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MARRIAGE DISSOLUTION: DIVIDING TRA BENEFITS




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Preface

This booklet is designed to give all parties involved in a marriage dissolution a better understanding of how TRA pension benefits may be divided as a property settlement. It includes

- a recommended method for the division of property,
- a summary of the options available to plan participants, and
- a summary of the effect these options have on the division of TRA pension benefits.

Specific questions concerning the retirement plan or the information presented in this guide should be directed to TRA at 651.296.2409 or 800.657.3669.

Please visit our website at MinnesotaTRA.org.

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Public Pension Plans and the Law

Federal QDRO Exemption

The TRA pension plan is exempt from the Qualified Domestic Relations Order (QDRO) provision of the 1984 Retirement Equity Act because the 1974 Employee Retirement Income Security Act (ERISA) relates only to private sector pension plans. Since TRA is a government pension plan, Section 1056 of the 1984 Retirement Equity Act does not apply to TRA. (See 29 U.S.C. §1003, et seq.)

QDROs will not be implemented by TRA if they conflict with state law.

State Law Requirements

Minnesota law allows for the division of pension benefit rights if “liquid or readily liquidated marital property” is not sufficient to offset the value of the pension benefits. TRA is not authorized to administer the division of pension benefits for marriage dissolutions dated prior to August 1, 1987.

If the court decides there is not enough liquid marital property to equitably offset the value of the pension benefits, the court may order that future pension benefit payments be divided. In this instance, the marriage dissolution decree should clearly state that there is not enough liquid or readily liquidated marital property for disposition to equitably offset the value of the pension benefits. If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

If a court determines that a portion of the pension benefits of a participant must be assigned to a former spouse, the marriage dissolution decree issued for this purpose must be in compliance with Minnesota Statutes, sections 518.58, 518.581, 518.582, and the provisions of the TRA retirement laws in Chapters 354 and 356. Also, a certified copy of the marriage dissolution decree or the order for division must be filed with the TRA plan administrator upon its execution.

TRA is not authorized to administer the division of pension benefits for marriage dissolutions dated prior to August 1, 1987.

TRA benefits are not generally assignable except for spousal maintenance and child support payments.

None of the money or benefits provided by TRA are assignable either in law or in equity. (See Minnesota Statutes, section 354.10.) A participant's account with TRA is not subject to execution, levy, attachment, garnishment or other legal process, except as specifically provided by state laws.

Minnesota Statutes, section 518.58, subdivision 4, provides that the division of marital property or rights in the form of future public pension plan payments:

1. is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;
2. is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;
3. is not payable in a lump-sum amount from pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;
4. if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and
5. in the case of public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.
 - (c) If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

- (d) If sufficient liquid or readily liquidated marital property other than property representing vested pension benefits or rights is not available, the court may order the revocation of the designation of an optional annuity beneficiary in pension plans specified in Section 356.48 or in any other pension plan in which plan-governing law or governing documents allow revocation of an optional annuity in marital dissolution or annulment situations

Legal Advice Limitations

TRA staff members do not give legal advice concerning marriage dissolution laws because it is the participant's own responsibility to seek private legal counsel in this regard.

Only a court having proper jurisdiction may provide interpretation of a dissolution decree. The primary responsibility of TRA is to make sure the pension plan does not pay benefits in an amount greater than the amount provided to a participant by the retirement laws if there were no marriage dissolution, and to ensure that the proposed order is in compliance with TRA provisions.

TRA recommended Sample Language for division of TRA benefits can be found on our website (MinnesotaTRA.org) under Members, *Divide pension in a divorce*.

If a discrepancy develops between this summary and state law, the law will govern.

Provision of Participant Information

Access to Data

Minnesota Statutes, section 356.49, subdivision 3, permits TRA to release private or confidential data on participants to the court, the parties to a marriage dissolution, their attorneys, and an actuary appointed under Section 518.582, without the consent of the plan participant, but only if the retirement plan administrator has received a copy of the legal petition showing that an action for marriage dissolution has commenced and a copy of the affidavit of service showing that the petition has been served on the responding party to the action. The participant, however, may provide the plan administrator with a signed release of information authorizing the release of private or confidential data to the concerned parties. In this instance, the petition and affidavit of service do not have to be filed with the plan administrator.

According to Minnesota Statutes, section 356.49, subdivision 1(b), the information provided by TRA must include the participant's accrued years of service credit, credited salary for the most current five-year period, a summary of the benefit plan, and any other information relevant to the calculation of the present value of the participant's benefits.

Valuation Date of Pension Plan

Under Minnesota Statutes, section 356.49, subdivision 1(b), TRA must provide information that includes benefits accrued as of the first day of the month following the date of the request or as of the end of the previous fiscal year for the plan, and as of the date of valuation of marital assets under Section 518.58, if the person requesting this information specifies that date.

