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Dividing Government Pensions in Divorce

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There appears to be much confusion when it comes to dividing state government defined benefit pension benefits in divorce actions by means of a Division of Property Order (DOPO). The same issues are also present when dividing federal government pensions such as the Federal Employees' Retirement System (FERS) and the Civil Service Retirement System (CSRS).

The process normally starts with the attorney requesting an evaluation of the pension benefits earned as of the date of the anticipated divorce for the various retirement plans covering the couple. Let's assume that the wife is a government employee covered by the Ohio Public Employees' Retirement System (OPERS) and the husband works in employment covered by Social Security, but his employer does not offer any other retirement benefit. The evaluator is supplied such documents as a benefit statement from OPERS that allows the evaluator to determine the benefit that was earned as of the agreed upon evaluation date. In addition the husband's wage history under Social Security is provided that allows the evaluator to estimate the husband's benefit under Social Security.

Unfortunately, sometimes one evaluator is hired to value the OPERS benefit for the wife and another evaluator is hired to value the Social Security benefit for the husband. When this happens, very rarely are a consistent set of assumptions used to

value these benefits and the results are of little value. But in our example, let us assume that the same evaluator is used to value both plans.

Two Methods Used to Divide Pension

There are two primary methods used to divide a pension benefit, depending upon the extent of the other marital assets of the couple. The two methods are the:

- **Immediate Offset:** This approach is used when the amount of other marital assets is sufficient to allow the participant to keep the entire value of his/her pension benefit and the non-participant spouse is awarded a larger value of the couple's other marital assets. For instance, if the marital value of the participant's pension benefit is \$100,000 and the marital value of the couple's other assets is \$300,000, the participant would retain the entire pension benefit and be awarded \$100,000 of the couple other marital assets while the non-participant spouse would be awarded \$200,000 of the couple's other marital assets.
- **Deferred Distribution:** This approach is used when the couple's other marital assets are insufficient in comparison to the marital value of the participant's pension benefit to permit an equitable division of the marital assets. Using the prior example, if the marital value of the couple's other assets is only \$50,000, even assigning the non-participant 100% of the other marital assets would not be sufficient to offset the \$100,000 marital value of the participant. In this case, typically a QDRO or DOPO would be used to divide the marital portion of the pension benefit equally.

For the Immediate Offset approach to be used, it is very important that the couple agree on the actuarial assumptions used to determine the present value of the plan benefits. As will be shown later in this article, the actuarial assumptions used are generally less important if the Deferred Distribution approach is used, as long as the same set of assumptions are consistently used to value all pension benefits. Thus, let's look closer at the selection of the key valuation assumptions.

Key Valuation Assumptions

There are three primary assumptions that must be selected in valuing a pension benefit.

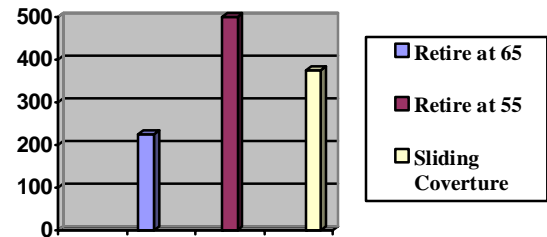
- Retirement Age
- Interest Rate
- Mortality

Retirement Age: In pension plans that contain a significant early retirement subsidy, such as OPERS, where a participant can retire after 30 years of credited service regardless of the age at retirement without any reduction in the benefit, the assumed age at retirement can have a greater impact on the present value than any other assumption. If a plan were to reduce benefits actuarially upon early retirement, then if a participant were to retire at age 55 when the normal retirement age is 65, the participant would typically receive a benefit at age 55 which is approximately 40% of the benefit he/she would receive if benefit commencement were deferred to age 65. Thus, if the participant retired at age 55 with unreduced benefits, the present value of the unreduced benefits at age 55 would be approximately 250% of the present value if commencement did not begin until age 65.

However, under the sliding coverture approach the alternate payee is assigned an amount based on the marital portion of the benefit that the participant would receive when he/she retires. As Table 1 indicates, under the sliding coverture approach the difference in the present values is not as great.

