

HOW DIVORCE CAN AFFECT YOUR WRS BENEFITS



ET-4925 (REV 11/21/2022)



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ETF has made every effort to ensure that this brochure is current and accurate. However, changes in the law or processes since the last revision to this brochure may mean that some details are not current. Visit etf.wi.gov to view the most current version of this document. Please contact ETF if you have any questions about a particular topic in this brochure.

ETF complies with applicable federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability or sex in the provision of programs, services or employment. For more information please view ETF's [Nondiscrimination and Language Access \(ET-8108\)](#) available at etf.wi.gov. To request this information in another format, call 1-877-533-5020 (toll free). We will try to find another way to get the information to you in a usable form.

What is a DRO and a QDRO?

A Domestic Relations Order (DRO) is a legal document that must comply with Wisconsin law. For Wisconsin Retirement System purposes, a DRO is a court order that awards a percentage of a WRS account or annuity to the member's former spouse or domestic partner ("alternate payee") when a marriage or domestic partnership is terminated through divorce, annulment, or a legal separation.

A DRO is considered a Qualified Domestic Relations Order (QDRO) once the Department of Employee Trust Funds has verified that the DRO meets all applicable statutory requirements.

The Most Common Reasons ETF Rejects a DRO

The most common reasons that ETF may reject a DRO include:

1. Required information is missing or is incorrect.
2. The maximum amount of a member's account (as of the decree date) that can be awarded to an alternate payee is more than 50%.
3. The DRO attempts to use something other than a single percentage (with no more than two decimal places) to divide the WRS account:
 - Do not use a dollar amount.
 - Do not use a decimal equivalent (e.g., the DRO cannot list 0.5 instead of 50%).
4. The DRO attempts to limit the award by specifying the date of the marriage. Since the entire WRS account must be divided by the DRO, the courts can consider reducing the percentage of the award instead.
5. The DRO has been altered in any way.
6. The DRO is more than 20 years old. It is the responsibility of the parties to submit the DRO to ETF as soon as possible. Any delay in filing this document may have an impact on the benefits available.
7. One party has died. Either the member or the alternate payee died before ETF received the DRO.

To be sure that the DRO meets all WRS legal requirements, use one of ETF's forms:

- *Order to Divide WRS Benefits (ET-4926)*, used by Wisconsin courts.
- *Foreign Jurisdiction Order to Divide WRS Benefits (ET-4935)*, used by courts outside of Wisconsin, but within another state or U.S. territory.

Both of these forms are available at etf.wi.gov.

General Information

ETF is governed by Chapter 40 of the Wisconsin Statutes. Chapter 40 does not require the division of WRS benefits at the time of a divorce, annulment, legal separation, or the termination of a domestic partnership. The only way to divide a WRS account or annuity is through a DRO that is issued by a court and accepted by ETF as a QDRO. Consult with your attorney regarding your legal rights.

For marriages terminated by divorce, annulment, or legal separation, ETF can divide a WRS account or annuity between the member and an alternate payee upon acceptance of a valid QDRO.

Once a court has issued a DRO, it is the responsibility of the parties to submit it to ETF as soon as possible. Any delay may have an impact on the benefits available.

For information regarding the termination of a registered Chapter 40 domestic partnership, see the [Domestic Partner Benefits \(ET-2166\)](#) brochure, available at etf.wi.gov.

A QDRO must divide the *entire* WRS account or annuity by awarding a percentage to the alternate payee, not a specific dollar amount. The portion of the account or annuity awarded to the alternate payee cannot exceed 50% of the total value as of the “decree date.”

- The decree date is defined by statute as the first day of the month in which the marriage is legally terminated.
- The parties may not choose, and the court may not order, a different decree date.

As an Internal Revenue Code Section 401(a) governmental defined plan, the WRS is not subject to the federal Employee Retirement Income Security Act (ERISA) or the Retirement Equity Act, so the QDRO provisions in those laws do not apply. The provisions governing WRS QDROs are contained in Chapter 40 of the Wisconsin Statutes.