Participant's Benefit Summary

The TRA plan is a defined benefit plan. Retirement benefits from the plan are lifetime monthly annuities, and the amount payable each month is based on a formula. The factors used in the formula are the participant's age at retirement, the participant's length of service in the plan and the average of the participant's highest five successive annual salaries. Please refer to the *Handbook of Benefits and Services* under Resources on our website for a more detailed explanation of how to compute retirement benefits. Participants and employers make contributions to the retirement plan to fund the benefits on an actuarial basis.

The benefit summary typically provided by TRA in these matters includes a deferred estimate of monthly retirement annuity benefits projected to age 55 if the participant is under age 55 and vested (at least 3 years of allowable service) on the date of valuation. Age 55 is the youngest age at which a participant with less than 30 years of allowable service credit may begin receiving retirement benefits. If the participant is age 55 or older and is vested on the date of valuation, the retirement benefit calculation is to the earliest eligible retirement date. This also would be true for participants who have at least 30 years of allowable service credit regardless of age. If the estimate of retirement benefits should be to a specific age or ages, other than what TRA typically provides as explained previously, the person requesting the estimate should clearly specify a different retirement age when the request is made.

The benefit summary also includes a summary of the participant's total years of allowable service credit to the date of valuation, a summary of the participant's salaries that were used to calculate the high-five average annual salary and a summary of the cash value for refund purposes with interest computed to the end of the month of the date of valuation. Any other information needed to evaluate the account should be specified.

A participant's benefit summary typically provides deferred estimates of monthly annuity benefits.

Present Value of Participant's Benefit

Minnesota Statutes, section 518.582, subdivision 2, states that a court appointed actuary shall determine the present value of pension benefits that are marital property based on the applicable actuarial assumptions specified for pension plan use in calculating optional annuity forms or for funding the pension plan, if reasonable, or as specified by the court. TRA will provide all information needed to compute the present value of the pension benefits that are marital property (i.e., annuity rate tables and interest assumptions used by the pension plan), to a court-appointed actuary, or any other actuary who is employed to determine the present value of the participant's pension benefits.

According to Section 518.582, subdivision 4, the parties may stipulate the present value of pension benefits that are marital property in lieu of using a court-appointed actuary to determine the present value. In this instance, TRA provides the parties with the information necessary to assist them in determining the present value.

Division of Pension Benefits

Dissolution Before Participant Retires

In general, if pension benefits must be divided, the provision dividing these benefits should consider the effect this division would have on survivor benefits if the participant dies before the former spouse. This consideration should include the participant's death occurring both before and after retirement. (See pages 24-26 for information on survivor benefits if the participant dies before retirement and pages 15-21 for information on survivor benefits if the participant dies after retirement.) The provision should also consider the effect this division would have on the participant's optional annuity election at retirement and the accelerated retirement annuity election available to coordinated participants who retire before normal retirement age. An additional consideration is the refund option and

Parties should consider effect of decree on former spouse's survivor benefits.

the effect a refund would have on other benefits available under the terms of the retirement plan. (See page 27 for information about refunds or deferred annuities.)

In general, if the dissolution decree is silent on the participant's right to elect an optional annuity at retirement, then the participant may select any one of the six different retirement annuity plans available. (See pages 10-15 for a summary of these six annuity plans.) In this instance, it is quite possible the participant may not elect an annuity plan that is in the best interest of the former spouse especially for survivor benefit purposes. However, if the dissolution decree orders the participant to elect a specific annuity plan upon retirement, the former spouse's interest in the plan may be protected if the participant dies before the former spouse. (See pages 12-15 for some of the consequences of ordering a participant to elect a specific annuity plan at retirement.)

If the dissolution decree is silent on the participant's right to elect an accelerated retirement annuity as authorized under Minnesota Statutes, section 354.35, the participant (if eligible) may elect an accelerated annuity upon retirement. (See pages 22 and 23 for a summary of the accelerated annuity.) The accelerated retirement annuity may be in the best interest of the participant; however, it may not necessarily be in the best interest of the former spouse, because of the reduced benefit payments after the acceleration period ends. Therefore, careful consideration should be given to this issue and, if desired, language may be included in the dissolution decree to prohibit the participant from making this election at retirement.

Formula Method for Division of Pension Property

Under the general marriage dissolution law when liquid or readily liquidated marital property is not sufficient to equitably offset the value of pension benefits, a property division order may specify a percentage of vested pension benefits to be divided. If the participant is still teaching, the actual percentage amount cannot be determined at the time of the dissolution because it is not known how long

Unless otherwise stated, Coordinated participants may select an accelerated annuity.

the participant will teach. Therefore, a formula for dividing the benefit at the time the participant becomes eligible for a benefit should be put into the dissolution decree.