Table 1

Impact of Retirement Age on Marital Portion of Present Value for Participant Age 55



In Table 1, the participant is assumed to be age 55 on the evaluation date. The first bar shows the present value based of the benefit earned as of the evaluation date and assuming payment will not commence until age 65. The second bar assumes that the benefit will commence on the evaluation date and is reduced 25% for early commencement. The third bar assumes that the benefit will continue to increase with increases in salary and service until it commences at age 65 and that the marital portion is 25/35 of the total present value. The marital portion is the participant's service while married (25 years) over his/her total service at age 65, which is assumed to be 35 years.

Interest Rate: The Actuarial Standard of Practice No. 34 of the American Academy of Actuaries indicates that the "discount rate selected for valuing retirement plan benefits in domestic relations actions should be a low-risk rate of investment return, determined as of the measurement date based on the cash-flow pattern of benefits being valued ... a published index reflecting yield rates for high quality corporate bonds." As an alternative, a survey of annuity rates could be used.

The Pension Protection Act of 2006 (PPA) established a new standard based upon the corporate bond yield curve that actuaries must use to determine for qualified pension plans:

- Lump sum payments
- Plan liability for PBGC variable premium
- Funding Target for determining contribution requirements.

No longer can a plan actuary select the interest assumption based on his/her best estimate of the anticipated investment return of the plan assets. Similar corporate bond yield curves developed by

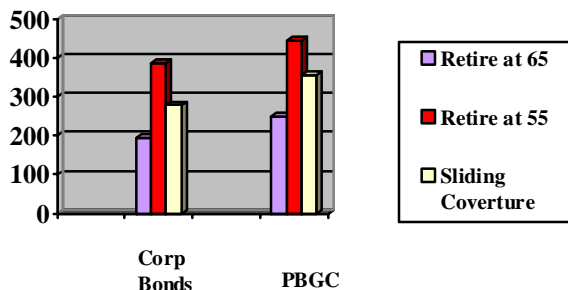
Citigroup have emerged to determine the pension liability for financial disclosure purposes under Financial Accounting Standard 158.

Some pension evaluators continue to use the PBGC basis for valuing the present value of pension benefits in divorce actions using the rationale that the PBGC basis is an approximation of the cost to buy an annuity equal to the amount assigned to the alternate payee. It should be remembered that the PBGC basis uses a plan termination scenario and does not represent the most competitive bid, but the average bid from 20 large insurance companies. In addition, the use of this basis places the alternate payee on a more secure basis than the plan participant. This is particularly true in the Ohio state plans where the participant's lump sum benefits under the PLOP program are determined using an 8% interest.

A comparison of the difference in the present value of benefits is shown in Table 2 below for a participant age 55 on the date of the evaluation.

Table 2

Impact of Interest Rate on Marital Portion of Present Value



The comparison in Table 2 is based on the Spot Corporate Bond Yield Curve segment rates for February 2009 and the PBGC rate for the same month as illustrated below:

	Bond Rate	PBGC
First 5 years	5.24%	6.02%
Next 15 years	7.07%	6.02%
Thereafter	7.08%	5.48%

There is also a difference in the manner that the interest rates are used to discount future benefit payments. Under the PPA Corporate Bond Rate approach each benefit payment is discounted by only one of the three rates shown above based on when the benefit is assumed to be paid. The PBGC

rates are based on a combination of rates. For example, a benefit payment of \$1,000 that is payable 25 years from the evaluation date would be discounted as shown below:

PPA Corporate Bond Basis:

$$PV = \$1,000 \div (1.0708)^{25} = \$180.84$$

PBGC Basis:

$$PV = \$1,000 \div [(1.0602)^{20} \times (1.0548)^5] = \$237.90$$

Mortality: The mortality table used to value the pension benefit has less impact on the emerging present value as long as one of the standard tables is used. The new standard introduced by PPA is the RP2000 combined table projected for improvement in future mortality rates. This table is a combination of annuitant and non-annuitant mortality rates where annuitant rates are projected 8 years from the valuation date to reflect improvements in mortality while non-annuitant mortality rates are projected 15 years into the future. The PBGC basis is based on the UP94 mortality table projected 10 years from the evaluation date to reflect expected improvement in mortality rates. These tables produce results that are very similar.

