WISER®

Saving
Investments
Insurance
Social Security

Improving the long term financial security of all women through education and advocacy.

Spousal Protections in Pensions and Other Retirement Plans

Defined Benefit and Money Purchase Pension Plans:

Defined benefit and money purchase plans must provide two types of protections for the spouses of plan participants who have earned a legal right to a benefit.

Pre-retirement: If the participant dies before beginning to draw a benefit, the plan must provide a Qualified Pre-retirement Survivor Annuity (QPSA) to the spouse.

Post-retirement: If the participant dies after commencement of benefits under the plan, then the surviving spouse will receive a Qualified Joint and Survivor Annuity (QJSA) equal to 50 percent of the participant's benefit.

These benefits will not be provided if the participant has decided to give them up. However, in order to do so, the participant must first get the special written permission of the spouse.

401(k), Profit-Sharing and Stock Bonus Plans

These types of retirement plans usually do not pay out benefits as annuities. Instead, participants receive their benefits in the form of a lump sum payment.

The plan participant can withdraw the assets in the account without the permission of the spouse. While the assets are still in the plan, however, the spouse is the beneficiary of the account if the participant dies. The participant may name someone else as the beneficiary, but must first get the special written permission of the spouse.

IRAs and SEP-IRAs

The account holder may name anyone as beneficiary without the permission of the spouse. As a result, when a participant in a plan that requires spousal permission transfers assets out of that plan and into an IRA, the spouse loses any spousal protection.

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