

HOLLAND & KNIGHT CASH BALANCE PLAN - 2019
HOLLAND & KNIGHT RETIREMENT SAVINGS PLAN
HOLLAND & KNIGHT PROFIT SHARING PLAN
HOLLAND & KNIGHT DEFINED BENEFIT PLAN

Qualified Domestic Relations Order Procedures

OVERVIEW

Generally, participants in qualified retirement plans are not permitted to assign or alienate their benefits to a third party. However, a qualified domestic relations order (QDRO) is an exception to this rule. A QDRO allows payments to be made from a qualified retirement plan to an alternate payee in conjunction with a separation, divorce or other domestic relations proceeding.

All qualified retirement plans are required under Section 206(d)(3) of the Employee Retirement Income Security Act of 1974, as amended (**ERISA**), and Section 414(p)(6) of the Internal Revenue Code of 1986, as amended (the **Code**) to adopt a written policy for determining if a domestic relations order (DRO) is qualified. The following procedures are to be used by the plan administrator¹ (or the individual given such responsibility by the plan administrator) of each qualified plan maintained by Holland & Knight LLP to review DROs.

RESPONDING TO DRO INQUIRIES

On inquiry by a participant or prospective alternate payee (or their designated representatives) for relevant information in connection with a domestic relations proceeding, the plan administrator should:

- Confirm that the participant has benefits payable under the plan.
- Provide a copy of these QDRO procedures and any plan information relevant to drafting a QDRO, including any model QDRO if one is available.
- Place a hold on participant's account.

If the inquiry comes from a prospective alternate payee (or his designated representative) and requests participant-specific information (such as the participant's account balance or last known address), the plan administrator should require the individual to:

- Obtain written, notarized consent from the participant consenting to the plan's release of this information to the alternate payee (or his designated representative); or
- Submit a subpoena to the plan that requires the plan to provide this information to the alternate payee (or his designated representative).

Placing a Hold on the Participant's Account

¹ Holland & Knight is the plan administrator for each of the qualified plans maintained by Holland & Knight.

A hold is only justified if the plan administrator receives a notice from the participant, the alternate payee, or their designated representatives that:

- A QDRO is being sought.
- A DRO is imminent.
- The participant's interest in the plan will be the source of payment under the DRO (if determined to be qualified).

In addition, a hold should be placed on the participant's account if the plan administrator receives from a participant or prospective alternate payee (or their designated representatives):

- A divorce decree providing for the assignment of a portion of the participant's benefit to the alternate payee.
- A marital property settlement providing for the assignment of a portion of the participant's benefit to the alternate payee.
- An order from a designated state child support agency providing for the assignment of a portion of the participant's benefit to the alternate payee.
- A court order directing the plan to prohibit the payment of benefits to the participant pending further order from the court.

A hold may also be justified if the plan administrator receives from either party or their designated representatives information sufficient to reasonably establish that a domestic relations proceeding is being initiated and that the parties intend to prepare a DRO relating to the participant's benefits under the plan.

The hold will become effective as soon as administratively feasible after the plan administrator receives notice, and has one of the following consequences:

- **Defined contribution plans.** When a hold is placed on a participant's account under a defined contribution plan, the plan administrator should not allow the participant to take a withdrawal, distribution or a loan from the plan to the extent that such withdrawal, distribution or loan may involve benefits in dispute under a pending DRO.
- **Defined benefit plans.** When a hold is placed on a participant's account under a defined benefit plan, the plan administrator should restrict the participant from beginning his retirement benefits payable under the plan.

When placing a hold on the participant's account, the plan administrator must make separate bookkeeping entries for any amounts that would be payable to the alternate payee during the DRO review period.

Removing a Hold on the Participant's Account

A hold should be removed if the plan administrator does not receive a DRO within six months of the commencement of the hold. If the administrative hold is removed due to inactivity, a QDRO can be pursued at a later date.

Alternatively, the plan administrator should remove an administrative hold on receipt and review of any of the following:

- A court-certified copy of a court order (including a dissolution of marriage, final decree of divorce or a property settlement agreement incorporated into such order) that clearly states that the alternate payee has waived his spousal rights to benefits, and includes all other information required in a QDRO to the extent applicable.
- An executed and notarized waiver of benefits from the alternate payee.
- A complete original or court-certified copy of a court order lifting any restriction pertaining to the division of benefits.
- A complete original or court-certified copy of an executed DRO that is determined to be qualified.

Removal of the hold does not imply that the alternate payee is waiving his rights to any portion of the participant's retirement benefits.