The major difference in mortality rates occurs if the participant is disabled. For individuals whose disability would entitle them to Social Security disability benefits if they were covered by Social Security, a special mortality table is used. The IRS under PPA and the PBGC use the same disabled life mortality rates. Present values based on this disabled life mortality table are significantly higher than those based on healthy mortality and as a result develop in smaller present values.

Summary: The actual assumptions used are very important if the Immediate Offset approach is used to divide the pension assets. However, as we will see later in this article, the actual assumptions used are less important if the Deferred Distribution approach is used as long as the same assumptions are used to value all pension benefits of the divorcing couple.

History of Social Security Offsets

Before we turn our attention to reviewing the method to assign pension benefits in our example of the Deferred Distribution approach, it probably would be beneficial to review the history of how

Social Security benefits have been used to offset government pensions.

Hypothetical Offset: In Cornbleth v. Cornbleth (1990), 397 Pa.Super. 421, 427, 580 A.2d 369, 372 the court stated:

“ To facilitate a process of equating [public pension participants] and Social Security participants we believe it will be necessary to compute the present value of a Social Security benefit had the [public plan] participant been participating in the Social Security system. This present value should then be deducted from the present value of the [public pension] at which time a figure for the marital portion of the pension could be derived and included in the marital estate for distribution purposes. This process should result in equating, as near as possible, the two classes of individuals for equitable distribution purposes.”

Social Security Benefit of the Non-Government Spouse: In Eickelberger v. Eickelberger (1994), 93 Ohio App.3d 221, 228, 638 N.E.2d 130 the Twelfth District Court of Appeals followed a method in which the Social Security benefits of the privately employed spouse are offset against the public benefits of a spouse employed by the state. The rationale was that this approach was more equitable as the non-government spouse’s Social Security benefit approaches zero.

Actual Social Security, Including Spouse and Widow(er)’s Benefits: In Neville v. Neville, 99 Ohio St.3d 275, 278-279, 2003-Ohio-3624 (2003) the Ohio State Supreme Court ruled that Ohio courts may consider the future Social Security benefits of parties to a divorce action in fashioning an equitable distribution of the parties’ marital estate. For the first time the 50% spousal benefit was included in the evaluation of the present value. Subsequent evaluations introduced the inclusion of the present value of widow(er)’s benefits as well.

Ohio House Bill 395: Effective on April 7, 2009, a Social Security offset can only be used to offset the marital assets under a government pension. Typically there are no spouse or widow(er) benefits available to government employees due to the Government Pension Offset provisions of Social Security whereby an offset will reduce the amount of a person’s Social Security spouse’s or widow(er)’s benefits by two-thirds of the amount of their government pension. Thus, typically only the Old Age benefit of the government employee spouse would be valued.

Determining the Assigned Interest

The balance of this article will focus on determining the percentage of the government employee’s pension that needs to be assigned to the non-government spouse through means of a DOPO. Going back to our example, the wife was covered by OPERS and the husband was a non-government employee whose only pension benefit was Social Security. The following formula would be used to determine the percentage of the wife’s OPERS benefit that would be assigned to the husband:

$$\left[\frac{(\text{Marital PV of Gov Pension}) - (\text{Marital PV of SS})}{(\text{PV of Gov Pension Over Joint Life})} \right] \times 50\%$$

In the formula above, the marital portion of the present value of the husband’s Social Security benefits are subtracted from the marital portion of the present value of the wife’s OPERS benefits with the difference multiplied by 50% to determine the present value of the wife’s OPERS benefits that should be assigned to the husband. Unfortunately, OPERS does not provide for a separate interest assignment, thus the value assigned to the husband must be assigned to the husband by dividing the present value of the wife’s OPERS benefit that is expected to be paid over their joint life as only a shared interest assignment is available.

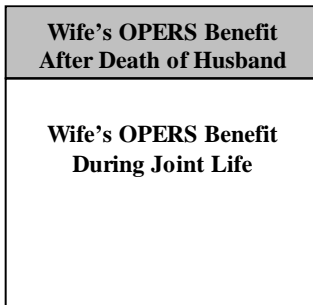
Table 3 illustrates how the percentage of the wife’s OPERS benefit assigned to the husband might be determined. As is illustrated in the table, the actual percentage assigned does not vary significantly regardless of the assumptions used to value the respective present values.

