

Introduction

During a marriage dissolution proceeding the court may determine that the Minnesota Deferred Compensation Plan (MNDCP) account assets accrued during the marriage must be divided between the parties in a divorce. For the court to have sufficient information regarding the value of the marital assets, the Minnesota State Retirement System (MSRS), administrator of MNDCP, will provide the participant or others with the value of the MNDCP account (provided they meet the criteria in Minnesota Statutes, Chapter 356.49).

MSRS can only provide information regarding account values on or after June 30, 1999. Prior to that date there were three investment providers for MNDCP and we do not have custody of those records. If a situation is such that the valuation date must precede June 30, 1999, the parties and/or their attorneys are responsible for obtaining records of which MSRS does not have custody.

Dividing the Account

If the court decides that MNDCP assets must be divided, a copy of the court order must be submitted to MSRS. If the court order is acceptable, a portion of the MNDCP account will be transferred to a new account established solely for the ex-spouse. If the ex-spouse has an existing MNDCP account, their portion will be transferred to a separate account. The amount transferred to the ex-spouse will depend on the instructions in the divorce decree or court order, the effective date of the division, and the gains or losses in the account since the effective date of the court order.

The MNDCP account can be divided at any time. If the participant has begun distributions, MSRS will suspend payments until the division of the account is complete.

After the Account is Divided

Following the division of the account assets, an ex-spouse may immediately begin to receive distributions, change the investment options, and modify the beneficiary designation. Distributions from MNDCP are taxable as ordinary income but are not subject to the IRS 10 percent early withdrawal penalty regardless of age.

Sample Language Available

MSRS can provide sample language for division of a MNDCP account. The language may be incorporated into a Judgment and Decree for marital dissolution. A separate domestic relations order is not required. A draft order should be submitted to MSRS for review prior to filing it with the court.

Social Security Numbers

Social Security numbers are frequently removed from the court order; however, MSRS requires the Social Security number of both parties. The drafting attorney should reference both Social Security numbers in a cover letter.

Account Divided Prior to January 1, 2002

Accounts divided prior to January 1, 2002 were created based on court orders that required the participant (not the ex-spouse) to pay taxes on distributions from the ex-spouse's account. Distribution payments to the ex-spouse were restricted until after the participant terminated covered employment.

Since January 1, 2002, the law requires the ex-spouse (not the original participant) to pay taxes on any distributions from their account. The law also permits distributions to the ex-spouse prior to the participant's separation of service from the employer sponsoring the MNDCP.

Recommendation

Court orders written prior to January 1, 2002 should be revised. Contact MSRS to obtain sample language that can be used to make the revision.

Beneficiary Designation

In the event of a marriage dissolution, the participant may wish to review the beneficiary designation on record. The beneficiary designation determines who receives assets in the participant's account upon his/her death. To change the beneficiary, a *Beneficiary Designation* form must be completed and returned to MSRS. To obtain a form, visit www.msrs.state.mn.us or contact the MSRS Service Center at the number listed below.

Please note:

Unless the court order provides otherwise, MSRS is required by Minnesota Statute 524.2-804 to remove a beneficiary designation naming a former spouse. To redesignate a former spouse or other beneficiary(ies) after a divorce, the *Beneficiary Designation* form must be completed and returned to MSRS.