

**RULES
OF
THE TENNESSEE DEPARTMENT OF TREASURY
ADMINISTRATION**

**CHAPTER 1700-09-01
QUALIFIED DOMESTIC RELATIONS ORDERS**

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1700-09-01-.01 PURPOSE.

The rules in this chapter implement T.C.A. § 8-25-114.

Authority: T.C.A. §§ 8-25-104 and 8-25-114. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.02 DEFINITIONS.

In addition to the definitions contained in T.C.A. Title 8, Chapter 25, the following definitions are applicable to this chapter:

- (1) Alternate payee means a former spouse of a deferred compensation program participant who is recognized by a qualified domestic relations order as having a right to receive all or a portion of the amount payable to a deferred compensation program participant.
- (2) Deferred compensation program means the program through which the state of Tennessee administers deferred compensation plans authorized under T.C.A. Title 8, Chapter 25, Parts 1 and 3.
- (3) Participant means any employee who has elected to participate in a deferred compensation plan administered by the state of Tennessee that is authorized under T.C.A. Title 8, Chapter 25, Parts 1 and 3; any former employee who has an account balance in a deferred compensation plan administered by the state of Tennessee that is authorized under T.C.A. Title 8, Chapter 25, Parts 1 and 3; and any member of the Tennessee Consolidated Retirement System who participates in the hybrid plan authorized under T.C.A. Title 8, Chapter 36, Part 9, through which the member's defined contribution component consists of a deferred compensation plan administered by the state of Tennessee that is authorized under T.C.A. Title 8, Chapter 25, Part 3.
- (4) Plan(s) mean the deferred compensation plan(s) in which an employee participates through the deferred compensation program.
- (5) Qualified domestic relations order ("QDRO") has the same meaning as provided in § 414(p) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 414(p); provided, that such order may only relate to the provision of marital property rights for the benefit of the former spouse of the deferred compensation program participant.

Authority: T.C.A. §§ 8-25-103(a), 8-25-104, 8-25-114, 8-25-301, 8-25-304, 8-36-903, and 8-36-916. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.03 SUBMISSION OF ORDERS.

A person who wishes to have the deferred compensation program review a domestic relations order to determine whether it is a QDRO for the purpose of receiving a portion of a participant's account shall submit a copy of the signed domestic relations order to the deferred compensation program. Such order may be, but is not required to be, on the form provided by the deferred compensation program. However, such order must contain all requirements prescribed by these rules. The copy shall show the seal by the clerk of the court that entered the order. If validity cannot be determined, the deferred compensation program may request a certified copy of an order. The deferred compensation program shall not make a final determination for orders not yet entered by the court.

Authority: T.C.A. §§ 8-25-104 and 8-25-114. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.04 ADMINISTRATIVE EXPENSES.

The deferred compensation program may assess the administrative expenses of processing a QDRO in order that the deferred compensation plans shall operate without cost to or contribution from the state. Any such administrative expenses shall be assessed to the participant's account unless the QDRO states that all or a portion of the administrative expenses should be deducted from amounts paid to the alternate payee.

Authority: T.C.A. §§ 8-25-104, 8-25-113, 8-25-114, and 8-25-309. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.05 DELEGATION TO THIRD PARTY ADMINISTRATOR.

The deferred compensation program may, at its discretion, delegate the review and implementation of QDROs, including the collection of administrative expenses as authorized by T.C.A. §§ 8-25-104(c) and 8-25-113, to a third party administrator with which it has a contract for administrative services.

Authority: T.C.A. §§ 8-25-104, 8-25-113, 8-25-114, and 8-25-309. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.06 REQUIREMENTS FOR A VALID QDRO.

The deferred compensation program will accept a court order as a valid QDRO that meets all of the following requirements:

- (1) The order must create or recognize the right of an alternate payee to all or a portion of a participant's account.
- (2) The order must contain the name, current mailing address, date of birth, and social security number of the participant.
- (3) The order must contain the name, current mailing address, date of birth, and social security number of the alternate payee.
- (4) The order must contain the amount or percentage of the participant's account, distribution, or payments to be paid by the plan to the alternate payee, or a description of how to calculate the amount or percentage.
- (5) The order must contain the number of payments or the period of time to which the order applies if the participant is receiving periodic or annuity payments.

(Rule 1700-09-01-.06, continued)

- (6) If the participant receives lump sum payments in addition to periodic payments, the order must specify a separate proportion or fixed amount to be applied to the lump sum payments. Otherwise the lump sum payments will not be divided.
- (7) The order must include a specified distribution or payment that is of a type or form permitted under the plan.
- (8) The order must not include a specified amount or duration of the payment to the alternate payee that is greater than that available to the participant under the plan.
- (9) The order must not grant the alternate payee payment of any benefits that have already been awarded to another alternate payee under another order previously determined to be a QDRO.
- (10) The order may specify an alternative method for the parties to verify their social security numbers to the deferred compensation program, if the court finds that omission of the numbers in the order is necessary to reduce the risk of identity theft. The order is not a QDRO if the deferred compensation program finds that the method of verification is insufficient for the purpose of payment of benefits or reporting of income for tax purposes.

Authority: T.C.A. §§ 8-25-104 and 8-25-114. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.07 REVIEW OF ORDERS.

The deferred compensation program will notify the participant and alternate payee when it receives a domestic relations order showing the official stamp of the court. If validity cannot be determined the deferred compensation program may request a certified copy of an order. The notice will explain the procedures for determining if the domestic relations order is qualified. Upon completion of review of the domestic relations order, the deferred compensation program shall notify the participant and alternate payee in writing of the determination.

Authority: T.C.A. §§ 8-25-104 and 8-25-114. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.08 PAYMENT TO ALTERNATE PAYEE.

- (1) If approved as a QDRO, the alternate payee may receive his or her payment only as a direct payment, rollover, or transfer.
- (2) Payment to an alternate payee as directed by a QDRO shall be made without regard to whether the participant is eligible for a distribution of benefits under the plan.

Authority: T.C.A. §§ 8-25-104 and 8-25-114. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.

1700-09-01-.09 ALTERNATE PAYEE'S INFORMATION.

An alternate payee is responsible to report to the deferred compensation program in writing each change in his or her name and residence address.

Authority: T.C.A. §§ 8-25-104 and 8-25-114. **Administrative History:** Original rule filed July 15, 2016; effective October 13, 2016.