For example, assuming the court divides the pension 50/50, the order might state that Pat Doe or their estate shall receive a portion of the Leslie Doe's benefit in the Teachers Retirement Association equal to:

$$\frac{\text{(number of years of TRA service accumulated during the marriage)}}{\text{(total years of TRA service)}} \times \frac{1}{2} \text{ (of an annuity refund or any other benefits payable with respect to Leslie Doe)}$$

The benefit payable to the former spouse is payable directly to the former spouse, if living, otherwise to the estate of the former spouse if the dissolution decree is silent about paying the benefit to the estate of the former spouse.

Since the pension payment to the former spouse is a substitute for the receipt of marital property, to get his/her full share of the property, the payment to the former spouse includes the estate of the former spouse. In general, however, the formula for dividing the benefit may be modified in any way desired to meet individual needs and circumstances. For example, if the parties desire to eliminate the provision to pay the estate of the former spouse and allow the participant to receive the full benefit if the former spouse predeceases the participant, the former spouse while living may be allowed a larger percentage of the annuity or a larger percentage of other marital property to compensate for this fact.

Some plan participants object to using this formula because as the participant's post-dissolution salary increases, the former spouse's future benefits also increase. To some extent, however, the increased benefits caused by salary increases that occur after the effective date of the marriage dissolution may be viewed as offsetting the inflation that occurs between the time of the dissolution and the time of the participant's retirement. With this perspective, the true value and purchasing power of the benefits of both parties are preserved equally by using the formula method.

Payments to a former spouse generally include payments to the estate of the former spouse.

It is important to note that under Minnesota law a former spouse is entitled to only a portion of the benefit payable with respect to a participant unless an optional annuity plan has been selected at retirement. Therefore, if the participant dies before becoming eligible for an annuity, a former spouse who has not been made the beneficiary or optional annuitant of the participant is entitled to only a portion of the participant's contributions and interest, unless the former spouse is designated for a lifetime monthly annuity on the Pre-Retirement Death Benefits for Single Members beneficiary form.

It is not usually advisable to grant a former spouse a flat dollar amount or a lump sum out of a participant's monthly annuity because the amount of the participant's future annuity is not known at the time of the dissolution and also because any former post-retirement annuity increases would not be properly considered.

If the decree grants the former spouse a percentage of any annuity **or refund** payable from the participant's account, the former spouse would receive a percentage of the employee contributions and interest, or monthly amount, thereby receiving his/her full share of the marital property. It is in the best interest of the former spouse to have the decree grant the former spouse a percentage of an annuity, refund or any other benefits payable with respect to the participant.

Participants should keep beneficiary designations current and in accord with final decree.

TRA offers six annuity plans that have unique survivor benefits.

Optional Retirement Annuities

Six retirement annuity plans are administered by TRA, and each provides a monthly benefit payable to the annuitant (retired participant) for life. The amount payable under each plan varies, however, because each plan has a unique survivor benefit. A brief description of each plan follows.

The selection of an annuity plan is not made until an application to receive a monthly retirement annuity benefit is made by the participant. Retiring participants should choose the plan that most effectively meets their individual needs including the needs of their survivors. Careful consideration should be given to the amount payable under each plan, survivor benefits, accumulated retirement contributions, and all other income after retirement.

Once you begin to receive an annuity from TRA, each January, if specified by law, a post-retirement increase may be made to your monthly benefit.

No Refund

Annuity payments are payable monthly for as long as the annuitant lives; upon the annuitant's death, the payments cease. The benefit payable to a beneficiary is as follows:

1. If the annuitant **dies before** the expiration of two months following the initial payment date, the designated beneficiary is paid a lump-sum amount equal to the annuitant's accumulated contributions and interest less any monthly benefit payments received.
2. If the annuitant **dies after** the expiration of two months following the initial payment date, the designated beneficiary is paid any uncashed annuity payment due for the month that death occurs. If the annuitant has already cashed the annuity payment for the month that death occurs, nothing more is payable.

If the designated beneficiary dies before the annuitant or if there is no designated beneficiary, the amount, if any, is paid to the annuitant's estate.

Usually does not provide a refund.

Guaranteed Refund

Annuity payments are payable monthly for as long as the annuitant lives. Payments may or may not cease upon the death of the annuitant depending on whether or not the annuitant has recovered his or her accumulated contributions and interest on the date of retirement by the date of death. The benefit payable to a beneficiary is as follows:

1. If the annuitant **dies before** receiving benefit payments in an amount equal to his or her accumulated contributions and interest, the same monthly payment is paid to the designated beneficiary until these savings are depleted. If the designated beneficiary precedes the annuitant in death or if there is no designated beneficiary, any remaining monthly payments are commuted and paid in a lump-sum to the annuitant's estate.
2. If the annuitant **dies after** his or her accumulated contributions and interest are depleted, the designated beneficiary is paid any uncashed annuity payment for the month that death occurs. If the annuitant has already cashed the annuity payment for the month that death occurs, nothing more is payable.

