

115TH CONGRESS
1ST SESSION

H. R. 3910

To amend the Internal Revenue Code of 1986 to make lifetime income and managed account options of defined contribution retirement savings plans portable.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2017

Mr. NEAL (for himself and Mr. BISHOP of Michigan) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to make lifetime income and managed account options of defined contribution retirement savings plans portable.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PORTABILITY OF LIFETIME INCOME AND MAN-**
4 **AGED ACCOUNT OPTIONS.**

5 (a) IN GENERAL.—Subsection (a) of section 401 of
6 the Internal Revenue Code of 1986 is amended by insert-
7 ing after paragraph (37) the following new paragraph:

8 “(38) PORTABILITY OF LIFETIME INCOME AND
9 MANAGED ACCOUNT OPTIONS.—

“(A) IN GENERAL.—A trust forming part of a defined contribution plan shall not be treated as failing to constitute a qualified trust under this section solely by reason of allowing—

“(i) qualified distributions of a lifetime income investment or a managed account investment, or

“(ii) distributions of a lifetime income investment in the form of a qualified plan distribution annuity contract,

on or after the date that is 90 days prior to the date on which such lifetime income investment or such managed account investment is no longer authorized to be held as an investment option under the plan except as may otherwise be provided by regulations.

“(B) DEFINITIONS.—For purposes of this subsection—

“(i) the term ‘qualified distribution’ means a direct trustee-to-trustee transfer to an eligible retirement plan (as defined in section 402(c)(8)(B)), as described in section 401(a)(31)(A), and in the case of a managed account investment, the eligible retirement plan must be maintained by the

1 account manager of such managed account
2 investment,

3 “(ii) the term ‘lifetime income invest-
4 ment’ means an investment option that is
5 designed to provide an employee with elec-
6 tion rights—

7 “(I) that are not uniformly avail-
8 able with respect to other investment
9 options under the plan, and

10 “(II) that are to a lifetime in-
11 come feature available through a con-
12 tract or other arrangement offered
13 under the plan or under another eligi-
14 ble retirement plan (as defined in sec-
15 tion 402(c)(8)(B)) through a direct
16 trustee-to-trustee transfer to such
17 other eligible retirement plan under
18 section 401(a)(31)(A),

19 “(iii) the term ‘lifetime income fea-
20 ture’ means—

21 “(I) a feature that guarantees a
22 minimum level of income annually (or
23 more frequently) for at least the re-
24 mainder of the life of the employee or

1 the joint lives of the employee and the
2 employee's designated beneficiary, or

3 “(II) an annuity payable on be-
4 half of the employee under which pay-
5 ments are made in substantially equal
6 periodic payments (not less frequently
7 than annually) over the life of the em-
8 ployee or the joint lives of the em-
9 ployee and the employee's designated
10 beneficiary,

11 “(iv) the term ‘qualified plan distribu-
12 tion annuity contract’ means an annuity
13 contract purchased for a participant and
14 distributed to the participant by a plan de-
15 scribed in subparagraph (B) of section
16 402(c)(8) (without regard to clauses (i)
17 and (ii) thereof),

18 “(v) the term ‘managed account in-
19 vestment’ means an investment option
20 under which the assets of the employee's
21 individual account are managed by an ac-
22 count manager, applying generally accept-
23 ed investment theories, to achieve varying
24 degrees of long-term appreciation and cap-
25 ital preservation based on the employee's

age, target retirement date or life expectancy,

“(vi) the term ‘account manager’ means an investment manager (within the meaning of section 3(38) of the Employee Retirement Income Security Act), and

“(vii) a lifetime income investment or managed account investment is treated as no longer authorized to be held as an investment under the plan if such treatment applies to all plan participants or to a class of such participants, as determined in any reasonable manner.”.

