STANLEY BENEFITS

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SECURE ACT Provisions

March 2020

The **SECURE Act** was signed into law in December 2019 and made many changes that may affect your retirement plans.

This is **fifth** and **final article** in a series to address some miscellaneous changes under the SECURE Act that might be of interest to our clients.

Lifetime income options

A lifetime income option or annuity is an insurance product that guarantees income over time. To encourage retirement plans to offer annuity options, the SECURE Act provides for a safe harbor for fiduciaries who select annuity providers. If the fiduciaries meet the requirements of the safe harbor, then they have protection against liability if the annuity provider fails to pay future benefits.

In addition, if a plan provides for annuity options, but is later amended to eliminate an annuity option, the participant may transfer the annuity to another plan or IRA or receive an in-kind distribution of the annuity, even if the participant is not otherwise entitled to a distribution under the plan.

Finally, defined contribution plans (including plans that do not and have never offered annuity options) must provide participants with a benefit statement containing lifetime income information (i.e., what would a participant's lifetime income stream be based on his/her vested account balance). **These statements will not be required until the DOL issues a model disclosure and further guidance.**

Extended Deadlines for Adopting Plans

New Plans:
An employer can adopt a new qualified retirement plan as late as the due date of its tax return, including extension. For example, a corporation with a calendar year tax year could adopt a plan for 2020 as late as October 15, 2021 (if an extension is filed).

CAUTION: If the plan is a 401(k) plan, it must be adopted before any salary deferrals can be withheld from employees' wages. Also, the other deadlines (e.g., testing, deductible contributions, pension plan funding, and Form 5500) for retirement plans have not changed. In that regard, employer may not want to wait until the last minute to adopt a new plan, since in the example above, the Form 5500 would be due the same day the plan is adopted.

Safe Harbor 401(k) Plans:
A Safe Harbor 401(k) plan is a plan under which an employer agrees to make a specified contribution ("safe harbor contribution") to avoid certain non-discrimination tests. Generally, the plan had to provide for the safe harbor contribution before the plan year began. Beginning in 2020, employers may decide to amend a plan to add a safe harbor contribution as late as 30 days before the end of the plan year if they agree to make a safe harbor contribution of 3% of compensation. This deadline can actually be extended to the end of the following plan year if the safe harbor contribution is increased to 4% of compensation.

A Qualified Automatic Contribution Arrangement (QACA) is a type of Safe Harbor 401(k) plan that requires automatic enrollment, automatic escalation, and a safe harbor contribution to avoid certain non-discrimination tests. Previously, the automatic escalation stopped when an employee's salary deferrals were 10% of compensation. Now, a QACA plan can allow automatic escalation until an employee's salary deferrals are 15% of compensation after the first year of automatic escalation.

If you have questions or would like to make changes to your plan, please contact your Analyst at 336.271.4450 or recordkeeping@stanleybenefits.com

OUR MISSION

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Sincerely,
The Team at Stanley Benefit Services, Inc.

Contact us to learn about our
HSA, FSA, COBRA and 401(k) Services!

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