



INSIGHTS on...

## TAX NEWS YOU CAN USE

### FAQ: WAIVER OF 2009 REQUIRED MINIMUM DISTRIBUTION REQUIREMENT

A Tax Department  
Publication

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**Q: IS THE WAIVER REALLY THE LAW?**

A: On December 23, 2008, President George Bush signed the Worker, Retiree and Employer Recovery Act of 2008 into law. The waiver of required minimum distribution rules is included as section 201 of that Act.

**Q: DOES THE WAIVER APPLY TO ALL 2009 REQUIRED MINIMUM DISTRIBUTIONS?**

A: The waiver applies to required minimum distributions from the following types of accounts:

- Traditional IRAs
- Roth IRAs
- Inherited IRAs
- Defined contribution plans of all types, such as 401(k)s and profit-sharing plans.

The waiver applies to life-time distributions to IRA owners and employees and also to after-death distributions to beneficiaries. The waiver does not apply to required minimum distributions from defined benefit plans, such as pension plans, for either living participants or their beneficiaries.

**Q: WILL THERE BE A WAIVER FOR 2008 REQUIRED MINIMUM DISTRIBUTIONS?**

A: It is very unlikely that there will be a waiver for 2008 required minimum distributions. Congress chose to enact a waiver only for 2009 and the Treasury has notified Congress that it will not attempt administrative relief for 2008.

**Q: A SPECIAL RULE IN EXISTING LAW GENERALLY DELAYS THE MINIMUM REQUIRED DISTRIBUTION DUE DATE UNTIL APRIL 1 OF THE FOLLOWING YEAR FOR THOSE TURNING 70 ½. HOW DOES THE WAIVER AFFECT THOSE WHO TURNED 70 ½ IN 2008?**

A: The Joint Committee on Taxation Report on the Act clarifies that those who turned 70 ½ in 2008 must still take their required minimum distributions by April 1, 2009. Commentators expect that the IRS will issue guidance clarifying that this is indeed the intended result of the Act.

**Q: ARE THERE OTHER PROVISIONS IN THE WORKER, RETIREE AND EMPLOYER RECOVERY ACT OF 2008 OF INTEREST TO INDIVIDUAL TAXPAYERS?**

A: The bulk of the Act provides funding requirement relief to pension funds impacted by the economic downturn.



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Two additional changes will be of interest to our clients:

1. The Act requires qualified plans to allow *nonspouse* beneficiary rollovers to inherited IRAs, effective in 2010. Currently, qualified plans are permitted to include such a provision, but it is not mandatory.
2. The Act permits high income individuals to make rollovers from Roth 401(k)s to Roth IRAs.

**Q: HOW WILL THOSE WHO CHOOSE TO TAKE DISTRIBUTIONS FROM IRAS OR QUALIFIED PLANS BE TREATED IN 2009?**

A: The distributions will be fully taxable. There is no hardship exception.

**Q: IS IT STILL POSSIBLE TO MAKE A DISTRIBUTION TO CHARITY FROM A TRADITIONAL IRA IN 2009?**

A: Yes, distributions up to \$100,000 will not be included in taxable income.

**Q: IS THERE ANY SITUATION IN WHICH IT MIGHT BE ADVISABLE FROM A TAX STANDPOINT TO TAKE A 2009 DISTRIBUTION?**

A: Each client situation is different, and clients should consult with both their tax and investment advisors when deciding whether to take a

2009 distribution that is not required. For example, a client with an excess charitable contribution carryover might decide to take a 2009 distribution in order not to waste the carryover.

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