Table 3

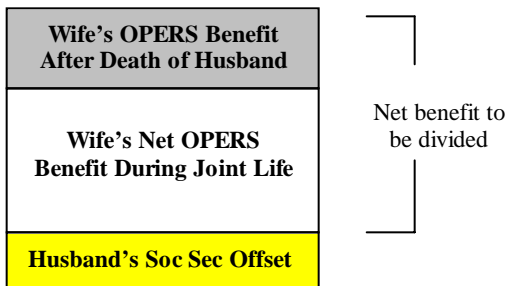
	Corp Bond	PBGC	Corp Bond	PBGC
1. Retirement Age	55	55	65	65
2. Monthly benefit	\$2,100	\$2,100	\$5,600	\$5,600
3. Marital PV of OPERS	\$386,000	\$444,000	\$278,000	\$354,000
4. Marital PV of SS	\$81,000	\$115,000	\$81,000	\$115,000
5. PV of OPERS (Joint Life)	\$360,000	\$412,000	\$335,000	\$425,000
6. Total PV of OPERS	\$386,000	\$444,000	\$389,000	\$493,000
7. % Assigned	42.4%	39.9%	29.4%	28.1%
8. Marital % at retirement	25 / 25	25 / 25	25 / 35	25 / 35
9. % assigned in DOPO	42.4%	39.9%	41.2%	41.0%

The rationale for dividing the marital portion of the wife's OPERS benefit to be assigned to the husband over the present value of the OPERS benefit during their joint lives can be explained by reviewing the following graphs.

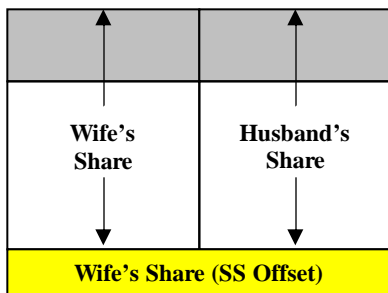
Graph 1: Determine Present Value of Wife's OPERS pension benefit



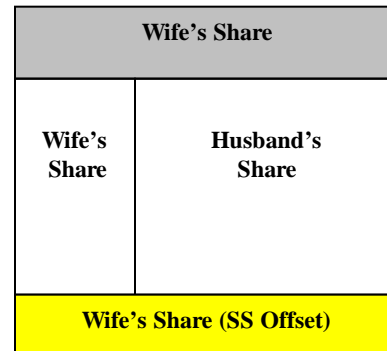
Graph 2: Subtract the value of Husband's Social Security from Wife's OPERS



Graph 3: Divide net OPERS benefit evenly between Wife and Husband



Graph 4: Assign Husband a larger share during joint life to offset fact that Husband will not receive benefit after his death



The top box represents the present value of the wife's OPERS benefits after the death of the husband. The middle box represents the present value of the OPERS benefits during the joint life of the wife and the husband after subtracting out the present value of the husband's Social Security benefits. However, because benefits under OPERS can only be assigned on a shared interest basis, prior to electing survivor benefits, the present value to be assigned to the husband must be assigned during the expected joint life of the wife and husband. As a result, a slightly larger percentage of the wife's OPERS benefit should be assigned to the husband during their joint lifetime.

The percentage assigned to the alternate payee should be calculated by first determining the present value of benefits to be assigned to the alternate payee and then dividing this value by a factor that reflects the present value of \$1 per month along with the expected COLA adjustments over the life of the alternate payee. If survivorship coverage is provided, then this amount should also be divided by the plan's 100% J&S reduction factor based on the ages of the participant and alternate payee at benefit commencement. For example:

- AX = Present value of \$1 per month with a 3% COLA over participant's life at age of retirement (assumed to be \$166.60)
- AY = Present value of \$1 per month with a 3% COLA over alternate payee's life at age of retirement (assumed to be \$173.55)
- AXY = Present value of \$1 per month with a 3% COLA over joint life of participant and alternate payee at age of retirement (assumed to be \$146.03)

JSF = The 100% J&S reduction factor which represents the percentage that the participant's benefit will be reduced to if the 100% J&S option is elected

$$= AX / (AX + AY - AXY)$$

$$= 166.60 / (166.60 + 173.55 - 146.03)$$

$$= .858$$

Table 4 below illustrates how to determine the present value of the OPERS benefit that is to be assigned to the alternate payee. In this table the monthly OPERS benefit is estimated at various possible retirement ages starting at the current age on the evaluation (age 60) to age 65. The present value of the alternate payee's interest is determined as 50% of the excess of the marital portion of the OPERS benefit over the marital portion of Social Security.

