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## Annuities

### **Treasury, IRS Modify Tax Code Rules To Expand Access to Retirement Annuities**

**T**he federal government helped broaden the choices for those shopping for lifetime income options in retirement by modifying the required minimum distribution rules for various types of plans in newly released final regulations on qualifying longevity annuity contracts.

The final rules (T.D. 9673, RIN 1545-BK23), issued July 1 by the Treasury Department and Internal Revenue Service, modify the required minimum distribution rules to allow for the purchase of deferred annuities that start at an advanced age, such as 80 or 85.

“We’ve amended these required minimum distribution rules to make room for longevity annuities, deeply deferred income annuities, by providing that if the annuity is payable not later than age 85, meets certain conditions, it gets to be taken out of the equation for calculating the required minimum distribution rules,” J. Mark Iwry, senior adviser to the Treasury secretary and deputy assistant secretary for retirement and health policy, said July 1 while unveiling the final rules during the Insured Retirement Institute Government, Legal & Regulatory Conference 2014.

**“We’ve amended these required minimum distribution rules to make room for longevity annuities.”**

—J. MARK IWRY, SENIOR ADVISER TO THE TREASURY SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR RETIREMENT AND HEALTH POLICY

The change will make it easier for retirees to consider using lifetime income options, Treasury said in a July 1 news release on the final rules.

“Instead of having to devote all of their account balance to annuities, retirees who wish to follow a combination strategy that uses a portion of their savings to purchase guaranteed income for life while retaining other savings in more liquid or flexible investments will be able to do so,” Treasury said.

The rules largely are similar to the proposed rules issued Feb. 2, 2012 (22 PBD, 2/3/12; 39 BPR 218, 2/7/12),

but are expanded in several areas in response to public comments, Treasury said in the release.

The final rules apply to plans covered by tax code Section 401(a), as well as Section 403(b) plans, individual retirement annuities and individual retirement accounts under Section 408, and eligible governmental plans under Section 457(b).

**Expanded Rules.** Under the final rules, the maximum permitted investment individuals can use to purchase qualifying longevity annuity contracts without worrying about noncompliance with the age 70-1/2 minimum distribution requirements is 25 percent of their account balance, or \$125,000, whichever is less, Treasury said. The \$125,000 limit is up from \$100,000 in the proposed rules. The \$125,000 limit will increase with inflation in \$10,000 increments, unlike the \$25,000 increments set out in the proposal.

The final rules also provide that if excess premiums are made to a QLAC, it won’t fail to be a QLAC if the excess premiums are returned to the non-QLAC portion of the employee’s account by the end of the calendar year that the excess premiums were paid, Treasury said.

In addition, longevity annuities or IRAs are permitted to provide a “return of premium” feature that would return to a retiree’s account premiums paid but not received as annuity payments if a retiree purchasing an annuity dies before or after the age that an annuity begins, the rules said.

This feature “may appeal to individuals seeking peace of mind that if they die before receiving the annuity, their initial investment can go to their heirs,” Treasury’s statement said.

Iwry said this provision is a direct response to comments that told Treasury it would be easier to sell annuities to people “if we can deal with the getting-hit-by-the-bus problem.”

In addition, the final rules broaden how those selling annuities can meet the requirement of informing employees that a contract is intended to be a QLAC. In the proposed rules, that requirement had to be met in the contract. Under the final rules, it can be met through such alternatives as a statement in an insurance certificate, a rider or an endorsement related to the contract, Treasury said.

**Rules Applauded.** Karen Friedman, executive vice president and policy director of the Pension Rights Center, told Bloomberg BNA on July 1 that her group was pleased with Treasury’s final rules.

“We applaud them for issuing rules on the longevity annuities, which will encourage people to find new ways of having lifetime income for retirement and be-

cause these longevity annuities are especially helpful to women because they live longer,” she said.

But the final rules were not without their faults, particularly because they didn’t address the need for gender neutral mortality tables in IRAs, she said.

“If you buy them with 401(k) money, you’re going to be able to have gender neutral mortality tables when buying these, so both women and men will be treated equally. But if you buy these QLACs with IRA money, then insurance companies are going to be able to use sex-based mortality tables and then women are going to be unfairly treated in the market, and they’re the ones who tend to have less money. They’re the ones who need money the most. They’re the ones who really need the longevity insurance because they’re living longer,” she said.

Ronald J. Triche, assistant general counsel and director of government affairs at the American Society of Pension Professionals and Actuaries, told Bloomberg BNA on July 1 that while his group applauds the final rules because they provide greater flexibility for retire-

ment plan participants wanting to use annuity contracts to obtain lifetime income, it still had some misgivings about the guidance.

“We are disappointed that the limits are set at the lesser of \$125,000 or 25 percent of the account balance, which means only participants with larger account balances will be able to maximize the usefulness of this new rule,” he said.

The rules are effective July 2, the same day they are scheduled to appear in the Federal Register.

The final rules published July 2 in the Federal Register (79 Fed. Reg. 37,633, 7/2/14).

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*Text of the July 2 published rules is at <http://op.bna.com/pen.nsf/r?Open=sdoe-9lnq9h>.*