Treasury Department Issues Guidance Easing Access to Lifetime Payout Options

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On February 2, 2012 the Treasury Department issued guidance aimed at easing employee access to lifetime payout options from 401(k) and other defined contribution plans (IRAs and IRA-based arrangements are exempt) A link to the related fact sheet is here, and proposed regulations and a Treasury/IRS ruling will follow with more details. (An advance copy of the proposed regulation is available here.)

The Department's fact sheet outlines the reason for the initiative – the "longevity risk" that results from increased life spans and the prevalence of lump-sum retirement plan distributions in the post-defined benefit plan era. Through a request for public comments, the Department gathered data and studied ways in which current provisions of the Internal Revenue Code discourage plan participants from choosing life annuity and other incremental payout options. The guidance package outlines both the regulatory barriers that they identified, and their proposals to make lifetime income options more accessible and popular among plan participants. The proposed changes are as follows:

1) To correct the "all or nothing" choice between a lump sum or an annuity payout, proposed regulations will simplify the manner of calculating a distribution that is part lump sum, part annuity, so that plans are more likely to offer this blended form of distribution;
2) To address retirees' fears of outliving required minimum distribution payments that generally must begin at age 70 ½, proposed regulations would allow use of up to 25% of an IRA or 401(k) account balance (or $100,000, if less) to purchase a "longevity annuity" that will begin payment by age 85.
3) To expand access to cost-effective annuity forms of payout under the relatively few remaining defined benefit pension plan, a Treasury/IRS ruling will explain permit full or partial rollovers from a 401(k) plan, to a defined benefit pension plan sponsored by the same employer, in exchange for an immediate annuity from that plan.
4) To aid employers and third party administrators who are unsure of how spousal consent rules work in relation to deferred annuities, including longevity annuities, a Treasury/IRS ruling will identify plan and annuity terms that will automatically protect spousal rights without requiring spousal consent before the annuity begins, shifting the spousal consent compliance to the insurer issuing the annuity. (Many if not most 401(k) plans have opted out of rules requiring spousal consent under ERISA, however many investment providers in community property states require spousal consent to any loans or distributions.)

http://www.treasury.gov/press-center/press-releases/Documents/020212%20Retirement%20Security%20Factsheet.pdf
https://www.federalregister.gov/articles/2012/02/03/2012-2340/longevity-annuity-contracts