The effects of a QDRO on a member’s WRS account and the WRS benefits payable to an alternate payee differ based on whether the member has an:

- **Active Account**—The member is currently employed in a position covered under the WRS.
- **Inactive Account**—The member has terminated from all WRS-covered employment but has not taken a retirement benefit.
- **Annuity**—The member is receiving a monthly retirement or a disability retirement payment.

Note: The Wis. Stat. § 40.65 duty disability and Long-Term Disability Insurance (LTDI) Program monthly payments are the only exceptions. Those benefits will not be divided by a QDRO.

A QDRO applies only to the member’s account based on the service, earnings, and contributions from their own WRS employment.

If the member is enrolled in the Variable Trust Fund on the decree date, a portion of the alternate payee’s account and/or annuity will automatically be included in the Variable Fund. The alternate payee may cancel their Variable participation by completing and returning a [Canceling Variable Participation \(ET-2313\)](#) form to ETF.

Information Required on a Valid QDRO

A QDRO must include:

- The member's correct name, birth date, Social Security number, and current address.
- The alternate payee's correct name, birth date, Social Security number, and current address.
- The Wisconsin Retirement System must be specifically named.
- The decree date must be specified as the date to be used for valuing and dividing the entire account or annuity.
- The DRO must award the alternate payee a percentage, not to exceed 50%, of ***all parts of the member's account as of the decree date***. The percentage of the account may be specified up to two decimal places. For example, 33%, 33.3% or 33.33% are all acceptable. If a DRO specifies a percentage more than two decimal places, ETF will round the percentage to two decimals.
- All active military service or provide an affidavit of no military service on a form supplied by ETF.
- The member's employer provides ETF with all service, earnings, and contributions through the day prior to the decree date.

A QDRO may *not* include a requirement that:

- The WRS pay a benefit exceeding the value to which the member was entitled on the decree date.
- Benefits be paid to an alternate payee when those benefits are required to be paid to another alternate payee under a QDRO previously accepted by ETF.
- Benefits be paid to an alternate payee when those benefits are also required to be paid to the federal Internal Revenue Service under a lien under 26 U.S.C. Sec. 64.
- Has any form of joint ownership of the member's account.
- The member's account be divided in a manner that is contrary to Wis. Stat. Sec. 40.08(1m).
- ETF monitors benefit payments once a WRS account has been divided.

What Happens When ETF Receives a DRO?

ETF reviews the DRO to verify that it meets all of the statutory requirements for a valid QDRO. If the DRO contains provisions that are prohibited by law, does not meet all of the statutory requirements, or is invalid for any other reason, it will be rejected and returned to the member, the alternate payee, the court, and the attorney(s) (if applicable). Information about the necessary corrections will be provided. A corrected DRO can then be submitted to ETF.

Note: ETF reserves the right to invalidate an otherwise valid QDRO if new information, such as the death of the member or alternate payee prior to ETF's receipt of the QDRO, becomes available.

Members With an Active or Inactive Account as of the Decree Date

- ETF may send a *Military Service Certification - QDRO (ET-4322)* form to the member. The member must certify whether they have any active pre-1974 military service and if it will or will not be used for credit in any regular federal retirement benefit. The certification form must be returned to ETF, along with a copy of any applicable military discharge papers showing all dates of active duty.
- If the member is actively employed in a WRS-covered position, ETF will also send a form to the employer for certification of any unreported service, earnings, and contributions through the day before the decree date.
- The member's account will be split after ETF receives the *Military Service Certification - QDRO (ET-4322)* form, any applicable military discharge papers, and the employer's certification.

The member's account balances **and** creditable service are divided. A separate account is created for the alternate payee. After the account is split, each party receives a *Statement of Account After Division* (ET-4924). After division of the WRS account and until a benefit is taken, each party will receive an annual *Statement of Benefits* (ET-7365) showing the service and contribution balances in their own account.

Members Receiving an Annuity as of the Decree Date

ETF will divide the annuity into two separate annuities: one annuity payable to the member for their lifetime, and one payable to the alternate payee for their lifetime.

The alternate payee does not need to apply for their share of the annuity. Payments are made automatically to the alternate payee retroactive to the effective date of the annuity division.

