

Utah Retirement Systems  
*Retiring Soon!*

# Domestic Relations Orders (DRO)

How They Can Affect Your  
Retirement and Savings Plans



# Domestic Relations Orders

## How They Can Affect Your Retirement and Savings Plans

Page

**Domestic Relations Orders Defined** ..... 1

**Retirement Benefits Overview** ..... 2

Defined Benefit Retirement (Pension) Plan  
Defined Contribution Savings Plans

**Submission and Review** ..... 3

DRO Approval by URS  
Model Domestic Relations  
Orders Available

### **Applying the DRO:**

**To URS Retirement (Pension) Plans** ..... 4

Monthly Retirement Benefit  
PLSO Payment  
Lump-Sum Refund  
Disability Benefits Exemption  
Time Limitation  
Alternate Payee Taxes  
Death of Member  
Death of Alternate Payee

**To URS Savings Plans** ..... 6

Segregation Time Frame  
Alternate Payee Access  
to DRO Segregated Funds  
Taxes  
Investment of Alternate Payee's Account

**Beneficiary Designations** ..... 8

Member  
Alternate Payee  
Family Members

**Confidentiality of Data  
and Calculations** ..... 9

**Federal and Utah Statutes** ..... 9

# D Retiring Soon! O

**T**his brochure explains  
the court ordered division  
of retirement benefits

for divorced members of the Utah  
Retirement Systems (URS) by means  
of a domestic relations order (DRO).

A DRO is a judgment, decree,  
or order of a court, separate from  
the divorce decree. When presented  
to URS, a DRO may affect any  
or all of your potential retirement  
benefits in the defined benefit pen-  
sion plans and the defined contribu-  
tion savings plans.

## Retirement Benefits Overview

### Defined Benefit Retirement (Pension) Plan

**T**hrough Utah Code Title 49 Utah Retirement Systems (URS) administrators defined benefit retirement plans qualified as tax deferred under Internal Revenue Code Section 401(a).

#### Monthly Retirement Benefit

If you meet the age and service requirements of the retirement system to which you belong, you're eligible for a lifetime monthly benefit.

#### Partial Lump-Sum Option (PLSO)

At retirement you have the option to receive a lump-sum payment equal to 12 months or 24 months of your lifetime monthly retirement benefit. By taking a lump-sum payment, you accept a permanently reduced monthly benefit.

#### Lump-Sum Refund

If you terminate all URS-covered employment that included service in a contributory retirement system, you may request a refund of your member contribution account. If you choose to take a refund, you'll forfeit contributory service credit for the periods covered by your member contributions. A refund is not mandatory; you may leave the funds with URS until age  $70\frac{1}{2}$  and retain your membership.

## Defined Contribution Savings Plans

**The 401(k) and 457 plans** are tax-deferred investment programs designed to supplement your pension at retirement. When you save through these plans your contributions, called deferrals, are deducted from your paycheck before federal and state taxes are calculated.

A **Roth IRA** allows non-deductible (after-tax) contributions, tax-deferred investment earnings, and tax-free withdrawals when certain conditions are met.

A **traditional IRA** may allow you to deduct all or part of your contributions for income tax purposes, while deferring taxes on investment earnings until you start making withdrawals.

## Submission and Review

When certified and issued by a Utah court of competent jurisdiction, a DRO submitted to URS is reviewed to determine whether it complies with applicable law and can be administered by URS.

Attorneys are strongly advised to submit proposed language to URS for review before seeking court approval.

## Model Domestic Relations Orders

To help attorneys prepare an acceptable order, our office has model DROs available for the defined benefit (pension) plans and for the defined contribution savings plans (401(k), 457, and IRAs).

A valid DRO will be applied to

## URS Retirement (Pension) Plans

as follows:

### Monthly Retirement Benefit

**If at retirement you select a monthly benefit, it will be divided according to DRO instructions and paid as a specific dollar amount or as a percentage of your total benefit to a former spouse or family member, hereafter known as the alternate payee.**

Unless otherwise stipulated, the percentage is determined by a formula composed of a numerator representing the number of service years accrued during your marriage, and a denominator that includes all service credited to your account at the time of retirement.\* This factor is multiplied by the percent awarded by the court.

**Note:** An alternate payee may not receive an amount greater than that to which you would have been entitled had the benefit not been divided. An alternate payee may not receive any benefit type, form, or option not otherwise available to you.

\*Includes the years accrued after the divorce, but excludes purchases or redeposits made after the divorce.

### PLSO Payment

If you are eligible for and select a partial lump-sum option (PLSO) when you retire, and the alternate payee is to receive a percentage of your monthly benefit, the alternate payee will receive the same percentage of your PLSO. The alternate payee will not receive a portion of your PLSO if the DRO awards a specific dollar amount.

## Lump-Sum Refund

If upon termination you choose to take a lump-sum refund of your member contributions, if applicable, the alternate payee will receive a specific dollar amount or percentage of your account balance as directed by the DRO.

Retirement plan payment to the alternate payee is initiated only when you terminate your employment, qualify for retirement (if you're taking a monthly benefit), and you apply for benefits. The alternate payee must take his or her portion of payment at the same time and in the same manner as you do; e.g., monthly, or as a lump-sum refund.

The provisions of a DRO do not apply to long-term disability benefits or the URS fire-fighter's disability plan.

## Alternate Payee Taxes

### **Lifetime monthly retirement benefit:**

Subject to both federal and Utah state taxes.

