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IRS Issues Guidance Relating To Waiver Of 2009 Required Minimum Distributions

The Worker, Retiree and Employer Recovery Act of 2008 (the "Act"), signed into law in late December of 2008, waived, for 2009 only, the requirement to receive "required minimum distributions" ("RMDs") from IRAs and tax-qualified defined contribution plans (including profit-sharing plans, 401(k), 403(b) and 457(b) governmental plans). For more background with respect to this provision of the Act, please see our Employee Benefits Update dated January, 2009.

Notice 2009-82

On September 24, 2009, IRS issued guidance relating to the waiver of RMDs for 2009. The guidance answers technical questions and provides certain transition relief, including an extension of the 60-day rollover period for certain distributions and generally permitting amounts distributed as RMDs during 2009 to be rolled back into the distributing employer's plan if it accepts

rollovers. Notice 2009-82 also includes two sample plan amendments: each allows a participant or beneficiary the opportunity to elect to receive or not receive 2009 RMDs, but the default rule for one is to continue making 2009 RMDs and the default rule for the other is to discontinue making 2009 RMDs. If they have not already done so, plan sponsors, with their record keepers, should be making the decision as to which default rule to apply. There is, however, plenty of time to consider issues relating to the written plan amendment, as the deadline for adoption of the amendment is the last day of the first plan year beginning on or after January 1, 2011 (January 1, 2012 for governmental plans).

QUESTIONS OR ASSISTANCE?

If you have questions about this update, please contact Natalie Welsh at (860) 251-5828, or any other member of the Employee Benefits Practice Group.

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