

## **DOMESTIC RELATIONS ORDERS**

### **REQUIRED INFORMATION**

This is not intended to be legal or tax advice, and should not be relied upon as such. Instead, this is in response to your request for information regarding domestic relations orders.

The Internal Revenue Code does not require eligible deferred compensation plans established pursuant to Code Section 457 to accommodate domestic relations orders. However, some plans accommodate such orders. Whether a particular plan accommodates such orders is determined by the plan document.

A domestic relations order is a judgment, decree, or order made pursuant to state domestic relations law (including community property law), relating to the property rights of the Alternate Payee. A certified copy (court certified copy) of such a judgment, decree, or order is required. In addition, the domestic relations order must:

- Be directed to the deferred compensation plan and not directed to Nationwide Retirement Solutions as the administrative service provider;
- Create or recognize the existence of the right of an Alternate Payee to all or a portion of the benefits payable with respect to a Participant under the Plan;
- Clearly specify the names, last known mailing addresses, and social security numbers of the Participant and Alternate Payee; please include date of birth for alternate payee (DOBs and SSNs may be provided separately from the Order)
- Clearly specify the amount or percentage of the Participant's benefits which are to be segregated for the Alternate Payee with a specific "as of" date for the segregation;
- If applicable, clearly specify whether earnings accrue on the Alternate Payee's benefits from the "as of" date to the actual date of segregation. (The administrative service provider will not perform hypothetical calculations to adjust for market fluctuations);
- Not provide for any actions to be taken by the Plan which are inconsistent with the Plan document;
- Not provide for any form of payment to the Alternate Payee that is not permitted by the Plan; and
- Not require the payment of benefits to an Alternate Payee, which is required by a prior domestic relations order to be paid to another Alternate Payee.
- Clearly specify whether loans and life insurance policies are included in the participant's account balance prior to any calculations, if applicable.

The following items also should be considered:

- Distributions made to an Alternate Payee are reported as taxable income to the Alternate Payee. Taxes will be withheld from any distributions to the Alternate Payee's account based upon the tax withholding elections of the Alternate Payee.
- The Alternate Payee may not make any contributions to the separate account.
- The Alternate Payee is permitted to designate beneficiaries for his or her account and to exercise exchanges among the funding options as permitted by the Plan and the investment providers under the plan. The Alternate Payee will receive quarterly statements on his or her account which will be sent to their address.
- Participant loans and life insurance policies cannot be segregated or transferred to the alternate payee, but may be included in the total assets for purposes of calculating the award amount (this could result in a non-prorata segregation of assets).