Each person receives a notice of the amount of their annuity after the division. A retroactive annuity paid to the alternate payee will create an **overpayment** for the member which must be paid back to the WRS. A separate notice is sent to the member to explain the options for repayment.

Active and Inactive Accounts

How the Member's Account is Affected

A QDRO awards the alternate payee a percentage of the member's WRS account balances as of the decree date. The alternate payee receives a percentage of the account balances and creditable service (including purchased service) accrued as of that date. The appropriate monies and years of service are transferred from the member's account into a new separate account created for the alternate payee.

Account Balances

The specified percentage of the dollar amounts in the member's account on the decree date transfers to a separate account established for the alternate payee. The percentage applies to employee and employer contributions, and to voluntary additional contributions (if applicable).

Creditable Service

The specified percentage of the member's creditable service on the decree date transfers to the alternate payee's account and is used to calculate formula retirement benefits for the alternate payee.

The member's total creditable service is reduced by the years of service granted to the alternate payee, including any purchased service. The member's remaining creditable service, plus any additional service earned by the member after the decree date, is used to calculate the member's formula retirement benefits or disability retirement benefits, if eligible.

Members may establish eligibility for certain benefit rights in the future. A creditable service example and details are shown in the next column.

Example:

A member has 30 years of WRS service on the decree date and a QDRO awards 50% of the WRS account to the alternate payee. The alternate payee receives 15 years of service and the member retains 15 years of service.

Details:

Formula Retirement Benefit Calculation

The years of service actually remaining or credited to the member's and alternate payee's accounts are used to calculate the formula benefits as of the annuity begin dates. The total creditable service earned by the member, including the original 30 years plus any additional service accrued after the decree date, is used to calculate any age reduction factor in the formula benefit calculation.

Final Average Earnings (FAE)

The member's FAE is not affected by a QDRO. The member's formula retirement calculation is based on the actual FAE when the retirement benefit begins. The alternate payee's FAE is based on the member's FAE at the time the alternate payee begins the retirement benefit.

Active and Inactive Accounts, continued

Military Service Credit

If the member has already received credit for eligible active military service, the same percentage specified in the QDRO is applied to the military service and then deducted from the member's account and transferred to the alternate payee's account.

A member who is eligible to receive credit for military service that occurred prior to January 1, 1974, would not generally receive that credit until retirement. However, at the time of a QDRO, part of the member's years of active military service may be granted to the alternate payee based on the member's creditable service on the decree date, and if the member's signed affidavit indicates that the military service will not be used toward certain federal benefits. The member may receive credit for their remaining years of military service when they retire. A second affidavit will be required. See etf.wi.gov for more information.

Monthly Annuity Payments

After ETF accepts a valid QDRO, a percentage of a member's total WRS annuity (as of the decree date) will be paid directly to the alternate payee. The member's annuity is divided into two separate life annuities, with a new annuity record established for the alternate payee paid retroactively to the decree date. This creates an overpayment of the member's annuity so the member must pay back this amount. ETF will send the member a separate notice explaining repayment options.

For All QDROs Applied to Annuities

Once the annuity is divided, ETF sends the member and the alternate payee a notice explaining the annuity amount, the option in effect, etc. The type of annuity and amount for each party will be based on the party's age and the member's original option selection.

The combined value of the two annuities remains the same as the actuarial value of the member's original annuity. However, the sum of the two separate gross annuities will usually be different than the member's monthly annuity before the division. This is due to the actuarial conversion of the annuity into two separate life annuities based on the life expectancies of each person.

Annual Core and Variable Fund adjustments are applied to both parties' annuities. Separate 1099-R tax reports are mailed to each annuitant yearly.

Annuity Options and Associated Death Benefits

The death benefits from the member's and alternate payee's annuities are based on the original option selected by the member. The member and the alternate payee can each name their own beneficiary(ies) to receive the potential death benefit from their annuity. Each party can change the beneficiary(ies) at any time. Once the guaranteed number of payments has been made, there is no death benefit from either annuity.