The period of protection for a beneficiary is usually 2 to 6 years following the effective retirement date depending on the participant's length of service and age at retirement.

If the designated beneficiary dies before the annuitant or if there is no designated beneficiary, the amount is paid to the annuitant's estate.

Offers a guaranteed refund.

Payments are guaranteed for 15-years and life thereafter.

15-Years Guaranteed

Annuity payments are payable monthly for as long as the annuitant lives with the guarantee that payments will be made for at least 15 years. The benefit payable to a beneficiary is as follows:

1. If the annuitant **dies before** receiving annuity payments for the guaranteed 15 years, the designated beneficiary is paid the same monthly annuity for the remaining years of the guarantee. If the designated beneficiary precedes the annuitant in death or if there is no designated beneficiary, all remaining unpaid guaranteed annuity payments are commuted and paid in a lump sum to the annuitant's estate.
2. If the annuitant **dies after** receiving annuity payments for at least 15 years, the designated beneficiary is paid any uncashed annuity payment for the month that death occurs. If the annuitant has cashed the annuity payment for the month that death occurs, nothing more is payable.

If the designated beneficiary dies before the annuitant or if there is no designated beneficiary, the amount is paid to the annuitant's estate.

Survivorship Plans with Bounceback

Annuity payments are payable monthly for as long as the annuitant lives. The benefit payable to the designated optional joint annuitant is as follows:

1. If the annuitant **dies before** the optional joint annuitant, the optional joint annuitant is paid:
 - An amount for life equal to 100 percent, 75 percent or 50 percent of the annuitant's payment.
 - All payments cease upon the death of the optional joint annuitant.
2. If the optional joint annuitant **dies before** the annuitant, the payments to the annuitant are increased under the bounceback provision to the greater No Refund plan amount.

Permit annuity amounts to bounce back if the joint annuitant predeceases participant.

If the dissolution decree orders the participant to select an optional annuity plan at retirement in favor of the former spouse, the decree should try to anticipate and resolve problems that may arise. Also, if the court orders a participant to select an optional annuity plan, the specific plan must be specified in the dissolution decree.

Court-ordered optional annuities should be specified in decree.

Optional Annuity Selection Consequences

1. If an optional joint and survivor annuity is selected (survivorship plans) out of the participant's portion of the benefit with the former spouse designated as an optional joint annuitant (OJA), and the former spouse predeceases the participant, the estate of the former spouse does not receive any benefit with respect to the optional annuity because when an optional annuitant (former spouse) dies, his/her right to a joint annuity terminates. However, the estate could receive the court-awarded percentage of the participant's benefit allocated as marital property to the former spouse for as long as the participant lives.
2. If, at retirement, the participant elects an optional joint and survivor annuity (survivorship plans) with the former spouse designated as the sole optional joint annuitant and the participant subsequently remarries and dies, the new spouse is not entitled to any benefit.
3. If an optional joint and survivor annuity is ordered, its cost should be reflected in the division of marital property. If there is a large age difference between the participant and a younger former spouse and an optional joint and survivor annuity (survivorship plans) is elected in favor of the former spouse, the cost of providing this option will be higher because the younger former spouse is assumed to live several years after the participant's death. The additional cost, attributable to the younger age of the former spouse, should be reflected in the division of the marital property.

The cost of an optional annuity should be reflected in division of marital property.

4. If an optional joint and survivor annuity (survivorship plans) selection is ordered by the court and the participant remarries before retirement, TRA allows the participant to name both the new spouse (or other designated beneficiary) and the former spouse as optional joint annuitants, but this election must not violate the terms of the dissolution decree.

Optional Joint Annuitant Who is Not Your Spouse: Age Restrictions

You may designate any person as your joint annuitant. If you designate someone other than your spouse, the Internal Revenue Service (IRS) has restrictions on the age difference between the member and the person designated as the optional joint annuitant. These age restrictions apply to the 100 percent and the 75 percent survivorship plans.

IRS Formula Example

Your Age at Retirement (60) minus	
Your OJA's Age (37)	$60 - 37 = 23$
70 minus Your Age at Retirement	$70 - 60 = 10$
Age Difference	$23 - 10 = 13$ years

In the above example, the 75 or 50 percent survivorship plan may be selected.

