

Special Edition
January 2009

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

New Law Affects Required Minimum Distributions for 2009

On December 23, 2008, the President signed the **Worker, Retiree, and Employer Recovery Act of 2008** (the Act) into law. Section 201 of the Act waives any required minimum distribution (RMD) for 2009 from retirement plans that hold each participant's benefit in an individual account, such as 401(k) plans and 403(b) plans, and certain 457(b) plans. The Act also waives any RMDs for 2009 from an Individual Retirement Arrangement (IRA). This means that most participants and beneficiaries otherwise required to take minimum distributions from these types of accounts are not required to withdraw any amount in 2009. If they do make a withdrawal in 2009 (that is not a RMD for 2008), they might be able to roll over the withdrawn amount into other eligible retirement plans. Of course, they must still include any previously untaxed portion of the withdrawal that they do not roll over in their gross income. See *Individual Retirement Arrangements (IRAs)*, **Publication 590**, and *Pension and Annuity Income*, **Publication 575**, for additional information on rollovers and on calculating the taxable portion of a withdrawal or distribution.

The Act does not waive any 2008 RMDs, even for individuals who were eligible and chose to delay taking their 2008 RMD until April 1, 2009 (e.g., retired employees and IRA owners who turned 70½ in 2008). These individuals must still take their full 2008 RMD by April 1, 2009, or they might face a 50% excise tax on the amount not withdrawn. The 2009 RMD waiver under the Act does apply to individuals who may be eligible to postpone taking their 2009 RMD until April 1, 2010 (generally, retired employees and IRA owners who attain age 70½ in 2009). However, the Act does not waive any RMDs for 2010.

If a beneficiary is receiving distributions over a 5-year period, he or she can now waive the distribution for 2009, effectively taking distributions over a 6-year rather than a 5-year period.

IRA Reporting

The IRS issued **Notice 2009-9** on January 9, 2009, which states that issuers of the 2008, *IRA Contribution Information*, **Form 5498** should **not** put a check in Box 11. However, in recognition of the short amount of time to make programming changes, if a financial institution issues a 2008 Form 5498 with a check in Box 11, the IRS will not consider such form issued incorrectly solely because of the check in Box 11, as long as the financial institution notifies the recipient by March 31, 2009 that no RMD is required for 2009.

In addition, the RMD information required under **Notice 2002-27, 2002-18 I.R.B. 814** does not need to be sent to IRA owners for 2009. If a financial institution sends a separate RMD statement to an IRA owner, either initially or in response to the owner's request for the financial institution to calculate the RMD for 2009, the financial institution may show the RMD for 2009 as zero (0). Alternatively, the financial institution may send the IRA owner a statement showing the RMD that would have been required but for the waiver of RMDs for 2009, along with an explanation of the waiver for 2009 RMDs.

The IRS encourages all financial institutions to inform IRA owners who delayed taking their 2008 RMD until April 1, 2009, that they are still required to take that distribution. •

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