**PLSO payment:** Subject to 20% federal tax withholding and Utah state income tax on the taxable portion of the distribution.

**Lump-sum refund of member contributions:** Subject to 20% federal tax withholding and Utah state income tax on the taxable portion of the distribution.

**Note:** An alternate payee, who was your former spouse, has the same options you do in deferring taxes by rolling over the taxable portion of the distribution to a 401(k) or other qualified plan, or to an eligible plan such as a 403(b), 457, or traditional IRA.

## Death of Member

If you die before you retire and a continuing monthly benefit is created in compliance with Utah retirement law, or a refund of the member contribution account is part of the death benefit,

and if a death benefit is provided, the alternate payee will receive the court-ordered amount in accordance with the DRO instructions.

If you die after you retire, the alternate payee will receive the court ordered amount according to the DRO instructions and URS policies.

## Death of Alternate Payee

If the alternate payee dies before the effective date established by URS and based on the stipulations in the DRO, the entire amount due the alternate payee reverts to you.

If the alternate payee dies after the effective date established by URS and based on the stipulations in the DRO, or dies after monthly benefits begin, the alternate payee's portion of the benefit ceases entirely. It neither reverts to you nor becomes payable to an estate.

A valid DRO will be applied to

## URS Savings Plans

as follows:

**If a valid DRO divides a savings plan, the court-ordered amount will be transferred to an account under the alternate payee's name and Social Security number in about 10 working days from the date URS receives the DRO.**

## Alternate Payee Access to the Court-Ordered Amount

After the funds have been transferred, the alternate payee may:



- withdraw the segregated account in the savings plan at any time and in any manner permitted by the plan; OR
- leave the segregated funds in the plan, subject to plan rules; however, the alternate payee must begin distribution when you reach age 70<sup>1/2</sup>.

## Taxes

### **401(k) and 457**

Distributions from the alternate payee's 401(k) or 457 accounts are taxable, but are not subject to an early withdrawal penalty tax. The alternate payee may submit a Substitute W-4P Tax Withholding Certificate for each elective withdrawal. Federal tax withholding of 20% is required on withdrawals or periodic payments that span periods of less than 10 years.

### **Traditional and Roth IRA**

Distributions from the alternate payee's traditional or Roth IRA may be taxable and may also be subject to the early withdrawal penalty tax. The alternate payee may submit a Substitute W-4P Tax Withholding Certificate for each elective withdrawal. Federal tax withholding of 10% is required on non-periodic withdrawals unless the alternate payee elects no withholding.

### **Investment of the Alternate Payee's Account**

The alternate payee's account will be set up exactly as your account was invested, but the alternate payee can make changes to his or her allocation as permitted by the plan. The money will accrue earnings/losses tax-deferred until it is depleted. Changes among the investment options can be made by investment contract or at [www.urs.org](http://www.urs.org).

## Beneficiary Designations

### Member

**Before retirement** — You may name anyone as beneficiary for the death benefit or for member contributions, if applicable. You may change beneficiaries at any time.

**After retirement** — Your ability to name anyone as beneficiary depends on the retirement system to which you belong and the option you selected at retirement, if applicable.

If a divorce decree stipulates you list your former spouse as the beneficiary of your retirement or savings plans, contact URS.

### Alternate Payee

The alternate payee may not assign his or her rights to pension benefits under a DRO. However, he or she may designate beneficiaries for the URS Savings Plans on a beneficiary designation form available by phone request from URS or through our website. Beneficiary designations should be kept current and on file with URS at all times.

### Family Members

Even though URS benefits are not generally subject to attachment, execution, garnishment, or other legal or equitable process, your benefit can be attached to satisfy a support obligation if a DRO for family members is submitted.

## Confidentiality of Data and Calculations

All data in the possession of URS is confidential. Former spouses, alternate payees, or their attorneys may only obtain general information on calculations and the amount of the former spouse's or alternate payee's benefit at the time the benefit is payable. To calculate a present value of your future pension benefits, for instance, you or your spouse will need to consult an actuary or other financial professional. URS cannot give financial advice. URS will only release information on your account(s) through a subpoena duces tecum.

As a member you have access to your defined benefit annual retirement statement beginning with the 2006 calendar year. To view your statement online go to [www.urs.org](http://www.urs.org), and log in to your account through myURS. You may estimate your monthly URS retirement (pension) benefit on our website using the benefit calculator.

## Federal and Utah Statutes

Unlike private pension plans, Utah Retirement Systems (URS) are government pension plans and are not subject to the Qualified Domestic Relations Order provisions of the 1984 Retirement Equity Act or the 1974 Employee Retirement Income Security Act.

This brochure is based on Utah Code Title 49 and Board policies.

The information contained herein is general. If discrepancies exist between this information and the law, the law will prevail. URS cannot give legal advice. For specific information on your account, contact URS in Salt Lake City or St. George.



## **Utah Retirement Systems**

P.O. Box 1590  
Salt Lake City, UT 84110-1590

### **Or visit us at**

560 East 200 South, Suite 240  
Salt Lake City, UT 84102-2021  
801-366-7770 • 800-695-4877  
TTY 800-877-8339 or 711

### **Southern Utah Branch**

165 North 100 East #9  
St. George, UT 84770-2505  
435-673-6300 • 800-950-4877

**[www.urs.org](http://www.urs.org)**