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The Worker, Retiree, and Employer Recovery Act of 2008

Recently we've received a lot of inquiries regarding recent legislation passed unanimously by the U.S. House of Representatives (H.R. 7327) on December 10, 2008. The bill was subsequently passed by the U.S. Senate and awaits the President's signature. The bill is entitled the "Worker, Retiree, and Employer Recovery Act of 2008".

Among other items, the bill will temporarily suspend an excise tax which is normally assessed on seniors who fail to take a required minimum distribution (RMD) from their retirement accounts.

It is also designed to ease funding requirements for employer-sponsored pension plans and provide temporary funding relief for multi-employer plans. More specifically, the bill would make technical corrections to the Pension Protection Act of 2006 (PPA). This article addresses more specifically the effect of the new Act on Required Minimum Distributions (RMD's).

Specific Details:

In general terms, the bill outlines the following with respect to RMD's:

The bill would place a one-year moratorium on the Required Minimum Distribution (RMD) rules for 2009. This suspension is available to everyone regardless of their total retirement account balances.

This tax relief is for 2009. It is good news for seniors whose investments have been hard hit by the recent stock market turmoil. Instead of being forced to sell investments to take their RMD, they'll be able to sit tight and wait for a recovery. Unfortunately, it's too late to help for 2008, so retirees will still have to take their RMD this year or face a stiff penalty from the IRS.

So what is an RMD? Required Minimum Distributions (RMDs) generally are minimum amounts that a retirement plan account owner must withdraw annually starting with the year that he or she reaches 70 ½ years of age or, if later, the year in which he or she retires. However, if the retirement plan account is an IRA or the account owner is a 5% owner of the business sponsoring the retirement plan, the RMDs must begin once the account holder is age 70 ½, regardless of whether he or she is retired.

So what happens if a person does not take a RMD by the required deadline? If an account owner fails to withdraw a RMD, fails to withdraw the full amount of the RMD, or fails to withdraw the RMD by the applicable deadline, the amount not withdrawn is taxed at 50%. This new law will put a moratorium on an RMD for 2009.

Does my retirement plan / IRA require a minimum distribution? The RMD rules apply to all employer sponsored retirement plans, including profit-sharing plans, 401(k) plans, 403(b) plans, and 457(b) plans.

The RMD rules also apply to traditional IRAs and IRA-based plans such as SEPs, SARSEPs, and SIMPLE IRAs.

The RMD rules also apply to Roth 401(k) accounts. However, the RMD rules do not apply to Roth IRAs while the owner is alive.

For specific detailed explanations as to how this new law affects you and your retirement plan, please contact your Loren D. Stark Company, Inc. professional consultant.