

10 Tips to Avoid QDRO Complications

This information is presented as a service of TennQDRO, Frank S. Midgley, III, Owner. Frank has more than 20 years experience in financial services. No legal counsel implied.

1. Avoid “sticker shock” with your potential divorce client by adding a line to your agreement stating if his or her divorce requires dividing retirement assets and use of a Domestic Relations Order that: 1) there will be an additional fee of \$ _____ (set your fee); 2) your office will handle the proper filing process (typically by subcontracting it to a service provider, like TennQDRO).
2. Get full disclosure of the full number of retirement accounts and/or plans during discovery and be specific when writing the MDA. If possible, get the:
 1. Employer (ie. Bridgestone, Nissan)
 2. Plan Administrator or Custodian (ie. Fidelity, Vanguard)
 3. Account Numbers
3. Retirement (or “Qualified”) Accounts could be any of the following: 401(k), IRA, Pension, SEP IRA, Roth IRA, Keoghs, ESOP, 457, 403(b), 401(a)
4. Collect copies of recent statements from the retirement accounts and provide them to your QDRO Preparer.
5. Determine whether the account accrued entirely during the marriage. If not, the balance as of the date of marriage can be deducted before dividing the account. As an option, a dollar figure, rather than a percentage, could be agreed upon. This should be specified in the MDA so the QDRO Preparer can so note and minimize confusion with the Plan Administrator. This is also applicable if the plan will not compute the post-marital passive growth on the non-participant’s share. Determining historical valuations might be difficult or impossible if the Participant cannot produce statements or the Custodian-only reports quarterly, or if the account has changed Custodians.
6. Have the Participant sign release forms for each account. NOTE: Plan Administrators and/or Custodians cannot give you information about the client’s Plan or Accounts without it. TennQDRO can provide these release forms.

Continued on back

7. I recommend that the Alternate Payee be responsible for the QDRO. They have a tendency to expedite the process.
8. The valuation method that best reflects the splitting of the account on the date of dissolution is to include the phrase “in addition to any gain or loss prior to the transfer.” Both parties should absorb any gains/losses incurred during the QDRO process—as they would if the account was truly split on the dissolution date. This minimizes angry clients.
9. Advise clients to consult a CPA or Financial Advisor regarding the tax consequences of any actions they may be considering with the money. Typically, the Custodian will open a Qualified Account in the Alternate Payee’s name and will not cut a check directly to them unless advised.
10. Ideally, you should begin the QDRO process at the same time as the Settlement Agreement and then incorporate it by reference directly into the agreement. In this manner, there will be no confusion down the road, nor will you have to deal with an irate client when this language is included in a QDRO drafted after the divorce is finalized. If you do not incorporate the QDRO by reference, you must, at the very least, include comprehensive and definitive language in the Settlement Agreement. TennQDRO Service provides the QDRO and this definitive Settlement Agreement Language which reflects the details of the prepared QDRO.



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TennQDRO prepares domestic relations orders and consults on QDRO issues for all types of retirement plans. We work with individuals, family law attorneys and Plan Administrators to provide an efficient and cost effective method for divorcing couples to divide retirement assets. We are the company of choice for many family law attorneys.

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