**Do You Really Need a** [**QDRO**](http://www.smarterdivorcesolutions.com/qdro-form/)

You’re in that final stretch of the divorce, you can see the finish line ahead, you’ve reached a settlement agreement with your spouse, just then, your attorney or mediator turns to you and says, “Now you will need a QDRO and that’s going to be an additional cost.” “Wait, what? Are you kidding? What the heck is a QDRO?”

The QDRO is that last hurdle in your race, and get used to the idea because most divorces will ultimately involve a QDRO. QDRO is an acronym for a legal document called a Qualified Domestic Relations Order and is required whenever a divorcing couple needs to divide a Qualified Retirement Account. Let’s clarify exactly what that is. A Qualified Plan is typically one being held by an employer and includes 401(k) plans, 403(b) plans, pensions, 457 plans, deferred compensation plans, and some RSU, restricted stock unit accounts.

IRAs or, Individual Retirement Accounts do not **require** a QDRO. But to take advantage of a little-known opportunity in divorce to avoid withdrawal penalties, even the IRA must use a QDRO. Legally, your divorce decree is all you need for an IRA division. For a Qualified Retirement Account, to assign all or a portion of the accounts to a non-employee spouse, it has to be stated in the divorce decree and then the second document, a QDRO, must be completed and submitted to the plan for the division to take place.

If you are granted retirement assets from a former spouse via QDRO, this is the point where you have ONE opportunity to take money out of that plan with zero penalties. It will be taxable income, but there will be no 10% penalty for the withdrawal before age 59 ½. If you want to be able to do this from an IRA, then you **must** use a QDRO.

In my practice, I facilitate the preparation of QDROs for my clients by acting as their representative to a QDRO attorney that I have vetted and found to be the most affordable and ethical. Through this practice I have become aware of the multitudes of pitfalls that QDROs present and often, the failure of attorneys and mediators to address the issues in the settlement negotiations. Here is just a short list of some of the subtleties often overlooked.

* Is the non-employee spouse eligible to receive a lump sum settlement upon retirement?
* If the employee spouse dies, will the non-employee spouse still receive benefits?
* Were any outstanding loan balances taken into consideration?
* If splitting a 401(k), what is the actual date of division? Will the earnings after that date be included?
* For Pensions, does the plan set up a separate account for the non-employee spouse so they can choose their own payout options and beneficiaries? If not, have you protected the non-employee spouse from early-retirement penalties?

As you can see, the waters of a QDRO are fraught with peril and not for the inexperienced! Also, buyer beware! Prices for QDROs can range from $500 to $3,000. For the exact same document. Each plan has very specific requirements for the language of their QDROs and it is essential that the preparer have the plan documents in advance to ensure it will meet the requirements. You want to ensure that the QDRO will be PRE-APPROVED by the plan if allowed to prevent rejection and more cost to re-do it correctly.

Once your decree is final, signed by the Judge, then you submit the finished QDRO to the Judge as well. Once it is signed, then and only then is it ready to submit to the plan. At that point, they will contact the non-employee spouse to get instructions for the disbursement or to identify the new account set up on their behalf.

This QDRO stuff is complicated. Be sure you have an expert that can guide you through it and make sure you don’t get taken advantage of by the sharks out there that know you need help and aren’t afraid to make you pay up to $3,000 to get it. It just isn’t necessary.

If you need an affordable, accurate QDRO, contact us today. We’re on your side.