Voya Alert!

February, 2022

IRS Issues Substantially Equal Periodic Payments Updates

On January 18, 2022, the Internal Revenue Service ("IRS") released Notice 2022-6, which focused primarily on updating the life expectancy tables that are used in the calculation of substantially equal periodic payments ("SEPPs").

Impacted Plans: 401(a), 401(k), 403(b) and traditional IRAs.

Applicability Date: The Notice provides a delayed effective date, requiring the new tables to be used only for SEPPs that commence in 2023 or later. For SEPPs that commence in 2022, the new tables are optional, meaning the old tables can be used to determine those SEPPs for 2022 and later years.

However, if SEPPs commenced in 2022 or a prior year using the **Required Minimum Distribution ("RMD") method** and based on the old tables, the taxpayer can choose to substitute the new tables in subsequent years.

Background
Distributions from one of the impacted plans noted above are subject to the IRS 10% premature distribution penalty tax imposed under Internal Revenue Code ("IRC") Section 72(t)(1) unless one of the exceptions is met. Substantially equal periodic payments are one such exception to the IRS 10% premature distribution penalty tax and are typically used by participants who have attained neither age 59½ or (in the case of employer-sponsored plans) age 55 in the year of separation from service.

In Revenue Ruling 2002-62, the IRS stated that payments will be considered SEPPs if made in accordance with one of the following three methods:

- **RMD method** – Distributions are calculated each year by dividing an account balance for that year by a life expectancy factor for that year.

- **Fixed amortization method** – An annual payment is determined by amortizing in level amounts the account balance over a specified number of years based on a life expectancy factor and an assumed interest rate. Once determined, the annual payment amount remains unchanged in subsequent years.

- **Fixed annuitization method** – An annual payment is determined using an annuity factor based on a specified mortality table and an assumed interest rate. Once determined, the annual payment amount remains unchanged in subsequent years.

If the series of payments is subsequently modified (other than by reason of death, disability, or a distribution to qualified public safety employees meeting IRC criteria) before the end of the 5-year period beginning on the date of the first payment, or before the employee attains age 59½, a recapture of the IRS 10% premature distribution penalty tax generally applies retroactively.

Life Expectancy Table Updates
On November 5, 2020 the IRS provided final regulations updating the life expectancy and distribution tables used to calculate RMDs. The final regulation amended the mortality tables that were in the prior RMD Treasury regulations to reflect current life expectancies.

Notice 2022-6 provides guidance intended to conform previously issued SEPPs methods to reflect the updated life expectancy and mortality tables used to determine RMDs. Specifically, for SEPPs calculated under the **RMD method** and **Fixed amortization method**, the following tables may be applied:

- *The Uniform Lifetime Table* as updated by Treas. Reg. section 1.401(a)(9)-9(c), adjusted to start at age 10
- *The Single Life Table* in Treas. Reg. section 1.401(a)(9)-9(b)
- *The Joint and Last Survivor Table* in Treas. Reg. section 1.401(a)(9)-9(d)

In calculating the annuity factor in the **Fixed annuitization method**, the mortality table found in Treas. Reg. section 1.401(a)(9)-9(e) should be utilized.

Additional Updates to SEPPs

Account Balance Valuation Dates

Under Notice 2022-6, the **Fixed amortization method** and **Fixed annuitization method** will continue to determine the account balance for the calculation in a reasonable manner, provided that, as described in Notice 2022-6, the account balance is "on any date within the period that begins on December 31 of the year prior to the date of the first distribution and ends on the date of the first distribution."

However, if the **RMD method** is elected, the account balance will be determined in the same manner as RMDs from defined contribution plans, as described in Treas. Reg. section 1.401(a)(9)-5.

Interest Rates

The **Fixed amortization method** and **Fixed annuitization method** assumed interest rate is not to be more than the greater of (1) 5% or (2) 120% of the federal mid-term rate.

Voya is assessing the implications of SEPP administration following the issuance of Notice 2022-6.