If you designate an OJA other than your spouse and meet the following age criteria, you may choose:

- Age difference less than 10 years — 100, 75 or 50 percent survivorship plans
- Age difference between 10 and 19 years — 75 or 50 percent survivorship plans

Age restrictions do not apply to the 50 Percent Survivorship Plan.

Payments to an estate: If a marriage dissolution decree provides that payments to a former spouse must continue to be paid even if the former spouse dies before the participant, Minnesota Statutes, section 518.58, subdivision 4, permits payments to be made for a period of time not to exceed the lifetime of the participant. If the decree does not name a

sole successor to whom payments should be made, TRA must make payments to the personal representative of the former spouse's estate. It is up to the personal representative to determine and apportion the payments to those persons, entities, or trusts entitled thereto, either under the former spouse's will, or under applicable law, in the event there is no will.

Effect on Benefits to Former Spouse

No Refund

This information applies if the participant retires and the participant selects the No Refund plan at retirement, and a former spouse is entitled to a percentage of the total benefit available under the terms of the plan. (See pages 10-11 for a general summary of the No Refund retirement annuity.)

Scenario I: Participant dies before the former spouse. All payments cease including payments to a former spouse.

Scenario II: Former spouse dies before the participant. Participant continues to receive his/her portion after the former spouse's death with the former spouse's portion payable under Minnesota Statutes, section 518.58, subd. 4, for as long as the participant lives. All payments cease at the participant's death including the payments to a former spouse's estate.

Guaranteed Refund

This information applies if the participant selects the Guaranteed Refund plan at retirement and a former spouse is entitled to a percentage of the total benefit available under the terms of the plan. (See page 11 for a general summary of the Guaranteed Refund retirement annuity.)

Scenario I: Participant dies before the former spouse.

- A. Participant's savings have been depleted. All payments cease upon the death of the participant including the payments to the former spouse.

Payments will cease upon death of TRA member.

- B. Participant's savings have not been depleted. Payments to the former spouse continue until the participant's savings are depleted. It is important to note that the participant's portion is also paid to the former spouse until the participant's savings are depleted if the former spouse is the only designated beneficiary; otherwise, the participant's portion is paid to the participant's own beneficiary until the savings have been depleted.

Scenario II: Former spouse dies before the participant. Former spouse's portion is payable under Minnesota Statutes, section 518.58, subd. 4, until the participant's savings are depleted, or until the participant's death, whichever occurs later. If the participant's savings have been depleted, all payments (including those to the former spouse's estate) cease at the participant's death.

If the decree does not name a **sole** successor to whom payments should be made, TRA must make payments to the personal representative of the former spouse's estate. It is up to the personal representative to determine and apportion the payments to those persons, entities, or trusts entitled thereto, either under the former spouse's will, or under applicable law, in the event there is no will.

15-Years Guaranteed

This information applies if the participant selects the 15 Years Guaranteed plan at retirement and a former spouse is entitled to a percentage of the total benefit available under the terms of the plan. (See page 12 for a general summary of the 15-Years Guaranteed retirement annuity.)

Scenario I: Participant dies before the former spouse.

- A. Participant dies before the end of the guaranteed 15 year period. Payments to the former spouse continue to the end of the guaranteed 15 year period. Also, the participant's portion of the total payment is paid to the former spouse until the end of the guaranteed 15 year period if the former spouse is the only designated beneficiary; otherwise, the participant's portion is paid to the participant's own beneficiary until the end of the guaranteed 15 year period.

Payments are guaranteed for 15 years regardless whether the member dies.

- B. Participant dies after the guaranteed 15 year period. All payments cease including the payment to the former spouse.

Scenario II: Former spouse dies before the participant. Former spouse's portion is payable according to Minnesota Statutes, section 518.58, subd. 4, at least until the end of the guaranteed 15 year period. If the participant is still living at the end of the guaranteed 15 year period, the payments continue to the former spouse's estate for as long as the participant lives. All payments (including those to the former spouse's estate) cease at the participant's death if the death occurs after the end of the guaranteed 15 year period.

If the decree does not name a **sole** successor to whom payments should be made, TRA must make payments to the personal representative of the former spouse's estate. It is up to the personal representative to determine and apportion the payments to those persons, entities, or trusts entitled thereto, either under the former spouse's will, or under applicable law, in the event there is no will.

100 Percent Survivorship Plan

This information applies if the participant selects the 100 Percent Survivorship plan at retirement and a former spouse is entitled to a percentage of the total benefit available under the terms of the plan. (See pages 12-15 for a summary of survivorship plan retirement annuities.)

Scenario I: Participant dies before the former spouse.

- A. Former spouse is designated as the only optional joint annuitant. The total survivor benefit (100 percent of the total benefit including the participant's portion) is paid to the former spouse for life.
- B. Former spouse is designated as an optional joint annuitant and another person is also designated as a co-optional joint annuitant. The former spouse's portion of the total survivor benefit continues to the former spouse for life. The remaining portion of the total survivor benefit is paid to the co-optional joint annuitant for life.

