

DIVORCE FINANCIAL ADVISING UPDATE

November 2016



Thea Glazer,
CFP®, CDFA™
MS Accounting
Trained in
Collaborative Divorce

Offices in San Diego
and Laguna Hills, CA

Defined Benefit and Defined Contribution Plans....

A Comparison

Defined Benefit Plans. Defined benefit plans are the traditional pension plans. What is **defined is the monthly benefit** that will be paid to a pensioner. The formula that determines the initial monthly benefit includes all or most of the following factors:

- Eligible compensation
- Length of service or points accrued
- Age
- Type of annuity – single life or survivor benefits

In determining the community and separate interests, a **time rule** is appropriate to use. That is because length of service and life expectancy are the key determinants of benefits.

Defined Contribution Plans. A defined contribution plan is **defined as to the annual contributions allowed.** For 2016, elective deferrals to 401(k)s and 403(b)s are \$18,000 and \$6,000 for catch-up deferrals for those age 50 and over. For IRAs, it is \$5,500 for individuals ages 49 and below and \$6,500 for those aged 50 and above. Most defined contribution plans are invested in mutual funds, sub accounts in variable annuities, stock or bonds. As such, **Performance** is the key in determining the value of the plans. A period by period analysis of contributions and the growth on those contributions is critical in order to properly determine the CP and SP interests. **DO NOT USE A TIME RULE!!!** I have seen many MSAs which state that the 401(k) will be divided according to the time rule and that is plain incorrect.

A Qualified Plan is an employer sponsored retirement plan that qualifies for special tax treatment under Section 401(a) of the Internal Revenue Code. A QDRO is needed to divide private sector qualified defined benefit and defined contribution plans and a Court Order Acceptable for Processing (COAP) is the equivalent version needed for federal retirement plans.

Some employer sponsored plans are **Nonqualified Plans** (some deferred compensation plans, for example). In order to divide, a Domestic Relations Order (DRO), pertinent portions of the MSA, or other documents may be required.

IRAs are not qualified plans, but some plan administrators require a QDRO. Always check with the plan administrator before attempting to divide an IRA.

Have Questions? Need help? Call or e-mail me!