

# HOW DIVORCE CAN AFFECT YOUR WRS BENEFITS



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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. The most current version of this form can be found at [etf.wi.gov](http://etf.wi.gov). Please contact ETF if you have any questions about a particular topic in this brochure.

## 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 parties are responsible for submitting a DRO to ETF after it is issued by a court. Delayed submission may impact benefits.

## 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. Verify that all requested information is provided and is accurate.
2. The DRO attempts to award more than 50% of a WRS account to an alternate payee. The maximum amount of a member's account (as of the decree date) that can be awarded to an alternate payee is 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.

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. ETF cannot accept a DRO that is more than 20 years old.

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

- *DRO to Divide WRS Benefits (ET-4926)*, used by Wisconsin courts.
- *Foreign Jurisdiction DRO to Divide WRS Benefits (ET-4935)*, for courts outside of Wisconsin.

Both of these forms are available online at [etf.wi.gov](http://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. However, in some situations, parties to one of these proceedings may choose to divide a WRS member's account. 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](http://etf.wi.gov) or by contacting ETF.

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) governmentally defined benefit, the WRS is not subject to the federal Employee Retirement Income Security Act (ERISA) or the Retirement Equity Act.

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. The Wis. Stat. § 40.65 duty disability and Long-Term Disability Insurance (LTDI) 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 his or her own WRS employment. If the member is also entitled to benefits as a beneficiary or alternate payee of another WRS member's account, the QDRO does not apply to that account or annuity.

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 the variable participation by completing and returning a *Canceling Variable Participation (ET-2313)* form to ETF. If the member is not enrolled in the Variable Trust Fund as of the decree date, both accounts and/or annuities will be in the Core Trust Fund.

## 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.
- Requirement that the member certify all active military service or provide an affidavit of no military service on a form supplied by ETF.
- Requirement that the member's employer provide 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 monitor 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 stamped "REJECTED" and returned to all parties, including the member, the alternate payee, the court and the attorney(s) (if applicable). Information about the necessary corrections will also be provided. A corrected DRO can then be submitted to ETF.

*Please 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 he or she has 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. If ETF has not already received a copy, the member must also submit 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 form (ET-4322), any applicable military discharge papers and the employer's certification.

The member's account balances **and** creditable service are divided and 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) showing the respective account balances, total creditable service, etc. 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 his or her lifetime and one payable to the alternate payee for the rest of his or her life.

The alternate payee does not need to apply for his or her 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 his or her 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.

## 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.** If a member named a spouse as the primary beneficiary and that marriage ends, the former spouse will remain the member's named beneficiary unless ETF receives a new valid Beneficiary Designation (ET-2320) form or Beneficiary Designation—Alternate (ET-2321) form from the member. These forms are available online at [etf.wi.gov](http://etf.wi.gov).

Death benefits are always 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 (e.g. a benefit withdrawal) have no effect on the member's account.

There are no provisions in WRS law that permit 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 member's responsibility to notify the employer when a divorce has occurred so that the former spouse can be removed from the insurance plans. The member's WRS 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 additional information).

Members should also review their 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.

## 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 (or disability retirement, if eligible) benefits.

After accumulating a specific number of years of service, members may establish eligibility for certain benefit rights in the future. These future benefit rights are not affected by a QDRO. An example and details are shown on 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. However, the total creditable service earned by the member (the original 30 years plus any additional service accrued after the decree date) as of the dates that the respective annuities begin, is used to calculate any age reduction factor in the respective formula benefits.
- **Continuation of health and/or life insurance benefits**  
The total years of service (as if the account had never been split) will be used to meet service eligibility requirements for continuation of the member's insurance benefits.

## 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 his or her remaining years of military service when he or she retires. A second affidavit will be required. See the *Military Service Credit (ET-4122)* brochure for additional information.

### **Final Average Earnings (FAE)**

The member's FAE is not affected by a QDRO. The member's formula retirement benefits are based on the actual FAE when the retirement benefit begins. The alternate payee's formula retirement benefits also are based on the member's actual FAE, but it is the FAE as of the date the alternate payee's retirement benefit begins.

## Monthly Annuity Payments

Upon ETF's acceptance of 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. Because this creates an overpayment of the member, WRS must be reimbursed. A separate notice is sent to the member to explain the options for repayment.

### **For All QDROs Applied to Annuities**

Once the annuity is divided, the member and the alternate payee will each receive 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 alternate payee does not need to file an application for benefits. When the annuity is divided, payments will automatically be made to the alternate payee.

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

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

### **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 his or her 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. Whether a death benefit is payable from an annuity depends on whether the guarantee period has expired at the time of death. However, if the guarantee period had expired as of the effective date of the annuity division, there is no death benefit payable from either annuity.

