

BRYAN E. DAUM
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June 22, 2007

Office of Regulations and Interpretation,
Employee Benefits Security Administration
Room N-5669
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

ATTN: QDRO Regulation

Dear Sir:

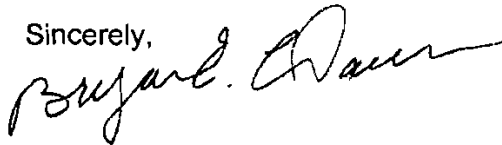
With respect to Example (1) in paragraph (c)(2) of Interim Regulation §2530.206, the Example does not specifically address the situation in which the participant and spouse divorce and no DRO is prepared prior to the date of participant's death. It does not describe a situation in which the first DRO received by the plan is after the participant's death.

Also, the Regulation does not specifically address the situation in which the first DRO is received after the date of the participant's death and when the participant has a surviving spouse who would otherwise qualify for the Qualified Pre-Retirement Spouse Annuity. I believe that both of these issues need to be addressed.

For your information, IBM has taken the position that the only benefit available after the death of the participant is the Qualified Pre-Retirement Spouse Annuity (in its plan, the Pre-Retirement Spousal Option). IBM states that the PRSO can only be paid to a current married surviving spouse and that there is no benefit for a previous spouse who submits a Domestic Relations Order after the date of the participant's death. Please see attached letter from IBM dated May 23, 2007 with the names of the participant and proposed alternate payee redacted.

If you have any questions, please call.

Sincerely,



Bryan E. Daum

BED:s
Enclosure As Stated

CC: Ms. Sally DeHart (*with enclosure*)
Bruce A. Burke, Esq. (*with enclosure*)

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OFFICE OF REGULATIONS
AND INTERPRETATIONS
2007 AUG 30 PM 4:15



IBM QDRO Administration
 P. O. Box 24110
 Jacksonville, FL 32241-4110
 Telephone (904) 791-2301
 Fax (904) 791-2328
 TTY (904) 791-2304

May 23, 2007

RSI

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RECEIVED

Bryan F. Daum
 6262 North Swan Road, Suite 130
 Tucson, AZ 85718

Re: IBM Personal Pension Plan QDRO - [REDACTED] Case No.: [REDACTED]

Dear Mr. Daum:

Your letter of April 17, 2007, has been received. Your letter was referred to Plan Counsel for review. The Plan's position with respect to a QDRO in this case is as follows:

Your client, [REDACTED] from her divorce in 1998 until one month after [REDACTED]'s death in 2006 had never submitted a QDRO or made any other claim regarding a share in [REDACTED] pension.

In any case, [REDACTED] was a vested employee at the time of his death and had not commenced any pension payments. In accordance with Plan provisions, the only benefit available in this case would be a Pre-Retirement Spousal Option (PRSO) which is payable only to a current married surviving spouse.

As note in both the recent Interim Final Rule Relating to Time and Order of Issuance of Domestic Relations Orders announced by the Department of Labor in March, 2007, as well as the prevailing federal law, an order would fail to be a QDRO if it requires a Plan to provide a type or form of benefit not otherwise provided under the Plan.

Should you have any questions regarding this matter, please contact the IBM QDRO Administration at the address above.

Sincerely,

Randall K. Staflien
 IBM QDRO Administration

[REDACTED]

[REDACTED]