without tax and/or penalties due to the divorce. QDROs are typically prepared during divorce proceedings, though they can be filed years after divorce.

In a QDRO, the person who earned the benefit is called the “participant” and the person who is designated to receive a share of that benefit is called the “alternate payee.” An Alternate Payee can only be a spouse, former spouse or dependent of the Participant.

You cannot receive and/or transfer funds from an ERISA governed retirement plan without a QDRO.

2. How long does the process take?

The QDRO process is not a quick process. It often takes a minimum of 60-90 days for a transfer to take place but often it can take up to 6 months. However, the Department of Labor does allow 18-months.

3. When will I get my money?

Again, it depends on how long the Plan takes to review and process the final, approved QDRO. Most QDROs take a minimum of 90 days, as most Plans have a 30-60 day approval process. Some QDROs can be processed quicker and some take much longer. On average, we see QDRO transfers occurring within 4-6 months.

4. How do I get the money? What are my options?

Once the Plan approves the QDRO, they are required to set up an “Alternate Payee Account” at the Plan. They cannot pay directly to an Alternate Payee from a Participant account. Once the Account is set up in the Alternate Payee’s name, then the Alternate Payee has several options from leaving the money in the Plan, to rolling it over into their own IRA to taking a cash distribution or a combination of the options.

An Alternate Payee cannot take a loan.

5. Can I roll my money into an IRA?

It depends on the type of retirement plan that is being divided and whether the Alternate Payee has met the qualifying events. Most 401(k), Profit Sharing, Money Purchase Plans and other defined contribution plans do allow a direct rollover to an IRA.

We do offer distribution and rollover consultations as part of the QDRO fees paid and are affiliated with financial and wealth planning firms who can assist you with establishing and managing your IRA.

6. Are there any pitfalls for rolling the money into an IRA?

There are several ways to do a rollover and/or transfer to an IRA. The rollover and/or transfer option that is best for you depends on whether you will need any of the money in the short-term. There are special election options under a QDRO account that allows you to take money out without penalties. Once you roll money into an IRA, you lose that special election options. Additionally, some employer plans allow you to take money out at age 55 versus age 59 under an IRA. We highly recommend you take

advantage of the QDRO distribution consultation and speak to a Financial Professional to discuss your personal situation and needs.

QDRO direct, LLC has an affiliation with financial planning and wealth management firms who can help you with your decisions.

7. Am I taxed and/or penalized on the QDRO funds?

Neither the Participant nor the Alternate Payee are taxed or penalized on the QDRO transfer. This is the whole purpose of the QDRO itself.

However, once the funds are transferred into the QDRO account in the Alternate Payee's name, taxes and/or penalties could apply depending on the distribution option chosen.

Again, it is highly recommended to discuss your specific situation and needs with a financial professional and take advantage of the distribution consultation that is included with the QDRO fees paid.

8. Who do I call for questions and the distribution consultation?

You can call QDRO direct, LLC at (561) 394-2337 or (888) 474-QDRO (7376) at any time. We are happy to answer any questions you may have and also set up your distribution consultation. QDRO direct, LLC will also reach out to you once the QDRO has been sent to the attorney for filing with the Court.

If you would like to schedule an appointment with a financial or wealth advisor, QDRO direct, LLC will refer you to someone in their network of affiliated professionals.