Take-Away: Congress wants to give a retiree a way to maximize longevity insurance through the purchase of a qualified longevity annuity contract (QLAC) in his/her retirement account. The drawback to the purchase of a QLAC by a retiree is that he/she is locked into that purchase. Now, there is a bit more flexibility to escape the initial QLAC purchase.

Background: A qualified longevity annuity contract, or QLAC, provides a way for an individual to defer a portion of his/her required minimum distribution (RMD) until he/she turns age 85 and only then begin to draw income from their contract. When Regulations were first published regarding QLACs back in 2014, the individual could make a maximum contribution of $125,000 or 25% of all the individual's savings in IRAs, 401(k) accounts, or other retirement savings vehicles in the QLAC. Under those same Regulations, a QLAC could not have a stated cash value or investment-fund-like subaccount, but it could be adjusted for inflation.

SECURE Act 2.0: These rules changed with the SECURE Act 2.0. That Act attempts to increase the appeal of investing in a QLAC by increasing the maximum contribution amount, up from $125,000 to **$200,000.** The Act also **eliminated the earlier 25% limit** on the share of retirement assets that can be redirected to a QLAC investment. The Act also added a couple of provisions to deal with when a QLAC owner becomes divorced and whether an employer can provide a 90-day recission period for a QLAC that is provided through the employer-sponsored qualified plan.

QLAC Regulations: These new SECURE Act 2.0 QLAC provisions are addressed in the IRS's required minimum distribution (RMD) regulations that were published in July 2024. These updated RMD Regulations indicate how broader use of QLACs could force the IRS to create even more guidelines and

regulations to address more complicated scenarios using QLACs. In an RMD distribution packet prepared by the IRS that accompanied its July Regulations about QLAC exchanges, which are permissible, from one QLAC to another QLAC, the IRS observed:

> Exchanges between one QLAC and another QLAC are permitted beginning on September 17, 2024.
>
> An existing owner of a QLAC does not have to exchange his/her QLAC for a new QLAC to use the new $200,000 contribution limit.
>
> An existing owner of a QLAC can exchange one QLAC for another QLAC so long as he/she does not put more than $200,000 in the new QLAC.
>
> When the owner of a QLAC exchanges their existing QLAC for another insurance contract or a new QLAC, the 'fair market value' of the exchanged contract will be treated as a premium paid for the QLAC.
>
> Another QLAC exchange valuation option also was identified, at the request of the Committee of Annuity Insurers. This option affects the owner of a QLAC who surrenders his/her QLAC for its cash surrender value. If the owner puts the surrender value cash in a QLAC, "then only the cash from the surrendered contract should be treated as a premium paid for the QLAC." This treatment will also apply to how the QLAC issuer reports the QLAC premiums to the IRS on Form 1098-Q. The upshot is that cash from one QLAC can be moved to another QLAC.

Example: Anna, a 65-year-old retiree, invests cash from her rollover IRA into a QLAC, which is a deferred income annuity. An income annuity must begin paying benefits within about a year. Anna's purchase is a *deferred* income annuity. Anna waits until age 85 before she begins to draw income from her QLAC. The fact that many other deferred income annuity holders have already died before Anna turned age 85, and 20 years of investment earnings have been added to Anna's initial QLAC investment, can give her annuity the ability to pay out a large amount of income for the rest of Anna's life at a relatively low price.

Conclusion: As economists continue to tout the benefits of a deferred income annuities and claim that they can be a power tool to solve the retirement income problem for millions. The benefit is not having to take a required minimum distribution on the amount held in the QLAC. The drawback is that the funds transferred to the QLAC are locked-in. Only QLAC-to-QLAC exchanges are permitted under the current IRS Regulations.

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