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From: Bob Treat [<mailto:Bob.Treat@hantzgroup.com>]

Sent: Saturday, March 31, 2007 2:25 PM

To: EBSA, E-ORI - EBSA

Subject: Comment re Rule Relating to Timing of QDROs

I am an attorney admitted to practice law in the state of Michigan, and while I do not practice law, I run QDROExpress, LLC, a company that prepares QDROs for attorneys in Michigan and Ohio. I have prepared approximately 3,000 QDROs. I have read the Interim Final Rule Relating to Time and Order of Issuance of Domestic Relations Orders, and I offer the following comments, and request the Rule be revised as to Item 1), below, to clarify the issue described therein, and to use the example therein, or a similar example:

1) Death of the participant before DRO is approved: The Rule addresses the case where the Plan receives a DRO but rejects it, then the participant dies before the DRO can be amended, but what about the case where the participant dies before even the first DRO can be submitted to the Plan? I understand that if the participant retired with a life only annuity there are no further benefits payable, but what about the case where the participant elected a survivor option, or where the participant has not yet reached the annuity starting date? A DRO designating the former spouse as a surviving spouse, and submitted after the participant's death should not be rejected. Example: The parties divorce and the participant dies before the DRO can be submitted to the Plan. An order shall not fail to be a QDRO solely because it is issued after the death of the participant, and shall not fail to be a QDRO solely because it designates the former spouse as the surviving spouse for a preretirement survivor annuity and/or a postretirement survivor annuity, if such survivor annuities are available under the Plan.

2) Child support: I agree fully with Mr. Shulman's comment of March 12, 2007 requesting that the rule clarify that DROs for child support payments in arrears should not fail to be QDROs solely because the alternate payee children are no longer minors. He points out a serious injustice that is worked on the alternate payee children and the custodial parent. I would also add to the Rule a clarification that the participant is responsible for the income taxes on all distributions from the Plan for child support, whether for payments in arrears or otherwise. Example: An order assigning benefits for child support payments in arrears shall not fail to be a QDRO solely because the alternate payee child(ren) have reached the age of majority, and such order shall not fail to be a QDRO solely because it states that the participant shall be responsible for the income taxes on distributions pursuant to such order.

In conclusion, Item 1), above, and the example therein would not modify the meaning of the statutory language, and would serve only as a clarification of current law, and the Rule should be revised accordingly, and the example, or a similar example, should be included. As to Item 2), above, I can see the problem with the definition of "alternate payee," but Mr. Shulman is right, and if the statute needs to be amended I would support such amendment.

Respectfully submitted,

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