Table 4: Alternate Payee's Assigned Interest as a Lump Sum Present Value

Age	Est. OPERS Benefit	OPERS Present Value	Marital Portion of Soc Sec	OPERS Marital %	AP's Assigned Interest
(1)	(2)	(3)	(4)	(5)	(6)
60	\$4,000	\$666,400	\$200,000	30 / 30	\$233,200
61	\$4,276	\$647,130	\$200,000	30 / 31	\$216,344
62	\$4,565	\$626,455	\$200,000	30 / 32	\$199,901
63	\$4,867	\$604,433	\$200,000	30 / 33	\$183,835
64	\$5,184	\$581,386	\$200,000	30 / 34	\$168,268
65	\$5,515	\$557,346	\$200,000	30 / 35	\$153,141

The alternate payee's assigned interest in terms of a monthly benefit would be determined as a shared interest by dividing the present value in column (6) above by a joint annuity factor (AXY) based on the participant's and alternate payee's ages on the evaluation date and the assumed retirement age of the participant as shown in Table 5 below:

Table 5: Alternate Payee's Assigned Interest over Joint Life with Participant

Age	PV of Assigned Interest	AXY	Alternate Payee's Benefit	Assigned Benefit %
(1)	(2)	(3)	(4)	(5)
60	\$233,200	\$146.03	\$1,597	39.93%
61	\$216,344	\$131.20	\$1,649	38.56%
62	\$199,901	\$117.57	\$1,700	37.24%
63	\$183,835	\$105.06	\$1,750	35.96%
64	\$168,268	\$93.59	\$1,798	34.68%
65	\$153,141	\$83.10	\$1,843	33.42%

The alternate payee's assigned monthly benefit on a shared interest basis was determined above by dividing column (2) by column (3). The assigned percentage was determined by dividing column (4) of Table 5 by column (2) of Table 4. For example, if the participant were to retire at age 60, the alternate payee would be entitled to 39.93% (\$1,597 / \$4,000) of the participant's monthly benefit assuming no survivor coverage is elected.

If 100% survivorship coverage is provided to the alternate payee and the alternate payee's benefit reflects the full reduction in the monthly benefit for making the election, then the assigned interest is calculated as shown below in Table 6 by dividing the OPERS present value assigned by the single life annuity over the alternate payee's lifetime AY at the alternate payee's age on the evaluation date.

Table 6: Alternate Payee's Monthly Benefit as a Separate Interest

Age	PV of Assigned Interest	AY	Assigned Monthly Benefit
(1)	(2)	(3)	(4)
60	\$233,200	\$173.55	\$1,344
61	\$216,344	\$158.17	\$1,368
62	\$199,901	\$143.93	\$1,389
63	\$183,835	\$130.76	\$1,406
64	\$168,268	\$118.58	\$1,419
65	\$153,141	\$107.33	\$1,427

If it is desired to define the alternate payee's interest as a percentage of the participant's reduced monthly pension at retirement, then a table of percentages would need to be prepared as shown in Table 7.

Table 7: Alternate Payee's Assigned Interest as a % of Participant's Reduced Monthly Benefit

Age	AP's Monthly Benefit	100% JSF	AP Benefit Divided by CAF	Total Reduced Monthly Benefit	AP's Benefit as a % of Total
(1)	(4)	(2)	(3)	(4)	(5)
60	\$1,344	85.8%	\$1,566	\$3,778	35.6%
61	\$1,368	84.9%	\$1,611	\$4,033	33.9%
62	\$1,389	84.6%	\$1,642	\$4,312	32.2%
63	\$1,406	83.9%	\$1,676	\$4,597	30.6%
64	\$1,419	83.3%	\$1,703	\$4,900	29.0%
65	\$1,427	82.6%	\$1,728	\$5,214	27.4%

In determining the alternate payee's benefit as a percentage of the participant's total monthly benefit it must be remembered that the participant's monthly benefit will be reduced by the cost to provide survivorship to the alternate payee. Thus, if the net benefit that is desired to be provided to the alternate payee after the reduction for survivorship is \$1,344 in the Table 7 at age 60, then the cost of this coverage is determined as \$1,566 less \$1,344 or \$222. Thus, the total reduced benefit would be \$3,778 (\$4,000 - \$222) and the alternate payee's assigned percentage would be 35.6% (\$1,344 / \$3,778).

