

# Domestic Relations Order Guidelines

This document is used to assist plan participants intending to assign a portion of their employer-sponsored retirement plan to an alternate payee, typically due to divorce or dissolution, in order to provide child support, alimony, or marital property. A "Domestic Relations Order" ("DRO") is the court order used to divide these benefits. An alternate payee must be a spouse, former spouse, child, or other dependent of a participant.

Schwab Retirement Plan Services, Inc. ("SRPS"), in addition to recordkeeping services, provides a review service for DROs for the Plan. SRPS has been authorized by the Plan Administrator to determine if a DRO meets all necessary requirements to be considered a qualified DRO (or "QDRO"), and to process payment of benefits to alternate payee(s) named under a QDRO. For more information regarding DRO requirements, see the FAQ section.

## Steps to Prepare and Submit a DRO

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### 1. Review the DRO Materials.

Read the attached DRO Materials provided in their entirety, which includes the following documents:

- A. Domestic Relations Order Guidelines
- B. Model QDRO
- C. QDRO Administrative Procedures

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### 2. Collect Information Needed to Prepare the DRO.

Necessary information often includes a divorce decree or decree of dissolution, marital settlement agreement, account information, etc. A legal professional can provide guidance on what information and materials will be needed to determine how the DRO should be prepared.

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### 3. Prepare the DRO.

Have the DRO prepared that will be submitted to SRPS for review. The following are options parties may utilize to prepare the DRO with the assistance of a legal professional:

- A. Create a custom DRO.
- B. Create a DRO using the enclosed "Model QDRO". (*Parties utilizing this option should review the below guidelines.*)

#### Utilizing the Model QDRO Provided by SRPS

The "Model QDRO" has been prepared to assist attorneys in preparing DROs that comply with the requirements of federal law, but does not reflect the requirements of any applicable State or Tribal law(s). Note the form may need to be modified to conform to the intent of the parties and court formatting requirements. Certain plans may also have specific source or distribution restrictions which are detailed in the attached cover letter and QDRO Administrative Procedures. The final version of the DRO that is prepared should be typed and the DRO submitted to the court should not contain any handwritten instructions. **When utilizing the Model QDRO, please ensure all sections of the document where action is required have been completed prior to submission to SRPS and the court.**

- Model QDRO Heading

The Model QDRO heading should be deleted from the top of each page of the final version of the DRO.

- Court and Case Information

This section should mirror the court headings as they appear on your Final Decree or Judgment (i.e., case number, court name, parties' names, etc.).

- Introduction Paragraph

The name of the Participant, the name of the Alternate Payee, and the state in which the DRO will be entered with the court should be included.

- Section 2: Identification of Participant and Alternate Payee

In order to help avoid a delay in processing, the current mailing addresses, Social Security numbers, and dates of birth of the Participant and Alternate Payee should be submitted with the DRO.

Select the type of Alternate Payee by checking the applicable option: (a) spouse; (b) former spouse; (c) child or (d) other dependent of the Participant

*Note: For your convenience, a Confidential Information Addendum is enclosed with the Model QDRO to allow for the parties' identifying information to be provided separately.*

Section 3: Alternate Payee's Benefits

If the DRO assigns a percentage of the Participant's account, then the line for the dollar amount must be deleted. If the DRO assigns a dollar amount of the Participant's account, then the line for the percentage must be deleted.

Section 3 also contains two provisions that require an election regarding the Participant's account when calculating the Alternate Payee's award:

- **Gains or Losses:** Select the applicable option:
  - Including gains and losses after the determination date
  - Not including gains and losses after the determination date
- **Outstanding Loans:** Select the applicable option regarding loans (if any):
  - Including the value of any outstanding loan
  - Not Including the value of any outstanding loan

Section 7: QDRO Administrative Fee (for applicable plans)

If necessary, modify how the fee will be deducted between the parties. Note that the fee will be deducted equally (a 50/50 split) from the Participant's account and the Alternate Payee's portion unless the DRO specifies otherwise, even if language regarding the fee is not included in the DRO.

*Note: This section may not be applicable to all plans. If no QDRO Administrative Fee will be charged to the parties, this section will not be included in the Model QDRO.*

Section 8: Jurisdiction

Any signature lines that are not applicable should be deleted. Please understand that SRPS does not require the parties or attorneys to sign the document, but the court may require these signatures.

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#### **4. Review the DRO.**

We highly recommend reviewing the DRO with your legal counsel prior to submitting the Order to the court for the judge's signature. SRPS will review draft DROs to make sure they meet regulatory requirements prior to submission to the court. In the event that changes are required, SRPS will detail the changes in a letter to all parties.

