
Information Needed to Value a Pension

With regard to defined benefit plans, the information needed to determine a lump-sum present value of pension benefits is as follows:

Participant's full name, precise name of the plan, information specific to the benefits accrued, such as the "accrued" monthly benefit as of the date of separation, divorce, or other agreed upon date of valuation and at the respective retirement age in which the retirement benefit will commence, date of birth of the participant, date of marriage if a portion of the benefit(s) were accrued before or after the marriage and the date of employment.

With regard to defined contribution plans, i.e. savings or profit sharing plans, the account balance at any given time is the present value, therefore no valuation is generally required.

Information Needed to Draft a QDRO, Military Order, Railroad Order, or Qualified Court Order (Gov't Plans)

Generally what is required is to obtain full names of each party, dates of birth for each party, social security numbers, and all relevant information with regard to the case. Such as :

Case number, County where divorce will take place, and which party is the petitioner or respondent to the action and which party is the pension plan participant.

In addition, we would need that portion of the settlement agreement which outlines the percentage division or dollar amount awarded. Please note, that the marital settlement agreement should state whether or not the non-participant spouse is to be deemed a survivor. This is required when submitting governmental, or military, orders and should be addressed in the Settlement Agreement/Divorce Decree as well.

Voit Econometrics offers **complete follow-through service:**

- Draft a preliminary DOMESTIC RELATIONS ORDER (DRO)
- Present preliminary DRO to Plan Administrator and attorney(s)
- Negotiate and facilitate DRO language in the best interest of both parties and pursuant to the divorce settlement
- Provide final QDRO to the attorney to be presented to the Court and then to the Plan Administrator for implementation

The process can sometimes be very smooth and be accomplished within 30 to 45 days. However, in more difficult situations, it could take substantially longer.

Voit Econometrics Group, Inc. is a forensic economics advisory firm specializing in economic analysis as it pertains to litigation and consulting in matters involving financial, retirement, & investment planning. Voit Econometrics assist attorneys in a variety of areas including the drafting of Qualified Domestic Relations Orders, Present Value Calculations (Pension Valuations), and Investment Services. Voit is nationally recognized as a leader in the QDRO and pension valuation industry having lectured to attorneys for Continuing Legal Education credits, and to accountants for CPE credits. Voit is insured for up to \$1 million dollars by Preferred National Insurance Company.

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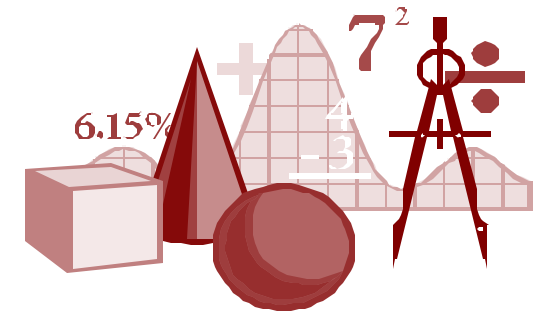
1363 North Prospect Avenue, 1st Flr.
Milwaukee, Wisconsin 53202
(414) 276-9097, or Toll-Free: 1-888-802-9097
Fax: (414) 276-0288

An attempt has been made in this text to address many of the more important issues concerning the valuation and division of pension benefits, however, because of the complexity of pension issues and the many interpretations of pension laws, many other issues cannot be adequately addressed within the scope of the information given here. The interpretation, viewpoints, and opinions presented in this text are those of the author and are not to be construed as the rendering of legal advice, nor is Voit Econometrics offering such advice.

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The Purpose of:

Valuing & Dividing Pensions for Divorce



“QDRO’S & PENSION VALUATIONS
for
EQUITABLE RESULTS”

Developed, Written & Provided by:

**VOIT
ECONOMETRICS
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A Forensic Economics Advisory Firm

For Distribution to:

Attorneys, CPA’s & their Clients

Pensions as Marital Assets

The importance of valuing pension plans for divorce cannot be overemphasized. Viewed as an asset, the value of a pension can, in many cases, constitute the largest portion of the marital estate. So long as the state, as well as the federal government, consider pensions as marital assets, it is almost incumbent upon the parties to determine the value of this asset and/or simply divide the pension via a Qualified Domestic Relations Order (QDRO). The purpose of each approach will be addressed here and will hopefully enlighten those contemplating divorce.