RECEIVING A DRO

When the plan administrator receives the DRO, the plan administrator should take the following steps:

- Make an initial determination as to whether the employee named in the DRO is actually a participant in the plan. If the employee is not a participant, the plan administrator should immediately notify the party submitting the DRO that the employee is not a participant in the named plan and that the DRO will not be reviewed.
- Make certain that the individual who is to receive all or a portion of the participant's benefits (the alternate payee) is clearly identified.
- Determine if the DRO is a draft or an order that has been executed by the court.
- Place a hold on participant's account (if not already done).

Notice to Parties

If the employee named in the DRO is a participant in the plan, the plan administrator must notify both parties that the plan has received the DRO. The notice should include a copy of these procedures, a summary plan description and a model QDRO for the plan, if available, and should be sent to the parties at the respective addresses set forth in the DRO. If no address is listed for either party, the plan administrator should send the notice to the last known

address for such individual(s). The alternate payee may designate a representative for receiving notices.

The plan administrator should also notify any attorneys representing the parties. If the DRO is received from an attorney representing either party, copies of the notices should be sent to such attorney.

Draft DRO

If the DRO is a draft, then the plan administrator should review it to confirm that it would be qualified when it is executed or correct any failures before it is executed. The plan administrator should notify the parties whether the draft DRO is approved or if it would fail to be qualified, with an explanation of the plan administrator's findings. Reviewing the draft DRO can be helpful, but only the final DRO can be acted on.

DETERMINING QUALIFIED STATUS OF AN EXECUTED DRO

The plan administrator should document the date on which the DRO was received. Then, within a reasonable period of time of receiving an executed DRO, the plan administrator must determine whether the DRO is qualified. Under these procedures, a reasonable period of time means a ninety-day period beginning on the date the plan receives the DRO.

Qualification Requirements

The plan administrator must determine whether the DRO satisfies the following requirements:

- The DRO must be an executed order, which requires that it is:
 - a judgment, decree or order (including the approval of a property settlement agreement) issued under a state's domestic relations law;
 - an order issued by a state agency, typically a court, with authority to issue such judgments, decrees or orders under a state's domestic relations law (including a community property law); and
 - related to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a participant.
- The DRO must contain the following information:
 - the full legal name of the plan;
 - the plan participant's full name and last known mailing address (social security number and date of birth are optional);
 - each alternate payee's and, if applicable, each contingent alternate payee's full name and last known mailing address (social security number and date of birth are optional);
 - each alternate payee's and, if applicable, contingent alternate payee's status as a spouse, former spouse, child or other dependent of the plan participant.

- the actual amount or percentage, or the method for determining the actual amount or percentage, of the plan participant's benefits to be paid to each alternate payee;
- the number of payments or period of time to which the DRO applies; and
- a statement requiring payment to the alternate payee (rather than, for example, to the plan participant for payment to the alternate payee).

Information Specific to Defined Benefit Plans

For a defined benefit plan, the plan administrator should determine if the following additional items have been included in the DRO, if necessary and appropriate under the terms of the plan:

- A statement as to whether the benefits are to be divided as a shared interest or a separate interest. A QDRO that creates a separate interest divides the participant's benefits into two separate parts: one for the participant and one for the alternate payee. Subject to the terms of the plan, a QDRO may provide that the alternate payee can determine the form in which his or her benefits are paid and when benefit payments begin. Under the shared payment approach, benefit payments from the plan are split between the participant and the alternate payee. The alternate payee receives payments only when the participant receives payments.
- The number of payments to be paid to the alternate payee or the dates when payments for each alternate payee will start and end. As an alternative, the DRO may give the alternate payee the right to choose when payments may begin, but not before the participant's earliest retirement age.
- A statement that the benefits payable to the alternate payee will be paid in any form available to the participant, except in the form of a qualified joint and survivor annuity with the alternate payee's subsequent spouse as a survivor.
- Instructions regarding the alternate payee's entitlement to early retirement subsidies and supplements (if any are provided under the plan).
- Instructions regarding the division of any future increases in the participant's post-retirement benefit, if any.
- A statement that the alternate payee may not designate a beneficiary (unless otherwise provided under the plan).

Orders Providing for Separate Interests

If a DRO provides for separate interests under a defined benefit plan, the following additional information should be included:

- A requirement that payments continue to be made to the alternate payee regardless of the participant's death.

- Instructions as to whether the participant's former spouse, as the alternate payee, is to be treated as the participant's spouse (regardless of whether the participant remarries) for all or part of the participant's remaining separate interest.
- Instructions on the disposition of the alternate payee's separate interest, if any, when the alternate payee dies before beginning benefits.

Orders Providing for Shared Payments

If a DRO provides for shared payments under a defined benefit plan, the following additional information should be included:

- A requirement that the shared payments to the alternate payee stop no later than the participant's death (or never start if the participant dies before entering pay status).
- Instructions as to whether the participant's former spouse, as the alternate payee, is to be treated as the participant's spouse (regardless of whether the participant remarries) for all or part of the participant's monthly benefit under a qualified preretirement survivor annuity and/or a qualified joint and survivor annuity.
- Instructions on the disposition of the participant's benefit when the alternate payee predeceases the participant.