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#### **5. Execute the DRO.**

After the DRO has been approved by SRPS, execute the DRO by having it signed and filed by the applicable court. Please note that a copy with an original court stamp is required. *Please remember to keep a copy of all documents submitted to SRPS for your records.*

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#### **6. Submit the DRO to SRPS.**

Submit the DRO to SRPS at the following address or via fax at 1-877-312-3347 for review. Generally, these Orders are reviewed within 30 days. *Please note SRPS may contact you via letter, phone, or email to request additional documentation beyond what was requested via these instructions.*

Schwab Retirement Plan Services, Inc.  
4150 Kinross Lakes Parkway  
P.O. Box 5050  
Richfield, OH 44286  
Attn: QDRO Review

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#### **7. Qualification and Account Creation.**

DROs that are determined to be qualified will be processed in accordance with the terms of the Plan and the parties will be notified. The Alternate Payee will receive correspondence regarding access to his or her account and available distribution options.

## Frequently Asked Questions

### **When is a freeze placed on a participant's account?**

A freeze is placed on a participant's account upon receipt of a DRO or other court documentation, and in some cases, upon receipt of a written notice. During the freeze, the Participant may continue to make contributions and direct investments (as provided in the Plan). However, requests for withdrawals or for loans (if applicable) will not be approved until the DRO is completed and the freeze is lifted. SRPS may place a freeze on a participant's account for additional reasons at the direction of the Plan Administrator.

### **How long will the freeze remain on the Participant's account?**

The freeze will remain on the Participant's account as long as the parties are actively corresponding with SRPS regarding the status of the DRO. SRPS will defer to the Department of Labor's requirements regarding freezing a participant's account with a pending DRO.

### **Who may submit a DRO?**

Any party to the case may submit a DRO and related documents. While the Participant and/or Alternate Payee may draft and submit a DRO to SRPS for review, appointed legal representatives or any other third party designated by the Participant and/or Alternate Payee may also forward documentation to SRPS.

### **Will my Final Decree of Divorce or Dissolution be sufficient to divide the account?**

While it is not required that a DRO be a separate document from a Final Decree of Divorce or Dissolution, typically a Final Decree of Divorce or Dissolution will not contain the required elements to be deemed a QDRO (as outlined below). In most cases, a separate DRO will need to be drafted and submitted to the court. Upon the receipt of these documents, a freeze will be placed on the Participant's account and the Model QDRO and QDRO Administrative Procedures will be provided.

### **How do I draft a DRO?**

SRPS will provide a Model QDRO to assist the parties in drafting an order which can be qualified under the Plan. While SRPS will provide a Model QDRO and QDRO Administrative Procedures to any and all parties in a case upon request, the Model QDRO is for guideline purposes only and may need to be modified to comply with the intent of the parties and applicable State or Tribal domestic relations law.

### **How do I obtain specific account information?**

Typically SRPS is unable to release any account information to any person other than the Participant. However, participant account information will be provided to the Participant's attorney or to the Alternate Payee's attorney upon receipt of a subpoena or participant-signed release.

### **Will SRPS accept a draft DRO for review?**

SRPS will review a draft DRO to determine if it meets regulatory requirements. Draft DROs can be mailed to the address below or faxed to 1-877-312-3347.

Schwab Retirement Plan Services, Inc.  
4150 Kinross Lakes Parkway  
P.O. Box 5050  
Richfield, Ohio 44286-5050  
Attn: QDRO Review

SRPS will review and respond to draft DROs; however, please note that a court-certified or court-attested copy of the DRO must be submitted for approval and processing in order for benefits to become payable to an alternate payee.

### **Is there a fee for SRPS qualifying a DRO?**

Pursuant to the Plan's service agreement with SRPS, a one-time fee may be charged to the Participant's account once the DRO is qualified for the review and administration of the DRO. Details about the fee can be found in the QDRO Administrative Procedures provided by SRPS for the Plan.

### **Who can be an Alternate Payee?**

An alternate payee must be a spouse, former spouse, child, or other dependent of a participant. A DRO can only be considered a QDRO when it creates and/or recognizes the right of an alternate payee to receive all or a part of a participant's benefits under a qualified retirement plan.

## **What makes a DRO “qualified”?**

The DRO must:

- Create or recognize the existence of an alternate payee’s right to receive all or a portion of a participant’s benefit or vested account balance.
- Contain the name and last known mailing address of the Participant and each Alternate Payee.
- Clearly state the complete legal plan name to which the Order applies.
- Clearly state the amount or percentage to be paid to the Alternate Payee.
- Specifically indicate the number of payments, form of payments and, if applicable, the duration of any payments.
- Be entered pursuant to the applicable State or Tribal’s domestic relations laws, and therefore must be signed and filed by the court of appropriate jurisdiction.