1. Life With 60 Payments and 180 Payments Guaranteed Options

This annuity option is divided into two separate annuities: one paid to the member for life, and one to the alternate payee for life. If the guarantee period has not expired as of the effective date of the annuity division, each annuity provides the remainder of the original guarantee period as a potential death benefit.

2. Joint and Survivor Options With the Alternate Payee As Named Survivor

- *Joint and Survivor Annuity with No Monthly Payments Guaranteed*
The annuity is divided into two annuities payable for the respective lifetimes of the member and the alternate payee. There is no death benefit payable upon either death.
- *Joint and Survivor Annuity with 180 Payments Guaranteed*
The annuity is divided into two annuities payable for the respective lifetimes of the member and the alternate payee. If fewer than 180 payments have been made since the member's annuity began, any remaining guaranteed payments are available as a death benefit from each annuity.
- *Zero Percent (0%) QDRO*
If a QDRO awards zero percent (0%) to the alternate payee, the member's annuity is not divided and the alternate payee will not receive a WRS annuity. The alternate payee will be removed as the named survivor. The annuity will be recalculated as a life annuity payable only to the member. The remaining guarantee period, if applicable, will not be changed. The named survivor will only be removed from the annuity if the alternate payee was the named survivor.

Monthly Annuity Payments, continued

3. Joint and Survivor Options with Someone Other Than the Alternate Payee as the Named Survivor

- ***Joint and Survivor Annuity with No Monthly Payments Guaranteed***
The annuity is divided into two annuities payable for the respective lifetimes of the member and the alternate payee. The member's annuity continues (although reduced) with the survivor originally named. The alternate payee receives a life annuity that ends upon the alternate payee's death.

- ***Joint and Survivor Annuity Combined with 180 Payments Guaranteed***
The annuity is divided into two annuities payable for the respective lifetimes of the member and the alternate payee. The member's annuity (reduced by the QDRO) continues with the original named survivor. If both the member and their named survivor die before 180 payments have been made, the remaining guaranteed payments are payable to the named survivor's beneficiary(ies).

The alternate payee also receives a life annuity. If the alternate payee dies before 180 total payments have been made, the remaining guaranteed payments are payable to their beneficiary(ies). For alternate payees, the 180 payments are calculated based on the **member's** annuity begin date.

Accelerated Payment Options

A member who is younger than age 62, and who applies for their monthly WRS retirement benefit (annuity), may be eligible to select an accelerated payment option. These payments provide a higher benefit amount *until* age 62.

Accelerated payments are intended to provide approximately the same income from a WRS annuity alone (prior to age 62), as the combined income you may receive from the WRS *and* Social Security after age 62. The same annuity options are

available. However, an accelerated option consists of both a lifetime annuity payment and a temporary (accelerated) payment that ends at age 62. At that time, your WRS annuity payment automatically decreases permanently when the temporary portion ends, even if you choose not to begin your Social Security benefit. This means the longer you live after age 62, the more it will "cost" you for the temporary acceleration. Essentially, you buy the temporary benefit from your after-age-62 lifetime benefit. For more information, see the Accelerated Payment Cost Calculator online at etf.wi.gov.

When an accelerated payment option annuity is divided by a QDRO, the member and alternate payee each receive a lifetime annuity, plus a temporary annuity. The temporary annuity is payable to each person until *that* person reaches age 62. At age 62, each annuity decreases to that person's lifetime annuity amount.

If either the member or the alternate payee dies while receiving an accelerated payment option, the remaining temporary accelerated portion is paid as a death benefit until the month they would have reached age 62.

Annuity Certain Options (available from employee additional contributions only)

An annuity certain is divided into two separate annuities paid to the member and alternate payee for the duration of the number of payments originally selected by the member. Each person can name beneficiaries to receive any remaining payments available upon their death. Each person can change their beneficiaries at any time.

If the member is a WRS annuitant on the first of the month of the decree date and also has an inactive account (additional contributions), the inactive account is divided as described in the "Active and Inactive Accounts" section.

For more information about the annuity options available to WRS members, review the [*Choosing an Annuity Option \(ET-4117\)*](#) brochure.