May be paid to the estate of a former spouse.

Amount to a former spouse is payable for life.

Scenario II: Former spouse dies before the participant.

- A. Former spouse is designated as the only optional joint annuitant. The payments that were being made to the former spouse are payable according to Minnesota Statutes, section 518.58, subd. 4, for as long as the participant lives. All payments cease at the death of the participant.
- B. Former spouse is designated as an optional joint annuitant and another person is also designated as a co-optional joint annuitant. The payments that were being made to the former spouse are payable according to Minnesota Statutes, section 518.58, subd. 4, for as long as the participant lives. These payments cease upon the death of the participant. Then 100 percent of the participant's share (excluding the former spouse's share) is payable to the participant's co-optional joint annuitant for life.

If the decree does not name a **sole** successor to whom payments should be made, TRA must make payments to the personal representative of the former spouse's estate. It is up to the personal representative to determine and apportion the payments to those persons, entities, or trusts entitled thereto, either under the former spouse's will, or under applicable law, in the event there is no will.

75 Percent Survivorship Plan

This information applies if the participant selects the 75 Percent Survivorship plan at retirement and a former spouse is entitled to a percentage of the total benefit available under the terms of the plan. (See pages 12-15 for a summary of survivorship plan retirement annuities.)

Scenario I: Participant dies before the former spouse.

- A. Former spouse is designated as the only optional joint annuitant. The entire survivor benefit (75 percent of the total benefit) is paid to the former spouse for life. All payments cease upon the death of the former spouse.

- B. Former spouse is designated as an optional joint annuitant and another person is designated as a co-optional joint annuitant.

A portion of the 75 percent survivor benefit is payable to the former spouse for his/her life with the payment ending upon the former spouse's death. The former spouse's payment may be reduced from the amount that the former spouse was receiving while the participant was alive. The remaining balance of the 75 percent survivor benefit is payable to the co-optional joint annuitant for as long as the co-optional joint annuitant lives. Payments to the co-optional joint annuitant end upon the death of the co-optional joint annuitant.

Scenario II: Former spouse dies before the participant.

- A. Former spouse is designated as the only optional joint annuitant. The payments that were being made to the former spouse are payable according to Minnesota Statutes, section 518.58, subd. 4, for as long as the participant lives.
- B. Former spouse is designated as an optional joint annuitant and another person is designated as a co-optional joint annuitant.

The payments that were being made to the former spouse are payable according to Minnesota Statutes, section 518.58, subd. 4, for as long as the participant lives. These payments cease upon the death of the participant. At that time 75 percent of the participant's share (excluding the former spouse's share) is payable to the participant's co-optional joint annuitant for life.

If the decree does not name a **sole** successor to whom payments should be made, TRA must make payments to the personal representative of the former spouse's estate. It is up to the personal representative to determine and apportion the payments to those persons, entities, or trusts entitled thereto, either under the former spouse's will, or under applicable law, in the event there is no will.

Amount to a former spouse may be paid to the estate.

50 Percent Survivorship Plan

This information applies if the participant selects the 50 Percent Survivorship plan at retirement and a former spouse is entitled to a percentage of the total benefit available under the terms of the plan. (See pages 12-15 for a summary of survivorship plan retirement annuities.)

Scenario I: Participant dies before the former spouse.

- A. Former spouse is designated as the only optional joint annuitant. The entire survivor benefit (50 percent of the total benefit) is paid to the former spouse for life. All payments cease upon the death of the former spouse.
- B. Former spouse is designated as an optional joint annuitant and another person is designated as a co-optional joint annuitant.

A portion of the 50 percent survivor benefit is payable to the former spouse for his/her life with the payment ending upon the former spouse's death. The former spouse's payment may be reduced from the amount that the former spouse was receiving while the participant was alive. The remaining balance of the 50 percent survivor benefit is payable to the co-optional joint annuitant for as long as the co-optional joint annuitant lives. Payments to the co-optional joint annuitant end upon the death of the co-optional joint annuitant.

Scenario II: Former spouse dies before the participant.

- A. Former spouse is designated as the only optional joint annuitant. The payments that were being made to the former spouse are payable according to Minnesota Statutes, section 518.58, subd. 4, for as long as the participant lives.
- B. Former spouse is designated as an optional joint annuitant and another person is designated as a co-optional joint annuitant.

The payments that were being made to the former spouse are payable according to Minnesota Statutes, section 518.58, subd. 4, for as long as the participant

lives. These payments cease upon the death of the participant. At that time, 50 percent of the participant's share (excluding the former spouse's share) is payable to the participant's co-optional joint annuitant for life.

