

Pre-59 ½ Guidelines For Exceptions to 10% Penalty Tax

The following annuity payout options will be exempt from the 10% additional tax on premature distributions (pre-59 ½ withdrawals that don't qualify for another exception -- death, disability):

INDIVIDUAL RETIREMENT ANNUITY (and other Qualified Annuities) - Client is under 59 & 1/2

- Single and Joint & Survivor Life Only (can't have "Joint Annuity" for IRA, only Joint & Survivor)
- Single and J&S Life with Period Certain less than/equal to Annuitant's life expectancy per IRS
- Single & J&S Life with Cash Refund
- Single & J&S Life with Installment Refund

IMPORTANT NOTES:

1. Exception to penalty does not apply to "Period Certain Only" annuities – either Immediate or Deferred

NON-QUALIFIED ANNUITY (Client is under 59 & 1/2)

- Single and Joint/J&S Life Only
- Single and Life/J&S with Period Certain less than/equal to Annuitant's Life Expectancy per IRS
- Single and Joint/J&S Life with Cash Refund
- Single and Joint/J&S Life with Installment Refund

ANY IMMEDIATE ANNUITY (payments begin within 1 year of purchase - ***N/A to 1035 Exchange***)

IMPORTANT NOTES:

1. In the unusual event that a 1035 Immediate Annuity (non-qualified) where the Annuity Commencement Date of HIA is within 1 year of purchase of the original annuity that was exchanged for HIA, the immediate annuity exception will apply.
2. Return of Premium options (75%,50%, 25%, whether Single , Joint or Joint & Survivor) ***NEVER QUALIFY*** for the exception, even if the Return of Premium is a non-qualified immediate annuity because the annuity payments do not amortize the premium (there will always be a remainder payout @ death, no matter how long the Annuitant lives).
3. Period Certain Only and Temporary Life options only qualify if the annuity is both Non-Qualified and Immediate. Deferred Period Certain and Deferred Temporary Life Options do not qualify for the exception because they are neither Immediate Annuities, nor eligible for the Substantially Equal Periodic Payment "SEPP" exception (which requires payments "over the Annuitant's life/life expectancy").

NOTE: To qualify for the SEPP exception (all the exceptions listed above other than the Non-Qualified Immediate Annuity exception) the Owner must be the Annuitant because both IRC sec. 72(q) & (t) require that the payments to the "taxpayer" must be over the life or life expectancy of the taxpayer/recipient. If a NQ Annuity is both an Immediate Annuity and SEPP with Owner who is not the Annuitant, it will not be subject to the 10% additional tax.