Beneficiary Designations

If a QDRO divides an account or annuity with guaranteed payments remaining, separate beneficiary designations are needed for each individual's account or annuity.

Note: A beneficiary designation does not change automatically when significant life events occur, such as a divorce or remarriage. To update your beneficiary after a life event change, complete a new *Beneficiary Designation (ET-2320)* form or *Beneficiary Designation—Alternate (ET-2321)* form and send it to ETF. These forms are available online at etf.wi.gov.

Death benefits are paid based on the most recent valid beneficiary designation received by ETF prior to an individual's death. Members should review their current beneficiary designation information and update it as necessary. Alternate payees should consider filing a beneficiary designation form. If a beneficiary designation is not on file with ETF, death benefits are paid based on statutory standard sequence.

Unless otherwise specified on the beneficiary designation form, a designation applies to all benefit plans and accounts administered by ETF. Please note on the beneficiary form if you have both your own account **and** an alternate payee account.

Effects on Purchased Service

If a member purchased qualifying, forfeited, or other government service as an active employee and the WRS account is later divided by a QDRO, the purchased service is also divided. If a member purchases service after a QDRO, the purchased service is not divided and remains in the member's account.

Once the member's account has been reduced by the portion transferred into the alternate payee's account, any actions taken by the alternate payee have no effect on the member's account.

There are no provisions in WRS law that allow a member to repay the contributions awarded to the alternate payee, nor can the member purchase the years of creditable service lost through the QDRO division. The contributions *and* years of service awarded to the alternate payee are permanently transferred.

Effects on Insurance Benefits

Health and life insurance benefits through ETF are also impacted by a divorce. It is the active member's responsibility to notify the employer when a divorce has occurred so the former spouse can be removed from the insurance plans. The member's employer will contact the alternate payee directly regarding any conversion or continuation coverage options that may be available for purchase.

Members who have coverage under the Wisconsin Public Employers Group Life Insurance Program should review and update their beneficiary designation information as necessary (see the "Beneficiary Designations" section of this brochure for more information).

Members should also review their life insurance coverage to determine if they have Spouse and Dependent coverage. A former spouse is no longer eligible for Spouse and Dependent coverage as of the date the marriage is terminated. If the former spouse is the only dependent, the member must contact the employer to cancel the Spouse and Dependent coverage. However, members may elect to maintain this coverage if they have children covered under their Spouse and Dependent plan.

Important Information for the Alternate Payee

Alternate payees should carefully review this section for important benefit information

General Information

Alternate payees may apply for benefits at any time, regardless of their own age or employment status. Even if the member is employed under the WRS, benefits are still payable to the alternate payee. However, the type of benefit available is dependent on the member's age.

If the Member is Younger than Age 55 (Or Age 50 with Some Protective Employment)

The alternate payee may apply for a separation benefit at any time until the member reaches age 55 (50 for protectives). A separation benefit only includes the employee and additional contributions (if any), plus accrued interest. *Employer contributions and all associated service are forfeited.* The alternate payee should carefully consider the consequences of taking a separation benefit. The alternate payee would forfeit all rights to a future retirement benefit when the member is eligible for a retirement benefit.

If the Member is Age 55 or Older (Or Age 50 with Some Protective Employment)

The alternate payee can apply for a retirement benefit as long as the member is vested. Retirement benefits include all employee, employer, and additional contributions (if any) along with accrued interest. WRS retirement benefits are calculated using both the formula and the money purchase methods. The alternate payee automatically receives the higher benefit amount. The alternate payee is **not** eligible to select a joint and survivor annuity payment option.

When a portion of a WRS member's account is transferred to a separate account for an alternate payee, the benefit rights available to the alternate payee are the same as they would be for a member who terminated WRS employment on the decree date. The account is considered an **inactive** account for benefit purposes.

Applying for a Benefit

An application is required for a WRS account that has been divided. To apply for a separation or retirement benefit, the alternate payee must request the appropriate application from ETF. A completed application must be received and processed before payment(s) can be made to the alternate payee. Since payment can take 90 days or more after an application is received, alternate payees are encouraged to apply for their retirement benefit as soon as they are eligible. Alternate payees risk losing benefits if they do not apply when they are immediately eligible.