(b) CASH OR DEFERRED ARRANGEMENT.—Clause (i) of section 401(k)(2)(B) of such Code is amended by striking “or” at the end of subclause (IV), by striking “and” at the end of subclause (V) and inserting “or”, and by adding at the end of clause (i) the following:

“(VI) with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii)) or a managed account investment (as defined in section 401(a)(38)(B)(v)), the date that is 90 days prior to the date that such

1 lifetime income investment or such
 2 managed account investment may no
 3 longer be held as an investment option
 4 under the plan (within the meaning of
 5 section 401(a)(38)(B)(vii)), provided
 6 that any distribution under this sub-
 7 clause must be in the form of a quali-
 8 fied distribution (as defined in section
 9 401(a)(38)(B)(i)) or, in the case of a
 10 lifetime income investment, a qualified
 11 plan distribution annuity contract (as
 12 defined in section 401(a)(38)(B)(iv)),
 13 and”.

14 (c) SECTION 403(b) PLANS.—

15 (1) ANNUITY CONTRACTS.—Paragraph (11) of
 16 section 403(b) of such Code is amended by striking
 17 “or” at the end of subparagraph (B), by striking the
 18 period at the end of subparagraph (C), and by in-
 19 serting “, or”, and by adding at the end the fol-
 20 lowing:

21 “(D) with respect to amounts invested in a
 22 lifetime income investment (as defined in sec-
 23 tion 401(a)(38)(B)(ii)) or a managed account
 24 investment (as defined in section
 25 401(a)(38)(B)(v)), the date that is 90 days

1 prior to the date that such lifetime income in-
2 vestment or such managed account investment
3 may no longer be held as an investment option
4 under the plan (within the meaning of section
5 401(a)(38)(B)(vii)), provided that any distribu-
6 tion under this subparagraph must be in the
7 form of a qualified distribution (as defined in
8 section 401(a)(38)(B)(i)) or, in the case of a
9 lifetime income investment, a qualified plan dis-
10 tribution annuity contract (as defined in section
11 401(a)(38)(B)(iv)).”.

12 (2) CUSTODIAL ACCOUNTS.—Clause (ii) of sec-
13 tion 403(b)(7)(A) of such Code is amended to read
14 as follows:

15 “(ii) under the custodial account, no
16 such amounts may be paid or made avail-
17 able to any distributee (unless such
18 amount is a distribution to which section
19 72(t)(2)(G) applies) before—

20 “(I) the employee dies,

21 “(II) the employee attains age
22 59½,

23 “(III) the employee has a sever-
24 ance from employment,

1 “(IV) the employee becomes dis-
2 abled (within the meaning of section
3 72(m)(7)),

4 “(V) in the case of contributions
5 made pursuant to a salary reduction
6 agreement (within the meaning of sec-
7 tion 3121(a)(5)(D)), the employee en-
8 counters financial hardship, or

9 “(VI) with respect to amounts in-
10 vested in a lifetime income investment
11 (as defined in section
12 401(a)(38)(B)(ii)) or a managed ac-
13 count investment (as defined in sec-
14 tion 401(a)(38)(B)(v)), the date that
15 is 90 days prior to the date that such
16 lifetime income investment or such
17 managed account investment may no
18 longer be held as an investment option
19 under the plan (within the meaning of
20 section 401(a)(38)(B)(vii)), provided
21 that any distribution under this sub-
22 paragraph must be in the form of a
23 qualified distribution (as defined in
24 section 401(a)(38)(B)(i)) or, in the
25 case of a lifetime income investment,

1 a qualified plan distribution annuity
2 contract (as defined in section
3 401(a)(38)(B)(iv)).”.

4 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—
5 Subparagraph (A) of section 457(d)(1) of such Code is
6 amended by striking “or” at the end of clause (ii), by in-
7 serting “or” at the end of clause (iii), and by adding after
8 clause (iii) the following:

9 “(iv) with respect to amounts invested
10 in a lifetime income investment (as defined
11 in section 401(a)(38)(B)(ii)) or a managed
12 account investment (as defined in section
13 401(a)(38)(B)(v)), the date that is 90 days
14 prior to the date that such lifetime income
15 investment or such managed account in-
16 vestment may no longer be held as an in-
17 vestment option under the plan (within the
18 meaning of section 401(a)(38)(B)(vii)),
19 provided that any distribution under this
20 subparagraph must be in the form of a
21 qualified distribution (as defined in section
22 401(a)(38)(B)(i)) or, in the case of a life-
23 time income investment, a qualified plan
24 distribution annuity contract (as defined in
25 section 401(a)(38)(B)(iv)).”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2017.

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