

Mike Young Law Firm

O. Henry (Mike) Young, P.C.



LEGAL SERVICES FOR SENIORS AND THEIR FAMILIES

Addressing Relevant Issues Affecting Seniors and Ones who Love Them.

No Minimum Distributions are Required from IRA for 2009

“Defined contribution” retirement plans, like Individual Retirement Accounts (IRAs), 401k and 403b plans, generally follow the same rules regarding distributions. In the year after a plan participant turns 70½ he or she must begin taking distributions from the account, with the rate calculated based on his or her life expectancy. Failure to take the minimum distribution subjects the plan participant to a special tax of 50% of the amount he or she should have withdrawn. That rule has now been suspended for 2009.

Why has the government suspended the 50% tax penalty for one year? Because so many seniors would have been forced to take distributions at a time when their retirement accounts were already reeling from market setbacks, and many would have been required to liquidate stocks in those accounts at what may turn out to be their lowest point in years in order to satisfy the required distributions. Congress decided to let retirees leave their investments alone for one year — if they are so inclined.

The new law (“The Worker, Retiree and Employer Recovery Act of 2008”) does not prohibit anyone from withdrawing money from their retirement accounts. It only suspends the penalty for failure to withdraw any minimum amount required by the law. Those who want to continue (or begin) to withdraw funds from their IRAs are free to do so.

Retirees are not the only ones affected by the new provisions. When a younger person inherits an IRA (assuming it is not from the inheritor’s spouse), he or she must begin withdrawing immediately regardless of age. That means that

there are a small but growing number of plan beneficiaries who have been required to withdraw money before — sometimes decades before — their 70½ birthday. Those younger beneficiaries are also permitted (but not required) to skip their 2009 distributions.

Distributions that were required to be made during calendar year 2008 were not affected by the new law. Of course, those distributions should all have been made already anyway; required distributions must (with a very few exceptions) be completed by December 31. As a consequence, some seniors and IRA inheritors have already had to liquidate stocks that had been hurt by the market decline in order to make a withdrawal that was calculated on the basis of the account’s value as of January 1, 2008 — near a historic high point in the market.

Some beneficiaries are required to take their entire account balances within five years of the original owner’s death. The law applies to them as if 2009 simply does not exist, giving them six years to complete their withdrawals.

The new law will affect a relatively small number of taxpayers (though it affects a large percentage of retirees). Its affects are fairly straightforward in most circumstances. It also, however, affects more than just the minimum distribution rules for 2009. For instance, it mandates that non-spouse plan beneficiaries must be given the option to roll over their inherited plans to a new IRA. This change is but one of many technical corrections included in the new law; for more detailed information about your specific circumstances, contact your accountant.