Remember, however, that the DOPO multiplies the assigned percentage by the marital fraction. Thus, the monthly retirement benefit assigned should be divided by this fraction when completing the DOPO to guarantee that the correct net percentage is used.

Thus, the separation agreement should contain a table such as shown in Table 8 if a fixed dollar amount of retirement benefit and survivor benefit are desired.

Table 8: Assigned Dollar Amounts

Age	Total Reduced Monthly Benefit	Assigned Retirement Benefit	Assigned Survivor Benefit
(1)	(2)	(3)	(4)
60	\$3,778	\$1,344	\$1,344
61	\$4,033	\$1,368	\$1,368
62	\$4,312	\$1,389	\$1,389
63	\$4,597	\$1,406	\$1,406
64	\$4,900	\$1,419	\$1,419
65	\$5,214	\$1,427	\$1,427

However, if it is desired to assign to the alternate payee a benefit in terms of a percentage of the participant's reduced retirement benefit, then a table such as that shown in Table 9 should be used.

Table 9: Assigned Percentages

Age	Net Assigned % After J&S Coverage	Marital %	Retirement Benefit Assigned DOPO %	Assigned Survivor %
(1)	(2)	(3)	(4)	(4)
60	35.6%	100.0%	35.6%	35.6%
61	33.9%	96.8%	35.0%	33.9%
62	32.2%	93.8%	34.4%	32.2%
63	30.6%	90.9%	33.7%	30.6%
64	29.0%	88.2%	32.9%	29.0%
65	27.4%	85.7%	32.0%	27.4%

However, before preparing a DOPO assigning the alternate payee, say 35.6% of the participant's OPERS benefit, you may want to consider the following questions:

1. If the participant is already eligible for unreduced early retirement, should the DOPO assign:
 - A fixed monthly benefit; or
 - A % of some future benefit
2. Should post-divorce employee contributions affect the allocation?
3. Should the alternate payee share in all of the wage increases received by the participant or only an amount that represents cost-of-living adjustments?

It is our understanding that most DOPOs assign the alternate payee a fixed percentage of the participant's benefit which is then multiplied by the marital fraction at the retirement of the participant. However, in our example illustrated in Table 3, the participant's monthly retirement benefit more than doubled between ages 55 and 65 from \$2,100 to \$5,600. The portion assigned to the alternate payee if the participant retired at age 55 would have been 42.4% of \$2,100 or \$890. However, if the participant continued in employment until age 65 and then retired the alternate payee would have been assigned 29.4% of \$5,600 or \$1,646. Meanwhile the participant would have contributed almost \$90,000 in post-marital contributions during the 10-year period between ages 55 and 65 which is about 23% of the total present value of the entire benefit at retirement.

It might be reasonable under the circumstances indicated in the prior paragraph to come to a compromise as to the percentage or amount that should be assigned based on when the participant retires. If this approach is desired it should be included in the judgment entry. However, this would require one DOPO to be submitted to the Plan at the time of the couple's divorce and a modified DOPO submitted to the plan at the time of the participant's retirement if the amount or percentage to be assigned needs to be adjusted in accordance with the judgment entry.

Survivorship Benefits

To ensure that the alternate payee is protected in the event that the participant dies shortly after retirement, the participant should be required to elect post-retirement survivor coverage. Tables 8

and 9 illustrate how this might work assuming that the participant would retire at various ages in the future.

Of course the cost to provide survivor coverage to the alternate payee is dependent on the age of the participant and the alternate payee at the time of retirement. A schedule should be included in the judgment entry indicating the percentage of the participant's reduced benefit that should be assigned to the alternate payee at various possible retirement ages. This table would have to be based on assumed increases in the participant's benefit at future retirement ages.