## **What constitutes a court certified or court attested copy of a DRO?**

A court certified or court attested copy will contain both a judge’s signature and a court filing stamp or seal. Questions about obtaining a court certified or court attested copy should be addressed with the clerk of courts. A copy with an original court stamp is required by SRPS for processing.

## **What happens if my Order does not contain the required information?**

If SRPS determines that the DRO does not constitute a QDRO, SRPS will provide a written notice of the reason(s) for such determination and a description of any additional material, information, or modifications necessary for the DRO to constitute a QDRO. A new DRO must be submitted including any of the requested additional material, information or modifications necessary for a DRO to constitute a QDRO. Please note that if a court certified DRO is deemed to not meet these requirements, it will need to be modified and resubmitted to the court.

## **Once the DRO is qualified, what are the next steps?**

If the determination has been made that the DRO constitutes a QDRO, then SRPS will begin processing the Alternate Payee’s benefit as soon as administratively feasible in accordance with the terms of the QDRO. SRPS will establish a separate account for the Alternate Payee and pay the amount described in the QDRO to the Alternate Payee entitled to receive that payment pursuant to the terms of the QDRO.

## **We are no longer pursuing a DRO. How can we remove the freeze from the Participant’s account?**

In most cases, SRPS will accept a signed and notarized statement from the Participant and the Alternate Payee to release the freeze. A certified copy of the Divorce Decree may also be accepted.

Please note that when a freeze is placed due to the receipt of a Summons Joinder, additional court documentation may be required.

## **Who pays the taxes on a QDRO benefit when it is distributed?**

If the Alternate Payee is the spouse or former spouse, the Alternate Payee will be responsible for payment of all taxes attributable to such distribution. If the Alternate Payee is a child, the Participant will be responsible for any taxes related to the distribution.

## **What taxes are applicable to a QDRO distribution?**

Distributions are subject to a 20% federal income tax unless the Alternate Payee chooses a rollover of funds to another qualified plan or IRA. Also note, a distribution from the QDRO account established on behalf of the Alternate Payee is not subject to the 10% penalty for distributions prior to age 59½. However, should the Alternate Payee roll over the funds into another qualified plan or IRA and subsequently take a distribution prior to reaching age 59½, the funds would be subject to the 10% penalty as they are no longer protected under QDRO status. If you roll over funds to a qualified plan or IRA, you should consult with your tax advisor prior to taking a distribution as the distribution may be subject to applicable federal, state, and local taxes.

## **What impact does the QDRO have on Beneficiary Elections?**

The QDRO does not remove or alter existing beneficiary elections for your account. Any beneficiary changes would need to be made per your plan’s normal beneficiary process. Once the QDRO process is complete we recommend that Participants review the beneficiary elections to determine if any changes need to be made.

## **If I have questions about the status of my DRO, whom do I call?**

If you have any questions, please call 1-800-724-7526 and stay on the line to speak with a Participant Services Representative.

This information is not intended to be a substitute for specific individualized tax, legal, or investment planning advice. Where specific advice is necessary or appropriate, you should consult with a qualified tax advisor, CPA, financial planner, or investment manager.

Schwab Retirement Plan Services, Inc. provides recordkeeping and related services with respect to retirement plans and has provided this communication to you as part of the recordkeeping services it provides to the Plan.



# Confidential Information Addendum

Name of Plan/Employer

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## Participant

Name (First, Last)

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Mailing Address

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City

State

Zip Code

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Participant's Social Security Number

Date of Birth

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Phone

Email

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## Participant's Attorney

Name (First, Last)

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Mailing Address

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City

State

Zip Code

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Phone

Email

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## Alternate Payee

Name (First, Last)

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Mailing Address

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City

State

Zip Code

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Alternate Payee's Social Security Number

Date of Birth

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Phone

Email

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Relationship to Participant

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## Alternate Payee's Attorney

Name (First, Last)

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Mailing Address

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City

State

Zip Code

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Phone

Email

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**Please return this document with the executed DRO to the below address or via fax at 1-877-312-3347:**

**U.S. Mail (regular mail)**

Schwab Retirement Plan Services, Inc.  
4150 Kinross Lakes Parkway  
P.O. Box 5050  
Richfield, OH 44286  
Attn: QDRO Review

**Overnight Mail ONLY**

Schwab Retirement Plan Services, Inc.  
Attn: QDRO Review  
4150 Kinross Lakes Parkway  
Richfield, OH 44286