PACIFIC LIFE

Secure Act & Secure Act 2.0:

SUMMARY OF LIFETIME INCOME PROVISIONS

Over the past five years, Congress has passed legislation designed to improve access to retirement plans, boost savings, and update RMD rules for today's retirees, among other important provisions. This legislation, enacted into law across two bills named SECURE Act and SECURE Act 2.0, easily passed with bipartisan support and collectively amounted to over 130 retirement related provisions.

Congress also recognized the shift away from Defined Benefit (DB) plans to Defined Contribution (DC) plans and IRAs which don't naturally include guaranteed payout features like the DB plans of yesterday. With that recognition, the SECURE Act bills included key provisions that provide fiduciary relief for plan sponsors to make it easier to offer lifetime income solutions in DC plans so participants can elect to receive guaranteed income from their retirement assets during their lifetime through annuitization.

In this piece, we consolidate the key annuity provisions across both SECURE Act bills for ease of understanding and to encourage the usage of lifetime income options in defined contribution plans by plan participants.

SECTION 109; SECURE ACT

Portability of Lifetime Income Options

EFFECTIVE DATE: PLAN YEARS BEGINNING AFTER 12/31/2019

WHAT IT SAYS: The legislation permits qualified defined contribution plans, section 403(b) plans, or governmental section 457(b) plans to make a direct trustee-to-trustee transfer to another employer-sponsored retirement plan or IRA of lifetime income investments or distributions of a lifetime income investment in the form of a qualified plan distribution annuity, if a lifetime income investment is no longer authorized to be held as an investment option under the plan. The change will permit participants to preserve their lifetime income investments and avoid surrender charges and fees. **WHAT IT MEANS:** This provision allows plan participants to transfer their annuity to another company's defined contribution plan, IRA or distribute the lifetime income in the form of a qualified plan distribution annuity (QDPA) all with the intent to preserve guarantees in times of change.

SECTION 203; SECURE ACT

Disclosure Regarding Lifetime Income

EFFECTIVE DATE: (FINAL RULE) SEPTEMBER 18, 2021

WHAT IT SAYS: The legislation requires benefit statements provided to defined contribution plan participants to include a lifetime income disclosure at least once during any 12-month period. The disclosure would illustrate the monthly payments the participant would receive if the total account balance were used to provide lifetime income streams, including a qualified joint and survivor annuity for the participant and the participant's surviving spouse and a single life annuity. The Secretary of Labor is directed to develop a model disclosure. Disclosure in terms of monthly payments will provide useful information to plan participants in correlating the funds in their defined contribution plan to lifetime income. Plan fiduciaries, plan sponsors, or other persons will have no liability under ERISA solely by reason of the provision of lifetime income stream equivalents that are derived in accordance with the assumptions and guidance under the provision and that include the explanations contained in the model disclosure. **WHAT IT MEANS:** Models how participant's current defined contribution account balance would deliver monthly income if converted to an annuity given assumption determined by the Department of Labor.

SECTION 204; SECURE ACT

Fiduciary Safe Harbor for Selection of Lifetime Income Provider

EFFECTIVE IMMEDIATELY

WHAT IT SAYS: The legislation provides certainty for plan sponsors in the selection of lifetime income providers, a fiduciary act under ERISA. Under the bill, fiduciaries are afforded an optional safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an insurer's inability in the future to satisfy its financial obligations under the terms of the contract. Removing ambiguity about the applicable fiduciary standard eliminates a roadblock to offering lifetime income benefit options under a defined contribution plan. **WHAT IT MEANS:** Fiduciaries are protected from liability if an insurer cannot meet its payment obligations as long as the Fiduciary completes and continually reviews established guidelines pertaining to appropriate insurer review:

Provision is satisfied when the fiduciary completes required insurer review:

1. Engages in an objective and thorough search of insurers

2. Considers cost of the income contract relative to benefits and features
3. Considers the financial capacity of the insurer to satisfy obligations
    a. Fiduciary obtains written representations from the insurer that:
        i. The insurer is licensed to offer guaranteed retirement income contracts
        ii. The insurer currently and for the past 7 years operates under a certificate of authority from the insurance commissioner of its domiciled State and it has not been revoked or suspended
        iii. It has filed audited financial statements in accordance with State laws
        iv. Maintains reserves which satisfy the statutory requirements of the State where the insurer does business
        v. Is not operating under an order of supervision, rehabilitation or liquidation
        vi. The insurer undergoes, at least every 5 years, a financial examination by the insurance commissioner of the State
        vii. The Insurer will notify the fiduciary of any changes in circumstances
    b. No requirement to select lowest cost contract
    c. A fiduciary which satisfies these requirements shall not be liable for any losses that may result to the participant due to an insurer's inability to satisfy its financial obligations under the contract terms

SECTION 201; SECURE ACT 2.0

Remove required minimum distribution barriers of life annuities.

EFFECTIVE DATE: CALENDAR YEARS ENDING AFTER 12/29/2022

WHAT IT SAYS: Eliminates certain barriers to the availability of life annuities in qualified plans and IRAs that arise under current law due to an actuarial test in the required minimum distribution regulations. Plan sponsors can offer additional annuity options and provide increased flexibility to meet the unique needs of participants. **WHAT IT MEANS:** Certain features were not permitted with a lifetime annuity inside of a retirement plan or IRA because it would not adhere to specific RMD tests. This test often prohibited important guarantees, such as guaranteed annual increases, return of premium death benefits, and period certain guarantees. This provision makes lifetime income annuity decisions more appealing by allowing a broader range of products to meet the RMD rules.

SECURE 2.0 provides that a defined contribution plan does not violate the RMD rules if an annuity contract held in a participant's account provides for the following benefit payments on or after the annuity starting date:

- An annual increase in the annuity payments by a constant percentage that is less than five percent each year;
- A lump sum that serves to either shorten the annuity period or commute future annuity payments, in whole or part, as long as the lump sum is calculated using reasonable actuarial assumptions, or a lump sum payment that is an acceleration of up to the next 12 months of annuity payments, without regard to whether the overall annuity payment period is shortened or payments are then suspended for the acceleration period;
- Payments in the nature of dividends or similar distributions; or
- A death benefit equal to the excess of the annuity premium payment reduced by payments made.

SECTION 202; SECURE ACT 2.0

Qualifying longevity annuity contracts (QLAC).

EFFECTIVE DATE: EFFECTIVE FOR CONTRACTS PURCHASED OR RECEIVED IN AN EXCHANGE ON OR AFTER DECEMBER 29, 2022

WHAT IT SAYS: IRS limits on QLAC purchase amount increased to $200,000 (adjusted annually for inflation). **WHAT IT MEANS:** This simply means the maximum QLAC purchase amount has been raised. At the time of this writing, a participant can purchase up to $210,000 in a QLAC. This amount will be adjusted annually for inflation.

SECTION 204; SECURE ACT 2.0

Eliminating a penalty on partial annuitization.

EFFECTIVE DATE: DECEMBER 29, 2022

WHAT IT SAYS: Permits the account owner to elect to aggregate distributions from the annuitized and non-annuitized portions of the account for purposes of determining minimum distributions. However, Treasury needs to make conforming amendments for defined contribution retirement plans. **WHAT IT MEANS:** Allows retirement plan participants and IRA owners to now consider annuities and other holdings together for purposes of determining RMDs, which may help lower distribution amounts, reduce federal income tax, and allow savings to last longer.

SUMMARY IMPACT AS IT RELATES TO RETIREMENT INCOME:

These important provisions collectively aim to encourage Plan Sponsors to help better prepare retirees to manage longevity risk, mitigate market fluctuations and generate reliable income in retirement by considering the use of annuities in their defined contribution plans.

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