

Federal Government Retirement Benefits

Individuals who work for the Federal Government may have retirement benefits through a number of different programs, depending upon whom their employer is. These benefits are not ERISA plans and cannot be divided pursuant to ERISA rules. The plans can be divided, but the rules regarding how the plans can be divided, when the benefits are available and how the plans can be divided are specific to each plan.

Federal Employee Retirement System / Civil Service Retirement System

Benefits are provided to certain Federal Government Employees through the Federal Employee Retirement System or Civil Service Retirement System. Both plans are forms of defined benefit plans which are plans that pay an annuity upon retirement. The specific benefits that an employee is entitled to depends upon which plan they are in. These plans can be divided upon divorce, however, there are several different definitions that apply to benefits and the benefits received by the former spouse will depend upon the definitions used in the order to divide the benefits. If the former spouse remarries before age 55, they are not entitled to receive any benefits from the FERS or CSRS plans.

These benefits can be complicated and if you do not know what you are dealing with and how to prepare the orders, you may not receive the benefits you are entitled to. Please contact me with questions on these benefits.

Thrift Savings Plan

Some Federal employees are also enrolled in the Thrift Savings Plan which is a defined contribution plan like a 401(k) plan. The benefits in the Thrift Savings Plan can be divided at divorce. The former spouse can roll their share of the benefits into another qualified plan or an IRA once the order to divide the Thrift Savings Plan is processed.

Railroad Retirement Board

The benefits provided to a railroad employee via the railroad retirement board are not part of an ERISA plan. The benefits are provided pursuant to the Railroad Retirement Act (Federal Law 45 U.S.C. §231). Depending upon whom the employee works for, they may also have benefits provided through an ERISA plan as well.

Railroad Retirement Benefits pay a monthly annuity once the employee reaches retirement age.

There are two Tiers of benefits involved in the Railroad Retirement Act. The Tier 1 benefits are akin to Social Security benefits and cannot be divided pursuant to a court order. However, just like social security benefits, the divorced spouse may be entitled to Tier 1 benefits depending upon the length of the marriage, and their own and former spouse's entitled to social security benefits.

Tier 2 benefits can be divided pursuant to a court order. In order to obtain a direct payment of these benefits from the Railroad Retirement Board, the former spouse must not be remarried to someone else and the railroad employee must have completed certain service requirements and be of retirement age. The benefits and how they can be divided are strictly defined by the statute. Tier 2 benefits paid to the former spouse reduce the amount of the Tier 2 benefits to the railroad employee.

The order to divide the Tier 2 benefits needs to include specific language and should be prepared by an experienced person.

Before you elect to divide these benefits, be sure you know what you are bargaining for. If you do not know what benefits are available, contact me for assistance.

Military Plans

Service members may earn benefits in the Military Retirement System. One of the requirements to earn a pension is 20 years of military service. If an individual has less than 20 years of service, they are not entitled to a pension at all.

There are specific procedures to follow in order to receive pension pay directly from the Defense Financing and Accounting Services ("DFAS"). In order for the former spouse to be paid directly by the DFAS, the parties have to have been married for at least 10 years while the service member was active.

The amount of the benefit paid to the former spouse will depend upon a number of factors, including whether or not all or a portion of the service member's pay is considered compensation for disability.

The division of military benefits is complicated and requires specific documentation to be provided in order to divide the benefits. I am willing to assist with determining what an individual may be eligible in relation to a military retirement plan.