However, the participant may have other current or former spouses for whom he is required to elect survivor coverage as well. Thus, it may be prudent for the alternate payee's attorney to insist on the preparation of a table that indicates the amount of monthly pension and survivor coverage that the alternate payee is assigned based on the date that the participant retires. In this way the alternate payee's interest will not be reduced by the participant's election to cover additional survivors at retirement.

Suggested Judgment Entry Language

The actual Judgment Entry that sets forth the agreed upon assignment of retirement benefits should contain the following elements:

Amount Assigned:

- The dollar amount or percentage of the participant's benefit that should be assigned to the alternate payee should be indicated.
- Because the DOPO is a shared interest order, the percentage assigned to the alternate payee should be based on the percentage that the marital portion of the present value of benefits to be assigned to the alternate payee bears to the present value of the total benefit to be paid to the participant over the joint life of the participant and alternate payee.
- If the percentage approach is used to assign benefits to the alternate payee, then it should be remembered that the percentage assigned will be multiplied by the marital fraction. The marital fraction is the ratio of credited service while married to total credited service at retirement. The fact that the net benefit percentage assigned to the alternate payee is the

product of the percentage indicated in the DOPO and the marital fraction should be reflected in determining the percentage that should in the DOPO.

- If there is a significant difference between the percentage that should be assigned to the alternate payee at the earliest age benefits could commence and the percentage that should be assigned assuming retirement at age 65, then a table of percentages could be listed in the judgment entry that varied based on the age when benefits commence.
- It should be remembered that no more than 50% of the actual benefit payable to the participant can be assigned to an alternate payee.

Marital Portion:

- The number of years of marital service should be shown along with the date of marriage and the date of divorce or dissolution as this information is required in the DOPO if the percentage approach is used.
- To avoid problems during the review of the DOPO, the marital service should be obtained from the plan administrator.

Form of Annuity:

- The Judgment Entry should indicate that the participant is required to elect post-retirement survivor coverage to protect the alternate payee in the event the participant predeceases the alternate payee after retirement.
- The percentage or dollar amount of the survivor coverage should be indicated as some of the plans will not accept a formula.
- If appropriate, a table of dollar amounts or percentages should be listed that reflects the age of the participant and alternate payee at retirement. The charge for this coverage increases with advancing age at retirement and, therefore, a single percentage may not be appropriate.

Delayed Retirement:

- Language should be added to indicate that if the participant should terminate employment and elect to defer the commencement date of benefits beyond the date that he/she would be entitled to unreduced benefits, then the participant should be required to make the alternate payee whole by paying the alternate

payee directly the monthly benefit she/he would otherwise have received.

Notification of Retirement:

- A statement should be contained that the participant must provide the alternate payee written notification at least 30 days prior to the intended retirement date of the participant and provide the alternate with a written Authorization for Release of Retirement Account Information to allow the alternate payee to verify that the proper benefits and survivor options have been elected.

- The DOPO would then either be retained in the participant’s record, or returned if it does not meet the requirements.
- The order must use the prescribed DOPO format.

DOPO Provisions

One issue that frequently occurs is deciding which boxes to check relative to the type of payment indicated in the DOPO. Table 6 gives a general indication as to which boxes should be checked for the four major Ohio state plans.

Table 10: Type of Payment Options Elected

	PERS	STRS	SERS	OP&F
A/S including PLOP	X	X	X	X
A/S excluding PLOP		X		
Disability	X	X	X	X
Account Refund	X	X	X	X
Additional money purchase	X		X	X
Reemployed retiree refund	X		X	X
DC plan benefit				

The abbreviation A/S stands for the age and service retirement benefit in the above table. In addition, if you know a provision such as the reemployed retiree money purchase or lump sum refund is applicable, that box should be checked regardless of the plan.

In addition, it should be remembered that there are no provisions in the DOPO to indicate the assignment of survivor benefits. Thus, it is very important that this coverage be indicated in the Judgment Entry.

Occasionally the parties have moved to another state prior to the issuance of the DOPO. The general rules with respect to out of state orders are:

- The DOPO must be registered as a foreign judgment in Ohio.
- The DOPO must then be transmitted by the Ohio clerk of courts to the plan.

Summary

Hopefully this article will prove helpful to attorneys representing their client in the evaluation and assignment of government retirement benefits where shared interest orders are required. The issues presented above indicate why it is important to perform the evaluation of the retirement benefits before the Judgment Entry is finalized.

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