



## Worker, Retiree, and Employer Recovery Act of 2008 [HR 7327]

On December 23, 2008, President Bush signed into law, the *Worker, Retiree, and Employer Recovery Act of 2008*. The new law contains several provisions designed to ease requirements for pension plans and individuals stressed by the current economic crisis. Most notably, the new law contains a waiver of the minimum required distributions from IRAs, 401(k), and similar plans for retirees for 2009 only. In addition, there are several provisions that apply specifically to plan administrators and deal with funding rules. This summary will only address the issues that are most critical for your clients.

<b>Individuals</b>	
Required Minimum Distributions	<p>Required minimum distributions (RMDs) are suspended for the 2009 calendar year only. This rule applies to all qualified plans, such as IRAs, 401(k) plans, 403(b) plans, etc.</p> <p>Taxpayers who reach age 70½ during 2008 have until April 1, 2009, to take their first RMD. This new rule does not change this requirement.</p> <p>Effective for distributions required in the 2009 calendar year that are based on the December 31, 2008, account balance.</p>
Non-spouse Rollovers	<p>The <i>Pension Protection Act of 2006</i> extended the ability to rollover an inherited qualified plan to a non-spouse beneficiary. In general, the rollover must be accomplished via a trustee-to-trustee transfer. Under this rule, the minimum required distribution rules under Sec. 401(a)(9) must still be followed.</p>

	<p>The new law provides that <b>all</b> plans must permit rollovers for non-spouse beneficiaries and provide notice of the distribution.</p> <p>Effective for plan years beginning after December 31, 2009.</p>
Designated Roth Accounts	<p>Distributions from a designated Roth account can be rolled over to a Roth IRA tax-free.</p> <p>A “designated Roth account” is a separate account under a qualified cash or deferred arrangement (CODA) in a qualified plan, or a 403(b) plan to which “designated Roth contributions” are permitted to be made in lieu of elective contributions, and that satisfies the qualified Roth contribution program requirements.</p> <p>Effective for distributions made after December 31, 2007.</p>
Employees of Bankrupt Airlines	<p>Any airline payment received by employees of a bankrupt airline can be rolled over into a Roth IRA regardless of contribution limits.</p> <p>An “airline payment amount” is any payment of money or other property payable by a commercial passenger airline to a qualified airline employee, where the payment:</p> <ul style="list-style-type: none"> <li>• Has been approved by order of a federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007; and</li> <li>• Is made for either: <ul style="list-style-type: none"> <li>(a) the qualified airline employee's interest in a bankruptcy claim against the airline carrier;</li> <li>(b) any note of the carrier (or amount paid in lieu of a note being issued); or</li> <li>(c) any other fixed obligation of the carrier to pay a lump sum amount.</li> </ul> </li> </ul> <p>Effective for transfers made after December 23, 2008, for airline payment amounts paid before, on, or after December 23, 2008.</p>
Retired Public Safety Officers	<p>Under current rules, an employee who is an eligible retired public safety officer</p>

	<p>can make an election for any tax year, to exclude from gross income any distribution from an eligible retirement plan for health insurance premiums up to a limit of \$3,000 annually. The exclusion applies to the extent that the aggregate amount of distributions does not exceed the amount paid by the employee for “qualified health insurance premiums.”</p> <p>Under the new rules, the definition of “qualified health insurance premiums” is changed to include self-insured plans.</p> <p>Effective retroactively for distributions in tax years beginning after December 31, 2006.</p>
<b>Penalties</b>	
S Corporations	<p>The penalty under Sec. 6699(b)(1) for failing to file Form 1120S by the due date increases to \$89. This is an increase from the \$85 penalty enacted under the <i>Mortgage Forgiveness Relief Act of 2007</i>.</p> <p>Effective for returns filed after December 31, 2008.</p>
Partnerships	<p>The penalty under Sec. 6699(b)(1) for failing to file Form 1065 by the due date increases to \$89. This is an increase from the \$85 penalty enacted under the <i>Mortgage Forgiveness Relief Act of 2007</i>.</p> <p>Effective for returns filed after December 31, 2008.</p>