TRUE FALSE QUIZ

1. If the parties have not been married for ten years when the Complaint for Divorce is filed, then no division of retirement benefits may be made by the trial court.
2. Suppose the parties have been married for 12 years when the Complaint for Divorce was filed, but the Husband has only been at his present employment for the last 6 years of the marriage. As a result, the Wife could not be awarded any part of that retirement benefit because the retirement benefit was not accumulated during “a period of ten years.”
3. The 10-year requirement of the retirement statute is an arbitrary classification that is not rationally related to a sufficient governmental interest to survive an equal protection claim.
4. A spouse must have a vested interest in a retirement benefit on the date the action for divorce is filed in order for the benefit to be divisible.
5. The trial court must value the spouse’s retirement benefits as of the date of the filing of the Complaint for Divorce.
6. Retirement benefits earned after the filing of the divorce action do not constitute vested benefits subject to division under the statute.
7. The spouse seeking an award of retirement benefits bears the burden of proving the amount of retirement benefits that were accumulated during the marriage.
8. If a party fails to prove which benefits were accumulated during the marriage, then the trial court must create an equitable property division between the parties without considering the retirement benefits as an asset subject to division.
9. Because military personnel do not vest for retirement until after 20 years, such military retirement benefits are indivisible if a spouse has served less than 20 years on the date the action for divorce is filed.
10. If part of a retirement plan that was obtained prior to the parties’ marriage was regularly used for the common benefit of the parties, it may be divided by the court.
11. The present value calculation of the stream of income produced by monthly retirement benefits must always be presented to the court if the issue is litigated.
12. A division of pension benefits in a divorce case will always be considered a property division that is non-modifiable in the future.
13. Even if the trial court determines the division of pension benefits in a divorce case is a property division and non-modifiable, the revenue department can still determine the division is an award of alimony subject to taxation as alimony.
14. The value of the survivor annuity benefit must be considered to ensure the division of the retirement benefit does not exceed 50 % of the value of the entire benefit.
15. If a spouse is already named as the survivor annuity beneficiary before the parties divorce, there does not need to be a new election for that spouse to remain as the survivor annuity beneficiary after a divorce.
16. A Qualified Domestic Relations Order (QDRO) is required to divide any retirement account.
17. If a divorce decree does not address the division of an IRA, then a transfer to the ex-spouse will be considered a taxable distribution to the account owner if transferred more than one year after the date of divorce.
18. Even if the IRA transfer is prescribed by a legal document, it must occur within 6 years of the end of the marriage or the transfer will no longer be considered tax-free.
19. Pensions with the Retirement System of Alabama are not divisible by the trial courts since the RSA will not honor a QDRO.
20. Government retirement plans are exempt from ERISA.
21. It is possible for some clients to have more than one type of Thrift Savings Plan account.
22. If a divorce judgment awards a spouse a percentage share of a variable retirement asset and the award is silent with respect to market fluctuations in the value of the asset before the time of distribution, then each spouse automatically assumes a proportionate share of any subsequent gains or losses in the asset until such time as the share is distributed.
23. Guidelines issued by the Department of Labor now permit retirement plans to charge fees, deducted directly from the employee’s account, for processing QDROs for defined contribution plans.
24. Filing a QDRO more than thirty days after a divorce decree without payment of an appropriate filing fee deprives the trial court of subject matter jurisdiction to enter the order.