If an alternate payee is eligible for a retirement benefit, ETF will provide an application with the estimated amounts for all eligible annuity options. We recommend that alternate payees request annuity estimates several months before the anticipated annuity begin date. Specific instructions for applying for retirement benefits are included in the application packet and in the [Applying for Your Retirement Benefit \(ET-4106\)](#) brochure, available at etf.wi.gov.

If the alternate payee also has a WRS account based on their own WRS employment, the alternate payee account will remain separate. Benefits are calculated separately and require separate applications.

An alternate payee who is also actively employed in a WRS-covered position can apply for a benefit from the alternate payee account at any time, regardless of whether the member has terminated WRS employment. A member who is also an alternate payee cannot apply for a benefit from their own WRS account before terminating all covered employment.

Important Information for the Alternate Payee, continued

A Special Caution to Alternate Payees Who Are Eligible for an Accelerated Payment

An alternate payee who is younger than age 62, and who applies for their monthly WRS retirement benefit (annuity), may be eligible to select an accelerated payment option. These payments provide a higher benefit amount *until* age 62.

Accelerated payments are intended to provide approximately the same income from a WRS annuity alone (prior to age 62), as the combined income you may receive from the WRS *and* Social Security after age 62. The same annuity options are available. However, an accelerated option consists of both a lifetime annuity payment and a temporary (accelerated) payment that ends at age 62. At that time, your WRS annuity payment automatically decreases permanently when the temporary portion ends, even if you choose not to begin your Social Security benefit. Essentially, you buy the temporary benefit from your after-age-62 lifetime benefit. For more information, see the Accelerated Payment Cost Calculator at etf.wi.gov.

As an alternate payee, your accelerated payment options are based on ETF's estimate of the **original participant's** (your former spouse or domestic partner) Social Security benefit. ETF uses their WRS earnings and assumes a full working career covered under Social Security. **This estimated amount may be very different from your actual Social Security benefit at age 62.**

To help limit a potential decrease in your total income at age 62, you may obtain an online estimate of your projected Social Security benefits at ssa.gov. If you submit this estimate to ETF, we will use this information to calculate your accelerated payment options. For more information, see the *Choosing an Annuity Option (ET-4117)* brochure available at etf.wi.gov.

If you are an alternate payee who selects an accelerated payment option, your temporary annuity is payable until you reach age 62. If you die before reaching age 62, the temporary annuity will be paid to your beneficiary(ies) through the month you would have reached age 62. This is true regardless of the annuity option originally selected.

Calculating a Retirement Annuity

WRS retirement benefits are calculated using both the formula and the money purchase methods. The alternate payee automatically receives the higher benefit amount. For more information about these calculations, see the *Calculating Your Retirement Benefits (ET-4107)* brochure, available at etf.wi.gov.

1. Formula Benefits

The formula benefit for the alternate payee is calculated using the following guidelines:

- The member's final average earnings on the alternate payee's retirement benefit begin date.
- The formula multiplier(s) based on the employment category(ies) of the creditable service granted to the alternate payee.
- The years of creditable service granted to the alternate payee in the QDRO, including military and purchased service.
- An age reduction factor based on the alternate payee's age, if the alternate payee has not reached the normal retirement age for the member's employment category(ies). The age reduction factor is calculated based on the alternate payee's benefit begin date and uses the member's total years of service as if no QDRO division had occurred.

2. Money Purchase Benefits

The money purchase benefit is calculated based on the alternate payee's age when the annuity begins and the dollar amount in the account.

Important Information for the Alternate Payee, continued

Vesting—Some members must meet one of two vesting laws based on when they first began WRS employment.

1. Members who first began WRS employment after 1989, and terminated employment before April 24, 1998, must have some WRS-creditable service in five calendar years.
2. Members who first began WRS employment on or after July 1, 2011, must have five years of WRS-creditable service.

If neither vesting law applies, members were vested when they first began WRS employment. As an alternate payee, your vesting status depends on whether or not the member is vested. Generally, if the member was not vested on the decree date, but later becomes vested by earning the required service before taking a lump-sum payment, you also become vested.

