

Client Bulletin

President Bush signs law waiving Required Minimum Distributions for 2009

In December 2008, President Bush signed H.R. 7327, the "Worker, Retiree, and Employer Recovery Act of 2008". This bill provides for various technical corrections to the Pension Protection Act of 2006 along with pension provisions relating to the economic crisis. One provision of this bill allows for a waiver of required minimum distributions (RMD) for the calendar year 2009.

Individual retirement accounts and annuities (IRA's) as well as certain employer-provided qualified retirement plans are subject to required minimum distribution rules. These required minimum distributions generally must start by April 1st of the year following the calendar year in which the individual reaches age 70 ½. Under certain circumstances, an individual in an employer-provided qualified retirement plan can delay the start of the required minimum distributions until April 1st of the year following the year in which the individual retires. This applies to individuals who are not a 5 percent or more owner of the employer maintaining the plan. Currently, a failure to make a required minimum distribution results in a 50% excise tax payable by the individual or the individual's beneficiary. The tax may be waived if the distribution did not occur because of reasonable error and reasonable steps are taken to remedy the violation.

The Worker, Retiree, and Employer Recovery Act of 2008 eliminates the minimum distribution requirement for the calendar year 2009 from IRA's and defined contribution plans (within the meaning of section 414(i)). This applies to life-time distributions to employees and IRA owners and after-death distributions to beneficiaries. For individuals who turn 70 ½ during 2009, they do not need to make a distribution by April 1, 2010. The individual will have to make a required minimum distribution for 2010 as this provision does not change their required beginning date for purposes of determining the RMD for calendar years after 2009. Also, this provision does not apply to any RMD for 2008 that is permitted to be made in 2009 by reason of an individual turning 70 ½ in 2008 and beginning their required minimum distributions by April 1, 2009.