#### 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 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 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 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. 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**

Accelerated payments are intended to provide annuitants with about the same income from their WRS annuity alone (prior to age 62) as the combined income from the WRS and Social Security after age 62. Accelerated payments are normally available when a member's retirement annuity begins before age 62 and the "For Annuitant's Life Only" after-age-62 payment meets the annual monthly minimum requirement.

The same annuity options are available but each includes an accelerated payment provision. With an accelerated option, the member receives a

temporary increase to their monthly WRS annuity payment until the month following the month he or she reaches age 62.

At age 62, the WRS annuity payment decreases because the temporary accelerated portion ends. If the member was **younger than** age 62 when the retirement benefit began, he or she may have selected an accelerated payment option.

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 that began after June 30, 2008, the temporary accelerated portion is paid as a death benefit until the month they would have reached age 62. For accelerated annuities that began before July 1, 2008, the temporary accelerated portion ends at death. Any death benefit would be based only on the after-age-62 amount payable to their beneficiary(ies) or named survivor.

#### **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 various annuity options available to WRS members, review ETF's brochure, *Choosing an Annuity Option (ET-4117)*.

## 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 if protective). 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. Any changes in the law effective after the decree date have no effect on the alternate payee's account; the account is considered an **inactive** account for benefit purposes.

### Applying for a Benefit

No application is required if the member's *annuity* is divided, but an application is required if a WRS *account* is 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.

*Note:* If ETF receives a retirement application more than 90 days after the member turns 55 (or age 50 with some protective employment), the alternate payee will lose benefits because the annuity cannot be backdated more than 90 days.

If an alternate payee is eligible for a retirement benefit paid as a monthly annuity, 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](http://etf.wi.gov) or by contacting ETF.

If the alternate payee also has a WRS account based on his or her own WRS employment, the alternate payee account will remain separate. The two accounts are not combined; 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 his or her 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 younger than age 62 who applies for a WRS retirement benefit may be eligible to select an Accelerated Payment option.

Accelerated payments are intended to provide you with about 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. Accelerated payments are normally available if your retirement annuity begins before age 62 and your "For Annuitant's Life Only" after age 62 payment meets the annual monthly minimum requirement.

The same annuity options are available but they include an accelerated payment provision. With an accelerated option, you would receive a temporary increase to your monthly WRS annuity payment until age 62. At age 62, your WRS annuity payment would decrease because the temporary accelerated portion would end.

As an alternate payee, the amount of the Social Security benefit used to estimate your Accelerated Payment options uses the member's FAE. ETF has no connection with the Social Security Administration (SSA). However, when calculating the temporary accelerated portion of an annuity, ETF estimates Social Security payments based on tables that assume an entire career of employment (30 or more years) covered under Social Security. ***This assumed amount may be very different from your actual Social Security benefit at age 62.***

To help limit a decrease in your total income at age 62, you can get an online Social Security estimate at [ssa.gov](http://ssa.gov) and then submit this information to ETF when requesting your retirement estimate. ETF will use this information to calculate your accelerated payment options.

A July 1, 2008 law change removed the requirement that the accelerated portion of an annuity stop if the annuitant's or alternate payee's death occurred before they turned 62. If you are an alternate payee who selects an accelerated payment option, your temporary annuity is payable until you reach age 62. Under the new law, 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. The law change does not apply to accelerated payments that began prior to July 1, 2008.

### **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](http://etf.wi.gov) or by contacting ETF.

#### **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 service 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(s) 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 benefit, 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](http://etf.wi.gov) or by contacting ETF.

### **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 additional 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 benefits 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 benefit 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, or contact your tax advisor or the Internal Revenue Service for additional information.

## 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 of the requirements under WRS law and to avoid rejection, use one of ETF's DRO forms: [DRO to Divide WRS Benefits \(ET-4926\)](#) for Wisconsin courts or the [Foreign Jurisdiction DRO to Divide WRS Benefits \(ET-4935\)](#) for courts outside Wisconsin jurisdiction. Both are available at [etf.wi.gov](http://etf.wi.gov) or by contacting ETF. The parties are responsible for submitting a 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.

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

See the "Important Information for the Alternate Payee" section.

### **Can Service Awarded to the Alternate Payee be Bought Back?**

No. There are no provisions in WRS law which permit the member to purchase service that was awarded to the alternate payee.

### **What Does it Mean if a Court Issues a Zero % 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 only be removed from the member's annuity if the alternate payee was the named survivor.



Cover photo courtesy of the Wisconsin Department of Tourism.

# Contact ETF

## [etf.wi.gov](http://etf.wi.gov)



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**1-877-533-5020**

**608-266-3285 (local Madison)**

7:00 a.m. to 5:00 p.m. (CST), Monday-Friday



Benefit specialists are available to answer questions.

Wisconsin Relay: 711



**PO Box 7931**

**Madison, WI 53707-7931**

Write ETF or return forms.

