



2009 Temporary Suspension of Required Minimum Distributions from Defined Contribution Plans & IRAs

On December 23, 2008 the Worker, Retiree and Employer Recovery Act of 2008 was signed into law. One very important feature of the Act is the 1-year suspension of Required Minimum Distributions.

It is generally well known that retirement plan participants and IRA account holders who have attained age 70½ must take annual Required Minimum Distributions (with some exceptions). Failure to take a Required Minimum Distribution could result in a 50% non-deductible excise tax on the amount that should have been distributed.

In consideration of the significant downturn in the financial markets, Congress deemed it appropriate to suspend the Required Minimum Distributions for the 2009 year. To help you better understand this one-time waiver, which applies for 2009 only, we are providing the following analysis:

1. No minimum distributions are required from Defined Contribution Plans (ex: 401(k) or Profit Sharing Plans) for calendar year 2009.
2. The new law does not apply to Defined Benefit Plans. Participants in Defined Benefit Plans must continue to take required distributions as before.
3. If a participant attained age 70½ in 2008 but delayed receipt of the minimum distribution until April 1st, 2009, that distribution must still be taken. The required minimum distributions for 2008 have not been waived.
4. For beneficiaries who are subject to the "five-year rule" under the terms of the plan, the five-year period would not "count" the 2009 calendar year. The five-year rule refers to the ability of a beneficiary to defer distributions until the end of the fifth year following the year of death of a participant who had not yet attained the age of 70½.
5. Some financial institutions automatically disburse payments which would represent the annual required distribution amount directly to the account holder/beneficiary unless otherwise informed to the contrary by the account holder/beneficiary. If this happens and the recipient does not rollover the distribution within 60 days, the distribution would be considered taxable in 2009. Some recipients of certain installment payouts and beneficiaries of inherited retirement accounts are not eligible to rollover a retirement benefit distribution. For such individuals, receipt of a 2009 distribution check would be subject to unavoidable tax. Therefore, account holders and beneficiaries should contact the respective financial institution to confirm how they will be managing the 2009 waiver.

These new laws enacted by the Worker, Retiree and Employer Recovery Act of 2008 were intended to give bruised nest eggs some time to heal. Next year, 2010, the regular rules come back into play.

As with all retirement benefit distributions, you should contact your tax advisor if you have any questions about how this impacts your particular situation.