

WELCOME RELIEF FROM 2009 REQUIRED MINIMUM DISTRIBUTIONS

The Worker, Retiree, and Employer Recovery Act of 2008 (WRERA) waives the Required Minimum Distribution (RMD) requirements for 2009. This means that defined contribution plans (such as 401(k) plans, 403(b) plans and certain 457(b) plans) and individual retirement arrangements (IRAs) have the opportunity to be amended to forego 2009 RMDs. Alternatively, if a 2009 RMD is made, the taxpayer may roll over any amount they receive that would have been an RMD for 2009 and that otherwise meets the definition of an eligible rollover distribution.

Many plans and IRAs have already processed 2009 RMDs pursuant to existing procedures. Taxpayers have had the ability to rollover such distributions using the 60 day rollover period but, unfortunately, many taxpayers have been unaware of the RMD waiver and attendant rollover capability. As a result, many taxpayers have missed the 60 day rollover deadline.

Thankfully, on September 24, 2009, the IRS issued Notice 2009-82 which provides guidance and transitional relief related to the waiver of the 2009 RMDs from defined contribution plans and IRAs.

For plan participants and IRA owners who have already received 2009 RMDs and for whom the 60-day rollover period has expired, the IRS is extending the period to rollover most of such distributions until November 30, 2009. However, for IRAs, only one distribution per IRA will be eligible for this rollover relief due to the one-rollover-per-year rule, which was unchanged by WRERA.

Action Steps to Take

1. If you are scheduled to receive a Required Minimum Distribution in 2009 and have not yet received it, decide whether you want a distribution in 2009 and, if you decide to forego it, speak to your Plan or IRA provider and ask if it can be waived for 2009.
2. If you have already received your 2009 Required Minimum Distribution and do not want a taxable distribution, then speak to your Plan or IRA provider about effectuating a tax-free rollover generally before November 30, 2009.