

Congress Suspends Minimum Required Distributions For 2009

Before it adjourned in December 2008, the 110th Congress enacted the Worker, Retiree, and Employer Recovery Act of 2008 (the Act), providing a one-year moratorium on minimum required distributions from IRAs and defined contribution plans.

Summary. Owners and beneficiaries of IRAs and defined contribution plans who are 70½ or older are required to take minimum required distributions (MRDs) from their plans each year. Failure to take the MRD generally results in a penalty of 50 percent of the MRD. Under the Act, individuals can skip taking their 2009 MRD and no penalties will apply.

What Retirement Plans are Affected? The waiver of 2009 MRDs applies to IRAs, SEP-IRAs and SIMPLE IRAs. It also applies to 401(k) plans, profit-sharing plans, money purchase plans, 403(b) plans and other defined contribution plans to the extent permitted under the terms of the plan (even if the plan requires distribution of an amount equal to the 2009 MRD, this distribution may be rolled over to an IRA or other qualified plan, permitting deferral of income tax on this distributed amount). The waiver of 2009 MRDs does **not** apply to defined benefit plans.

Who is Affected? The waiver of 2009 MRDs applies to both owners (or participants) and beneficiaries of Retirement Plans.

No Waiver of 2008 MRDs Deferred Until April 2009. The Act does not provide relief for individuals who attained age 70½ in 2008 and elected to postpone their first MRD until April 1, 2009. The 2008 MRD must still be taken by April 1.

Charitable Contributions from Retirement Accounts. Note that a direct transfer of up to \$100,000 to a charity from an IRA (a so-called Charitable Rollover) is still permitted in 2009 for IRA owners who are over age 70½. Any direct transfers will not be included in taxable income. Because no MRDs are required in 2009, however, any distributions to charity will not count towards an individual's MRD. The special rules applicable to Charitable Rollovers are currently set to expire at the end of 2009.

For more information about the Worker, Retiree and Employer Recovery Act of 2008, please contact any of the lawyers in our Private Client Group or your regular Drinker Biddle contact.

Private Client Group

Marsha W. Beidler
(609) 716-6515
Marsha.Beidler@dbr.com

William C. Bullitt
(215) 988-2778
William.Bullitt@dbr.com

Susan G. Collings
(215) 988-2618
Susan.Collings@dbr.com

Lance T. Eisenberg
(973) 549-7146
Lance.Eisenberg@dbr.com

Quin R. Frazer
(312) 569-1342
Quin.Frazer@dbr.com

Edward A. Gramigna, Jr.
(973) 549-7385
Edward.Gramigna@dbr.com

David L. Hanson
(312) 569-1081
David.Hanson@dbr.com

Alvin C. Martin
(973) 549-7240
Alvin.Martin@dbr.com

Kenneth J. Norcross
(973) 549-7110
Kenneth.Norcross@dbr.com

Lisa S. Presser
(609) 716-6545
Lisa.Presser@dbr.com

Alfred W. Putnam, Jr.
(215) 988-2907
Alfred.Putnam@dbr.com

John A. Ridley
(973) 549-7030
John.Ridley@dbr.com

Rubeena S. Sehgal
(609) 716-6512
Rubeena.Sehgal@dbr.com

T.J. Sullivan
(202) 230-5157
TJ.Sullivan@dbr.com

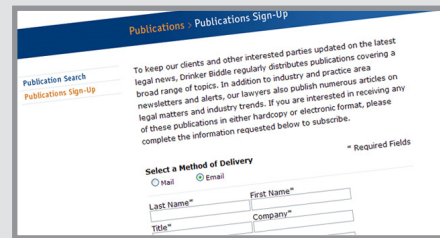
Charles H. Wampold III
(609) 716-6592
Charles.Wampold@dbr.com

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