Spousal Consent Under a Retirement Plan During the COVID-19 Pandemic

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Generally, a spouse must consent to a retirement plan participant?ÃÃs waiver of a qualified joint and survivor annuity or the designation of an optional form of benefit or an alternate beneficiary. The applicable regulations require this consent, even if signed electronically, to be witnessed in the physical presence of a plan representative or a notary public. Neither the IRS nor the DOL has issued guidance permitting the physical presence requirement to be satisfied by electronic means (for example, via webcam) even though numerous states now permit electronic notarizations. Employers should use care and consult with legal counsel when determining how to handle participants who are unable to satisfy the plan?ÃÃs current physical presence notarization requirements.

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