If the decree does not name a **sole** successor to whom payments should be made, TRA must make payments to the personal representative of the former spouse's estate. It is up to the personal representative to determine and apportion the payments to those persons, entities, or trusts entitled thereto, either under the former spouse's will, or under applicable law, in the event there is no will.

Dissolution After Participant Retires

When the marriage dissolution occurs after retirement, the years of marriage before retirement and the years of TRA covered teaching service are known. Therefore, a percentage of the participant's benefit can be determined at the time of the dissolution. Again, it is not in the former spouse's best interest to assign a flat monthly benefit payment to the former spouse because any post-retirement increases, if specified under current law, would not be properly considered.

In general, participants are not permitted to change their optional annuity plan or joint annuitant selections once two months have elapsed after the initial benefit payment date. (See pages 10-15 for a summary of the six annuity plans.) For example, if the participant elected a 100 percent optional survivorship plan with the spouse as the only optional joint annuitant, and two months have elapsed after the initial benefit payment date and the marriage is subsequently dissolved, those elections cannot be changed. A provision passed during the 2010 legislative session may allow you to revoke an optional joint annuitant designation if you divorce after retirement and are awarded your full pension. (See Minnesota Statutes, section 356.48). Contact TRA for more information on this provision.

Unless court ordered, participants cannot change their optional annuity plan selection once two months have elapsed after their initial benefit payment date.

Since the pension payment (annuity) to the former spouse is a substitute for the receipt of marital property, for the former spouse to get a full share of this property, payments to the former spouse include the estate of the former spouse.

In general, the formula for dividing the benefit may be modified in any way desired to meet individual needs and circumstances. For example, if the parties desire to eliminate the provision to pay the former spouse's estate and allow the participant to receive the full benefit if the former spouse predeceases the participant, the former spouse may be allowed a larger percentage of the annuity or a larger percentage of other marital property to compensate for this fact.

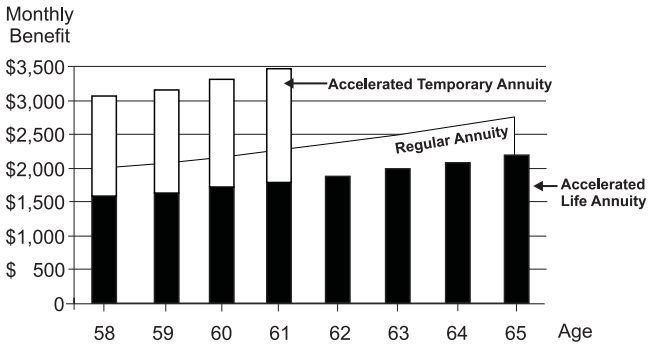
Coordinated System Accelerated Annuity

Coordinated system participants of TRA are also covered by Social Security laws.

A Coordinated system participant who retires before normal retirement age may elect to receive an accelerated monthly annuity in lieu of a regular lifetime monthly retirement annuity. The accelerated annuity is a greater amount than the amount payable under the provisions of the regular lifetime monthly annuity law. This greater amount is only payable to age 62, 65 or normal retirement age when it is reduced for the remainder of the participant's lifetime. The reduced amount is less than the amount of the regular lifetime annuity.

A member may elect to receive a greater accelerated monthly retirement annuity payment until age 62, 65 or normal retirement age, instead of receiving a regular monthly retirement annuity. An accelerated annuity payment is made up of two parts: 1) the **lifetime monthly portion** that basically remains the same for the duration of the benefit, and 2) the **accelerated monthly portion** (temporary annuity) that ends at age 62, 65 or normal retirement age. The lifetime monthly portion of the accelerated monthly payment will be less than the monthly amount the member would have received if they had not chosen an accelerated annuity. A decision to choose an accelerated benefit means that the member realizes the payment will drop to a lesser amount at the age chosen.

If the member dies before reaching the designated age, the temporary annuity amount is paid to a designated beneficiary or, if none, to the estate. **Survivor benefits available after the designated age and any post-retirement increases that may occur after these ages, if specified under current law, will be less as a result of electing an accelerated payment.** (See Optional Retirement Annuities on page 10 for additional information on post-retirement increases.) This is because the accelerated/temporary portion of the payment will have ended and calculations will be made using only the lifetime monthly portion of the annuity payment. The following chart illustrates the monthly annuity payment drop at age 62.



It should be understood that if a Coordinated system participant elects an accelerated annuity at retirement, both the positive and the negative effects of this election are applicable to the participant as well as the former spouse. Consequently, the issue of whether a plan participant is allowed to elect the accelerated annuity at retirement should be resolved in the marriage dissolution decree. If the decree is silent on this issue, an eligible participant is entitled to elect an accelerated annuity at retirement.

