

New IRS Guidance for Required Minimum Distributions

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The IRS released guidance for retirement plan administrators, plan participants and retirees regarding legislation passed last year that affected required minimum distributions.

The *Worker, Retiree, and Employer Recovery Act of 2008* waives required minimum distributions for 2009 from certain retirement plans. (See right-hand box for more on the law.)

Background: Normally, if you have reached age 70 1/2, you're required to take annual distributions from qualified retirement plans such as 401(k) plans and traditional IRAs. The amount of the distribution is based on your life expectancy and the balance in the account on December 31 of the *prior* year. If you don't take a required distribution, the IRS imposes an onerous 50 percent penalty on the amount you should have withdrawn.

However, the value of the assets in your retirement plans and IRAs last year most likely declined due to the stock market downturn.

To give retirees a little more breathing room, the 2008 law waives required minimum distributions for 2009 for IRAs and defined contribution plans, such as 401(k)s. The law also allows certain amounts distributed as 2009 required minimum distributions to be rolled over into an IRA or another retirement plan.

The Guidance: *IRS Notice 2009-82* provides relief for people who already received a 2009 required minimum distribution this year. Individuals generally have until the later of November 30, 2009, or 60 days after the date the distribution was received, to roll over the distribution.



Another Provision in the Law

On December 23, 2008, President Bush signed into law the *Worker, Retiree and Employer Recovery Act*, which delays required minimum distributions for certain retirement account owners and makes other changes.

Here is a brief summary of another provision.

Non-spouse rollovers: The law clarifies the treatment of rollovers from qualified retirement plans, such as a 401(k)s, when the proceeds are inherited by a person who is not the spouse of a decedent.

Background: Before the *Pension Protection Act* (PPA) passed in 2006, only a surviving spouse was able to roll over proceeds tax-free from a qualified plan to an IRA. The 2006 law changed that by allowing non-spouse beneficiaries, including a child, to take advantage of tax-free rollovers.

However, in *IRS Notice 2007-7*, the tax agency stated that qualified plans were not required to permit non-spouse rollovers. The *Worker, Retiree and Employer Recover Act* clarifies that after December 31, 2009, plans must permit rollovers out of plans for non-spouse beneficiaries and provide participants with information about the availability of the rollover opportunity.

To qualify, the transaction must be a trustee-to-trustee transfer.

The notice also provides guidance for retirement plan sponsors. It contains two sample plan amendments that:

- Plan sponsors can adopt or use to amend their plans to either stop or continue 2009 required minimum distributions.
- Provide that participants and beneficiaries can choose to receive or not to receive 2009 required minimum distributions.
- Allow the employer to offer direct rollover options of certain 2009 required minimum distributions.

Plan sponsors may need to tailor the sample amendment to their plan's particular terms and administration procedures and must adopt the amendment no later than the last day of the first plan year beginning on or after January 1, 2011 (January 1, 2012 for governmental plans).

For more information about Required Minimum Distributions or the related IRS Guidance, contact Dale Demyanick at ddemyanick@lumsdencpa.com or 716-856-3300.



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