An alternate payee can apply for a benefit even if the member is still employed under the WRS. Once the member reaches age 55 (50 for protectives), alternate payees are eligible for a retirement benefit based on both the employee and employer contributions if the member is vested.

Additional Contributions

Annuities from voluntary additional contributions are always calculated using the money purchase method. Detailed information about the payment options for additional contributions is available in the [Additional Contributions \(ET-2123\)](#) brochure, available at etf.wi.gov.

Federal Tax Withholding on Lump-Sum Benefits Paid to Alternate Payees

Depending on the amount of their “For Annuitant’s Life Only” annuity option, alternate payees may be eligible to select a one-time, lump-sum payment instead of a monthly lifetime annuity (see the [Applying for Your Retirement Benefit \(ET-4106\)](#) brochure for more information). If a lump-sum payment is selected, be aware that there are important tax consequences.

Unless you select a direct rollover to another qualified plan or to a Roth or Traditional IRA, ETF is required by federal law to withhold 20% of the taxable portion of lump-sum payments for federal income tax. This 20% withholding requirement also applies to any payments from an annuity certain of less than 10 years. **Exception:** Lump-sum payments of less than \$200 cannot be rolled over so the 20% mandatory withholding does not apply.

If a direct rollover is not requested, the lump-sum payment will be made directly to you. Your payment will be taxable in the year it was issued unless it is rolled over to an eligible plan or IRA within 60 days. If a rollover is completed based on the 60-day rule, ETF cannot refund the federal taxes initially withheld from the cash payment. For the full taxable amount to be rolled over, funds equivalent to the tax deduction must come from another source.

The federal early distribution tax that typically applies to separation benefits does not apply to benefits paid to alternate payees. There is no early withdrawal penalty for a direct lump-sum retirement payment for an alternate payee.

Please review the [Tax Liability on WRS Benefits \(ET-4125\)](#) brochure available on ETF’s website. For more information, contact your tax advisor or the Internal Revenue Service.

Frequently Asked Questions: QDROs

Can my WRS Account be Split?

Yes. WRS benefits can—but do not have to—be divided at the time of a divorce, legal separation, or the termination of a domestic partnership. In some situations, parties to one of these proceedings may choose to divide a WRS member's account. Please consult your attorney regarding your legal rights.

The only way to divide a WRS account or annuity is through a Domestic Relations Order (DRO) issued by a court and accepted by ETF as a Qualified Domestic Relations Order (QDRO).

How do I Submit a DRO?

To assure that the DRO meets all requirements under WRS law, please use one of ETF's DRO forms. If fully completed, this may help avoid rejection. ETF's DROs are available at etf.wi.gov, and include:

- *Order to Divide WRS Benefits (ET-4926)*. This DRO is used by Wisconsin courts.
- *Foreign Jurisdiction Order to Divide WRS Benefits (ET-4935)*. This DRO is used by courts located outside of Wisconsin, but within another state or U.S. territory. It cannot be from a foreign country, such as Canada, Mexico, or Australia.

The parties are responsible for submitting the completed DRO to ETF as soon as possible after it is issued by a court. Delayed submission may impact benefits.

What is an Alternate Payee?

An alternate payee is the former spouse or domestic partner of the WRS member who has been awarded part of the member's WRS account or annuity by the court and a Qualified Domestic Relations Order.

As an Alternate Payee, When and How can I Apply for a Benefit?

See the "Important Information for the Alternate Payee" section in this brochure.

Can Service Awarded to the Alternate Payee be Bought Back?

No. WRS law does not permit the member to purchase service that was awarded to the alternate payee.

What Does it Mean if a Court Issues a 0% DRO?

If a QDRO awards zero percent (0%) to the alternate payee, the member's account or annuity will not be divided and the alternate payee will not receive a WRS benefit based on the member's account. If the member is receiving an annuity, it will be recalculated as a life annuity payable to the member. The remaining guarantee period, if applicable, will not be changed. The named survivor will be removed from the member's annuity if the alternate payee was the named survivor.

Cover photo courtesy of the Wisconsin Department of Tourism.

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