The purpose of valuing a pension is simply to determine whether the overall value of the pension benefits will allow the pension plan participant to retain all of their pension benefits in exchange for other marital assets. If the value is so large as to make it impractical for the participant to trade off other marital assets in order to retain full possession of their pension, or should there be a dispute as to the value, then the only alternative is to divide the pension benefit by way of a QDRO.

A QDRO is a court order instructing a pension or retirement plan to award a portion of the participant's pension benefits to the non-participant spouse often referred to as the "alternate payee". The plan, pursuant to this type of court order, will then make a payment to the alternate payee at the time of the participant's retirement. Keep in mind, each pension plan has an early retirement age and a normal retirement age, for example age 55 and 65, where the benefit is reduced for early retirement. For private, non-governmental, pension plans, it is possible for the alternate payee to commence their portion of the pension benefits at the participant's earliest retirement age regardless of whether or not the plan participant decides to retire. Often the parties to a divorce will typically be awarded only one-half of the benefit(s) accrued during the marriage, however, the amount awarded can be any

Types of Retirement Plans

There are generally two types of pension or retirement plans in existence today. They are Defined Contribution Plans and Defined Benefit Plans. Each has their own distinct characteristics.

Retirement plans which have an account balance associated with them are considered "defined contribution" plans where the account balance, at any given time, is the present value. This is then the value to be used in an offset against other assets of the marriage, if the plan participant so desires, in order to retain all of their retirement savings. Defined contribution plans are often referred to as 401(k)'s, Profit Sharing plans, Savings Plans, ESOP's, or most plans which have an account balance.

When dividing a defined contribution plan, e.g. savings plan or profit sharing plan, by a QDRO, some plans, but not all, will allow for a distribution to the alternate payee spouse during a specific cash out period or even immediately, *depending upon the terms and conditions of the plan.*

Emphasis is placed upon the terms and conditions of the plan since it is not the court that qualifies a domestic relations order, rather it is the plan administrator. It is important to understand that the court cannot order the plan to make a distribution or afford other options which may violate the terms and conditions of the plan. The plan, or more specifically the plan administrator, must approve the order before the order can be executed. The process of getting an order approved can be very cumbersome to the unsuspecting attorney or drafter of the QDRO, however, one significant advantage of implementing a QDRO is that the pension value(s) are taken out of the pool of marital assets making it easier to evenly distribute the remaining assets of the marriage.

Keep in mind that not all plans can be divided by a QDRO specifically military & governmental pension plans although they may accept a "QDRO Like" Order. Some governmental plans may except the title QDRO, but may not afford the same rights and/or benefits to an Alternate Payee as would a traditional QDRO in

Again, some plans may allow for a distribution from a defined contribution plan to the alternate payee where the alternate payee may then roll the proceeds over into an IRA qualified account or receive it in cash. A distribution from a plan, however, should not be assumed, nor should the divorce be contingent upon such a distribution from the plan to the alternate payee, unless first verified with the plan administrator

Defined Benefit Plans are plans promising to pay a specific monthly retirement benefit at the normal, or early, retirement age of the plan participant. These plans are typically 100% employer funded where the monthly benefit is based on the participant's years of service and the final or average annual income. They generally do not have account balances associated with them. Therefore, the only distribution will be in the form of an income stream, i.e. annuity, based either on the life of the participant, or in many cases, the life of the alternate payee spouse. An exception are many governmental defined benefit plans which do have account balances associated with them in the form of employee contributions. However, the employee contributions do not truly, or always, represent the real value of the plan benefits and are often not related to the actual monthly benefit to be received. It is sometimes possible to award 100% of an account balance, or monthly benefit, as of the date of separation or divorce if necessary in order to equalize offsets. It is also possible to only include those benefits that accrued during the marriage. Again, the terms and conditions of the plan apply. Other important issues include:

- *whether to deem the alternate payee as a survivor/beneficiary to the participant's monthly benefit, in a defined benefit plan, in the event the participant predeceases the alternate payee. Otherwise, benefits may be forfeited to the plan or awarded to someone else.*
- *whether to award the alternate payee a benefit based on a flat dollar amount, a percentage as of a specific date, or a portion of the final retirement benefit pro-rated for the length of marriage relative to the length of service.*
- *whether the individual or firm drafting your QDRO(s) is adequately covered under malpractice insurance. Voit Econometrics is insured up to \$1 million dollars with coverage specific to QDRO's & pension valuations!*