HAHN LOESER

2009 Required Minimum Distributions from IRAs and Certain Retirement Plans Suspended

The Worker, Retiree and Employer Recovery Act of 2008 was signed into law on December 23, 2008. Significantly, the Act waives Required Minimum Distributions (RMDs) for 2009 from Individual Retirement Accounts, 401(k), 403(a) and 403(b) plans, Profit Sharing, Money Purchase Pension and Target Benefit plans, and from 457 retirement plans sponsored by state or local governments and their agencies. The suspension does not apply to defined benefit pension plans. RMD rules do not apply to Roth IRAs while the participant is alive.

What are Required Minimum Distributions?

RMDs are the minimum amounts that the participant of a retirement plan must withdraw annually commencing in the year he or she reaches 70 ½ years of age, or, if later, the year in which the individual retires. If the plan is an Individual Retirement Account or the participant owns 5% or more of the company sponsoring the plan, RMDs must commence once the participant reaches 70 ½ years of age, regardless of when he or she retires. For individuals who have inherited plans and are taking withdrawals under the "5-year rule," 2009 will not count as a year for purposes of the rule.

RMDs are required to be taken no later than April 1st of the year after the participant reaches 70 ½ years of age, and by December 31st of each subsequent year.

What are the advantages of the 2009 Suspension of RMDs?

For participants who do not require the distributions for living expenses, the suspension of RMDs for 2009 offers three primary benefits. First, for a taxpayer with significant taxable income, the suspension of RMDs permits the taxpayer to lower his or her taxable income by the amount that otherwise would have been required to be distributed. This decrease in taxable income may result in a lower marginal tax bracket. Your tax preparer can easily calculate the tax savings that you could realize by suspending your RMD withdrawal for 2009. Secondly, the amount that normally would have been distributed is retained in the IRA or retirement plan and hopefully will recover the market value lost in the market downturn, while retaining its tax deferred status. Lastly, the distribution will not have to be made in 2009 with assets that may have been severely reduced in value due to the 2008 stock market decline.

Cautions

The suspension of RMDs only applies to calendar year 2009 and does not relieve a participant who reached 70 ½ years of age in 2008 from taking his or her 2008 RMDs by April 1st of 2009. Failure to withdraw 2008 RMDs may result in penalties imposed by the Internal Revenue Service, including a 50% excise tax on RMDs.

If you are a participant in an IRA or a retirement plan and are receiving automatic withdrawals but wish to take advantage of the suspension, please contact your IRA or plan sponsor to suspend the payments prior to the distribution being made or contact your Hahn Loeser attorney for more information.