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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PORTABILITY OF LIFETIME INCOME AND MANAGED ACCOUNT OPTIONS.

(a) In General.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (37) the following new paragraph:

“(38) PORTABILITY OF LIFETIME INCOME AND 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
account manager of such managed account investment,

“(ii) the term ‘lifetime income investment’ means an investment option that is designed to provide an employee with election rights—

“(I) that are not uniformly available with respect to other investment options under the plan, and

“(II) that are to a lifetime income feature available through a contract or other arrangement offered under the plan or under another eligible retirement plan (as defined in section 402(c)(8)(B)) through a direct trustee-to-trustee transfer to such other eligible retirement plan under section 401(a)(31)(A),

“(iii) the term ‘lifetime income feature’ means—

“(I) a feature that guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the employee or
the joint lives of the employee and the
employee’s designated beneficiary, or

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

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

“(v) the term ‘managed account in-
vestment’ means an investment option
under which the assets of the employee’s
individual account are managed by an ac-
count manager, applying generally accept-
ed investment theories, to achieve varying
degrees of long-term appreciation and cap-
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
lifetime income investment or such
managed account investment may no
longer be held as an investment option
under the plan (within the meaning of
section 401(a)(38)(B)(vii)), provided
that any distribution under this sub-
clause must be in the form of a qual-
ified distribution (as defined in section
401(a)(38)(B)(i)) or, in the case of a
lifetime income investment, a qualified
plan distribution annuity contract (as
defined in section 401(a)(38)(B)(iv)),
and”.

(c) SECTION 403(b) PLANS.—

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

“(D) with respect to amounts invested in a
lifetime income investment (as defined in sec-
tion 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 lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment, a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(2) CUSTODIAL ACCOUNTS.—Clause (ii) of section 403(b)(7)(A) of such Code is amended to read as follows:

“(ii) under the custodial account, no such amounts may be paid or made available to any distributee (unless such amount is a distribution to which section 72(t)(2)(G) applies) before—

“(I) the employee dies,

“(II) the employee attains age 59½,

“(III) the employee has a severance from employment,
“(IV) the employee becomes disabled (within the meaning of section 72(m)(7)),
“(V) in the case of contributions made pursuant to a salary reduction agreement (within the meaning of section 3121(a)(5)(D)), the employee encounters financial hardship, or
“(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 lifetime income investment or such managed account investment may no longer be held as an investment option under the plan (within the meaning of section 401(a)(38)(B)(vii)), provided that any distribution under this subparagraph must be in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or, in the case of a lifetime income investment,
a qualified plan distribution annuity
contract (as defined in section
401(a)(38)(B)(iv)).”.

(d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

Subparagraph (A) of section 457(d)(1) of such Code is
amended by striking “or” at the end of clause (ii), by in-
serting “or” at the end of clause (iii), and by adding after
clause (iii) the following:

“(iv) 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 lifetime income
investment or such managed account in-
vestment may no longer be held as an in-
vestment option under the plan (within the
meaning of section 401(a)(38)(B)(vii)),
provided that any distribution under this
subparagraph must be in the form of a
qualified distribution (as defined in section
401(a)(38)(B)(i)) or, in the case of a life-
time income investment, a qualified plan
distribution annuity contract (as defined in
section 401(a)(38)(B)(iv)).”.
(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2017.