

# QDRO Information Needed

**1. Retirement Plan Account assignment to the Alternate Payee: (See page 2 for legal discussion)**

	<u>Account Name</u>	<u>Percentage or Fixed Amount</u>	<u>Valuation Date</u>	<u>AP Earnings Since Valuation Date</u>
1.	_____	_____% or \$_____	_____	___ Yes or ___ No?
2.	_____	_____% or \$_____	_____	___ Yes or ___ No?
3.	_____	_____% or \$_____	_____	___ Yes or ___ No?

The big issue is - When does the Alternate Payee begin to receive earnings on the QDRO assignment?

**2. Name of the Retirement Plan Owner/Participant/Employee:** \_\_\_\_\_  
First, Middle, and Last Name

Date of Birth: \_\_\_\_\_; Social Security Number: \_\_\_\_\_

Present Home Address: \_\_\_\_\_

Daytime Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Is the Participant/Employee now represented by an attorney? \_\_\_\_\_ Yes; \_\_\_\_\_ No

Name of Attorney: \_\_\_\_\_ Email Address: \_\_\_\_\_

**3. Name of New Owner/Alternate Payee:** \_\_\_\_\_  
First, Middle, and Last Name (was name changed in the divorce?)

Date of Birth: \_\_\_\_\_; Social Security Number: \_\_\_\_\_

Present Home Address: \_\_\_\_\_

Daytime Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Is the New Owner/Alternate Payee now represented by an attorney? \_\_\_\_\_ Yes; \_\_\_\_\_ No

Name of Attorney: \_\_\_\_\_; Email Address: \_\_\_\_\_

**4. Date of Marriage:** \_\_\_\_\_; **Date of Divorce Decree:** \_\_\_\_\_

**5. Documents needed:**

1. Copy of the Divorce Decree, if it has been granted by the court;
2. Copy of the Separation Agreement or Permanent Orders, which lists the plan(s) being divided;
3. Copy of a recent retirement plan account statement;
4. Signed Authorization to Release Financial Information (not required for all QDROs); and
5. Attorney Fee Disclosure (I provide that to you)

## Notes on Valuation Date and Earnings

### All QDROs must include:

- (a) The name of the retirement plan to be divided between the Participant and Alternate Payee;
- (b) The percentage or the fixed dollar amount to be assigned to a new account in the Alternate Payee's name;
- (c) The Valuation Date (effective date that the account is divided); and
- (d) For 401(k), 401(a), 403(b), 457, or similar defined contribution plans, should the plan administrator calculate earnings and apply them to the percentage or fixed dollar amount beginning with the Valuation Date?

All separation agreements and MOUs should include these four (a), (b), (c), and (d) characteristics. If they don't then they are incomplete documents.

If the Judge's permanent orders ruling does not list the valuation date or whether earnings are included, then by Colorado statute and Court of Appeals and Colorado Supreme Court case opinions, CRS §14-10-113(5) controls and earnings begin as of the §14-10-113(5) date.

Video number 8 at [denverqdro.com](http://denverqdro.com) discusses:

(1) Unless otherwise listed in the separation agreement or MOU, CRS §14-10-113(5) provides that the Valuation Date is the date of the Decree unless there was an earlier permanent orders hearing.

(2) All post-Decree property is separate property. We do not divide separate property in a divorce or legal separation.

(3) The earnings (or losses as the case may be) on all separate property belong to the owner of that separate property. Thus, the earnings on all post-Decree assignments to the Alternate Payee belong to the Alternate Payee, not to the Participant.

(4) Earnings (or losses as the case may be) must be calculated by the plan administrator and applied to the assignment to the Alternate Payee beginning with the Valuation Date.

(5) All Colorado Court of Appeals and Colorado Supreme Court opinions confirm the application of what is listed in (1) - (4) above. The applicable cases include: *Coplin* (2020); *Hiner* (1985); *Campbell* (1979); and *Price* (1986).

(6) All Colorado law is consistent with what is listed here.

Denverqdro.com videos 7 and 8 discuss these issues more completely.