Information Specific to Defined Contribution Plans

For a defined contribution plan, the plan administrator should make sure that the following additional items are included in the DRO:

- How investment gains and losses should be credited.
- The method for allocating the alternate payee's benefits from among the participant's various investments under the plan (if applicable).
- The impact of any outstanding loan on the alternate payee's benefit.

Qualification Prohibitions

The plan administrator should not deem a DRO qualified if it requires the plan to:

- Pay benefits that have a value in excess of the value of benefits to which the plan participant is entitled from the plan.
- Pay any type or form of benefit, or provide any option, that the plan would not otherwise provide to plan participants and alternate payees.
- Pay benefits to an alternate payee that are required to be paid to another alternate payee under a previous QDRO.

- Pay benefits to an alternate payee in an amount or form that is not permitted under the ERISA or the Code.
- Pay benefits to an alternate payee in the form of a qualified joint and survivor annuity for the lives of the alternate payee and his subsequent spouse.
- Pay benefits as a separate interest to the alternate payee if the plan participant is already receiving benefit payments.
- Change the benefit form if the plan participant is already receiving benefit payments, unless the plan specifically permits such changes.

AFTER DETERMINING DRO STATUS

After reviewing the DRO, the plan administrator must notify the plan participant and the alternate payee whether the DRO is qualified. The notification must be sent to the plan participant and the alternate payee at the addresses specified in the DRO. If the DRO does not specify an address, the notification must be sent to the last known address of the plan participant and alternate payee.

DRO That Is Qualified

If the DRO is qualified, the notification should set out the interpretation of the QDRO regarding amount, time and form of distribution. Any amounts that were payable to the alternate payee that accrued and were separately accounted for during the plan determination period should be paid to the alternate payee as soon as practicable. All other amounts must be paid in accordance with the QDRO.

Plan assets derived from multiple sources (such as employee elective deferrals, employee after-tax contributions and employer contributions) are distributed to the alternate payee on a pro rata basis from all sources, unless the DRO states otherwise.

DRO That Is Not Qualified

If the DRO is determined not to be qualified, the notice must set out, in an easily understood manner:

- The specific reason(s) for the rejection.
- The specific reference to pertinent provisions of the plan or DRO on which the denial is based.
- An explanation of any time limits on the parties' rights.
- A description of any additional material that is necessary for the DRO to become a QDRO and an explanation of why such material is needed.

DRO APPEALS AND WAIVERS

If the plan administrator decides that a DRO is qualified, the participant or prospective alternate payee (or their designated representatives) may appeal the plan administrator's determination. An appeal must be submitted in writing and mailed to the plan administrator within thirty-days of receiving the plan administrator's determination. The appeal must set forth the reasons for disagreement with the plan administrator's determination and include any relevant documents.

Parties that do not appeal the plan administrator's determination may execute a waiver of appeal to expedite the QDRO administration process.

DRO THAT IS NOT AMENDED OR NOT DETERMINED

Where a DRO does not qualify and it has not been amended within 18 months after the plan administrator received the DRO, the plan administrator may distribute the separately accounted benefits to the person(s) that would have received them had the DRO never been received by the plan administrator.

If a plan administrator is, in good faith, unable to determine whether the DRO is qualified within 18 months of receiving the DRO, the plan administrator may distribute the separately accounted benefits to the person(s) that would have received them had the DRO never been received by the plan administrator.

ADMINISTRATIVE ACTIONS

The plan administrator must ensure that any DRO received is reviewed within a reasonable time and record when the following key events occurred:

- Relevant documents were provided to the party drafting the DRO.
- Hold placed on the participant's account/benefit.
- Acknowledgment letter sent.
- Letter approving/rejecting a draft DRO sent.
- Letter approving/rejecting an executed DRO sent.
- Expiration of appeal period.
- Account segregation (if applicable).

AMENDMENT TO PROCEDURES

These Procedures for Identifying a QDRO may be modified or amended by the plan administrator at any time.

These written procedures are not intended to be a complete statement of Section 206(d)(3) of ERISA and any statutory matter not specifically covered herein is incorporated by reference.

COMPLIANCE WITH LEGAL REQUIREMENTS

These procedures are designed to meet the requirements of the Section 414(p) of the Code and Section 203(d)(3) of ERISA and shall be administered in a manner consistent with those requirements and any other applicable federal and state law.

NO LEGAL ADVICE

The plan administrator, by providing this document or any other related documents or verbal discussions with the parties or their representatives, is not providing legal advice or counsel. In any communication, the plan administrator is stating its own interpretation of the law and the parties are advised to consult legal counsel.