



## Worker, Retiree and Employer Recovery Act of 2008

### Overview and FAQ on Waiver of Required Minimum Distributions

#### Background:

On December 23, 2008, President Bush signed into law the Worker, Retiree and Employer Recovery Act of 2008 (“the Act”). The Act, among other things, waived the minimum distribution requirement (“RMD”) for 2009 from most employer-sponsored plans.

On the following pages is information from the Act relating to the RMD waiver, followed by a section of frequently asked questions.

# Worker, Retiree, and Employer Recovery Act of 2008

[Overview comparing current law and new law as a result of the Worker, Retiree and Employer Recovery Act of 2008:](#)

Waiver of Certain Required Minimum Distributions for 2009 Year

## Current Law

Employer-sponsored plans and individual retirement arrangements (“IRAs”) are subject to required minimum distribution (“RMD”) rules. If you are a participant in an employer-sponsored plan, generally you must begin required minimum distributions the later of the year you attain age 70K or retire from the employer sponsoring the plan. Distributions from traditional IRAs must begin the year the IRA owner attains age 70K (no RMDs are due from Roth IRAs while the owner is alive). You may delay the first year’s RMD until April 1 of the following year. However, if the first RMD is postponed until the following year, two distributions must be taken that year. RMDs are not distributions that are eligible for rollover.

RMDs are also generally required after the participant/account owner dies.

Beneficiaries are required to either begin RMDs over their life expectancy by 12/31 of the year following the year of the decedent’s death or take the entire amount out within five years of the decedent’s death (1-year/5-year rule).

## New Law

Because of the decrease in many retirement account balances due to negative market activity, the Act eliminates the RMD requirement for calendar year 2009 from IRAs and plans under Code sections 401(a) and 403(b) and from governmental 457(b) plans. RMD’s from Section 457(b) plans of tax-exempt organizations have not been waived. If you are a participant in a Section 457(b) plan of a tax-exempt organization, you must take your RMD’s for the 2009 calendar year. Several special rules apply to the waiver of the RMD requirement:

> For individuals already taking RMDs, no distribution is required for calendar year 2009. > If RMDs were to begin in the year 2008 but you chose to delay the first-year RMD until April 1, 2009, that RMD is still due by April 1, 2009. However, you will not have to take the additional RMD for calendar year 2009. > If RMDs were to begin in 2009 (because it is the later of the year you attained age 70 K or retired from the employer sponsoring the plan), no RMD is due for the 2009 year; however, you must take the 2010 RMD by December 31, 2010. You may not postpone the 2010 distribution until April 1, 2011. > Individuals (other than non-spousal beneficiaries) who take distributions in 2009 that are no longer required due to the RMD waiver and do not want those distributions may roll those funds over to an eligible retirement plan if it is done within 60 days of the distribution. However, a plan is not required to make a direct rollover of these funds available to the participant; the funds are not subject to the 20% mandatory withholding and no Special Tax Notice under Code section 402(f) is required. > Beneficiaries who are currently taking distributions from beneficiary accounts may also skip the 2009 RMD.

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## Frequently Asked Questions:

### **Q. Does the Act affect 2008 RMD's?**

A. No. The Act only waives the RMD requirement for the 2009 tax year. The RMD requirement for 2008 has not changed.

### **Q. I elected to defer the first-year RMD (for 2008) until April 1, 2009. Do I have to take that RMD?**

A. Yes. If you opted to postpone the first-year RMD due for the 2008 year, you must still take the RMD by April 1, 2009. However, no additional RMD is due for the 2009 year.

### **Q. May an RMD for 2009 that was taken be re-deposited if I change my mind?**

A. Yes. Distributions that are made in 2009 but no longer required due to the RMD waiver may be rolled over into an eligible retirement plan, including an IRA, within 60 days of the distribution.

### **Q. Was the rule that only one IRA rollover may be made per IRA per year also repealed?**

A. No. The Act does not change the rule that an individual is only allowed one rollover from a particular IRA to another IRA in a 12-month period. This one-year restriction applies separately to each IRA you own. However, if you take multiple distributions (e.g., systematic withdrawals) from one or more IRAs, and change your mind about more than one distribution you may roll over the distributions (within 60 days of the date of each distribution) to an employer-sponsored eligible retirement plan in which you participate and that accepts rollovers. Assuming the plan does not restrict distribution of rollover contributions, you could then roll the funds over to an IRA. It is possible that Congress may issue technical corrections or the IRS may issue guidance that would allow multiple rollovers from one IRA to another IRA of 2009 IRA distributions for the purpose of re-depositing RMDs.

### **Q. Does the waiver of RMD also apply to distributions to beneficiaries from nonqualified annuities?**

A. No. The RMD waiver applies only to participants and beneficiaries of eligible retirement plans, including traditional IRAs, and does not apply to beneficiaries of nonqualified annuities.

### **Q. Does the RMD waiver apply to beneficiaries of Roth IRAs?**

A. Yes. The RMD waiver applies to beneficiaries of Roth IRAs.

### **Q. Does the waiver also apply to distributions that are part of a series of substantially equal periodic payments under Code section 72(t)?**

A. No. The waiver does not apply to substantially equal periodic payments under Code section 72(t). Those payments, designed to avoid the 10% federal tax penalty on early withdrawals from eligible retirement plans, must continue uninterrupted for a period of five years or until attainment of age 59K, whichever is later.