


**Worker, Retiree, and Employer Recovery Act of 2008**  
(Enacted December 23, 2008)

<i>Item</i>	<i>Effective Date</i>	<i>New Law</i>	<i>Prior Law</i>
<b>Individual Tax—Retirement Plans</b>			
<b>Required Minimum Distributions (RMDs)</b>	2009	The RMD rules are suspended for one year. Specifically, no RMD is required for 2009 from: 1) Defined contribution plans, including 401(k) and 403(b) plans; 2) Section 457(b) eligible deferred compensation plans, but only if the plan is maintained by a state, a political subdivision of a state or any agency or instrumentality thereof; or 3) Individual retirement accounts (IRAs).  <b>Caution:</b> The 2009 RMD waiver does not apply to any RMD for 2008 that is permitted to be made in 2009 because the individual's required beginning date is April 1, 2009 (for individuals who turned age 70½ in 2008). However, such an individual's RMD for 2009 is waived. [IRC §401(a)(9)(H)]	Individuals age 70½ or older generally are required to take RMDs from their retirement plans (other than Roth IRAs) each year. A taxpayer who fails to take a RMD is subject to a penalty equal to 50% of the shortfall.
<b>Rollovers from Designated Roth Accounts</b>	Distributions in 2008 and 2009	Distributions from a designated Roth account [that is, a separate account in a 401(k) or 403(b) plan to which "designated Roth contributions" were made] can be rolled over tax-free to a Roth IRA (like rollovers from one Roth IRA to another Roth IRA) regardless of the taxpayer's modified AGI. [IRC §408A(d)(3)(B)]	Before 2010, rollovers to a Roth IRA (other than from another Roth IRA) are allowed only if the taxpayer's modified AGI is \$100,000 or less.
<b>Rollovers to Nonspouse Beneficiaries</b>	Plan years beginning after 2009	Qualified retirement plans must allow nonspouse beneficiaries to make trustee-to-trustee rollovers to their IRAs, subject to the written explanation and mandatory 20% withholding requirements. [IRC §402(c)(11) and 402(f)(2)(A)]	Under Notice 2007-7, a plan could, but was not <i>required</i> to allow rollovers to a nonspouse beneficiary's IRA. Also, such a distribution was exempt from the written notice and 20% withholding requirements.
<b>Business Tax</b>			
<b>Failure to File Penalty—Partnerships and S Corporations</b>	Returns required to be filed after 2008	The penalty for failure to timely file a partnership return (Form 1065) is \$89 per partner for each month (or fraction of a month) that the failure continues, up to a maximum of 12 months. The same penalty applies to an S corporation's Form 1120S, based on the number of shareholders. [IRC §6698 and 6699(b)(1)]	The penalty was \$85 per partner or shareholder, except for partnership returns for tax years beginning in 2008 only, then the penalty was \$86 per partner.