



Question:

My wife and I both have separate 457 plans through different companies.

Can I award her mine and she award me hers? We both need the money to move on with our lives post-divorce.

Answer:

I am unable to give you [legal advice on divorce](#) . I can give general divorce help for men, though, my knowledge is based on Nebraska and Iowa divorce laws where I am licensed to practice.

It would appear you both have 457 deferred compensation plans (a kind of defined contribution [retirement plan](#) for state and local public employees), and based on your request to award each the other's respective plan, I am to assume they are fairly equitable in amount.

As with many retirement plans and deferred compensation, you will both need to check with your respective plan administrators to find out the requirements for withdrawal and any potential penalties. You may both find that it is of no benefit to award the other the account and then withdraw the compensation as you may be hit with very stiff penalties or taxes.

Related Articles:

[Handling Retirement Plans In Divorce](#)

Withdrawal, as defined in your plan, may typically only occur when one of the following happens:

- 1) upon severance from service;
- 2) retirement;
- 3) attaining the age of 70 1/2;
- 4) death; or
- 5) encounter an "unforeseeable emergency" as defined by IRC Section 457

Divorce itself is not considered an "unforeseeable emergency." Therefore, an award of each other's account may be a way to actually obtain access to the funds, but you will need to have a [QDRO \(Qualified Domestic Relations Order\)](#) prepared if that is even a possibility.

Further, based on what your plan administrators tell each of you, your soon to be ex-spouse, although they may be awarded your account, may again be subject to taxes and may also be subject to the withdrawal requirements you were subject to.

Remember, I am unable to provide you with anything more than [divorce tips for men](#) , so please consult with a divorce lawyer in your jurisdiction.

To arrange an initial consultation to discuss divorce rights for men with a Cordell & Cordell attorney, including [Omaha, Nebraska Divorce Lawyer](#) Jamie Kinkaid, [contact Cordell & Cordell](#)