Parties should resolve accelerated annuity selection in dissolution decree.

Participant Dies Before Retirement

Scenario I: An **unmarried** Coordinated system participant dies before the former spouse. (Coordinated system participants of TRA are also covered by Social Security laws.)

A survivor benefit available under the terms of the retirement plan for unmarried Coordinated system participants is a lump-sum distribution, or a lifetime annuity for a former spouse or child(ren), if specified on the Pre-Retirement Death Benefits for Single Members beneficiary form. (See Minnesota Statutes, section 354.47, subd. 1.)

A lump-sum distribution is made both to the former spouse in accordance with the provisions of the marriage dissolution decree and the participant's portion is paid to his/her own beneficiaries. A former spouse can also be designated for a lifetime annuity for the marital portion of the annuity, if so designated.

Scenario II: A **married** Coordinated system participant dies before the former spouse.

- A. The participant has fewer than three years of allowable service credit. A lump sum distribution of the member's contributions and interest is payable.
- B. The participant has at least three years of allowable service credit. In this instance, the surviving current spouse may make an immediate election to receive the joint and survivor annuity benefit under Minnesota Statutes, section 354.46, subd. 2 or a lump-sum benefit under section 354.47, subd. 1. In lieu of the joint and survivor annuity or a refund, the surviving spouse may elect to receive survivor coverage in a term-certain annuity of 5, 10, 15 or 20 years. The monthly term-certain annuity must be the actuarial equivalent of the available joint and survivor annuity option.

Term certain survivor benefits are available for eligible married Coordinated participants.

1. Current spouse elects the joint and survivor annuity option. This is a monthly distribution of funds payable to both the former spouse in accordance with the provisions of the marriage dissolution decree and the current spouse for the life of the current spouse only.
 - a. Current spouse dies before the former spouse. The former spouse receives his/her percentage of the total benefit as assigned in the marriage dissolution decree for as long as the current spouse lives. All payments cease at the death of the current spouse. Therefore, upon the death of the current spouse, the former spouse's benefit also ceases.
 - b. Former spouse dies before the current spouse. In this instance, the former spouse's portion is paid to the former spouse's estate for as long as the current spouse lives. All payments cease upon the death of the current spouse.
2. Current spouse elects a term-certain annuity of 5, 10, 15 or 20 years.
 - a. Current spouse dies before the former spouse and before the end of the term-certain annuity. The former spouse continues to receive his/her percentage of the total benefit as assigned in the marriage dissolution decree until the end of the term certain. The current spouse's estate receives the commuted value of the remaining payments (excluding the former spouse's share) in a lump-sum distribution.
 - b. Former spouse dies before the current spouse and before the end of the term-certain annuity. The former spouse's estate receives the commuted value of the remaining payments (excluding the current spouse's share) in a lump-sum distribution.

3. Current spouse elects the lump sum benefit. The lump sum distribution is paid both to the former spouse and to the current spouse under the provisions of the marriage dissolution decree. If the former spouse is deceased, payment will be made to the former spouse's estate.
4. A participant and a participant's current spouse may make a joint specification in writing on a form provided by TRA so that a joint and survivor annuity may be paid to a designated beneficiary(ies).

Refund or Deferred Annuity

Under TRA law, a participant may apply for and receive a refund of his/her contributions and interest in the retirement fund no sooner than 30 days after termination of teaching service. If vested, a participant may leave contributions in the retirement fund to receive a deferred monthly retirement annuity at age 55 or older. (Partial refunds are not permitted.) The matching contributions paid into the retirement fund on behalf of the participant by the employer and the accrued interest on these contributions are forfeited to the retirement fund when a participant takes a refund of his/her contributions and interest. Contributions earn 4 percent compounded annually.

If a marriage dissolution decree orders a percentage benefit for the former spouse of a vested participant and the participant takes a refund after termination of teaching service, the former spouse is only entitled to a percentage of the total amount refunded, including interest. In this instance, the participant is not only forfeiting his/her right to a monthly retirement annuity benefit, but also is forfeiting the former spouse's right to a percentage of the monthly retirement annuity benefit. Since the value of a refund is often much less than the value of the annuity, the parties to the marriage dissolution should carefully consider the pros and cons of taking a refund in lieu of leaving the money in the retirement fund for a deferred monthly retirement annuity. A former spouse may even consider prohibiting a refund by requiring in the marriage dissolution decree that the participant leave the money in the fund for a deferred monthly retirement annuity payable at some future date.

Participants with three or more years of service may choose to defer their annuities.

The value of a refund is usually much less than the value of an annuity.

Sample Language

TRA provided recommended language for division of TRA benefits. It is found on our website under Members, *Divide pension in a divorce*.

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