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With four specific services, The Center provides complete unbiased planning. The Center does not sell any products; its main purpose is to provide advice. Local experts are retained to implement the plans developed by the Center. The Center for Financial, Legal & Tax Planning is located at 4501 W. DeYoung Street, Suite 200, Marion, Illinois 62959. Phone 618-997-3436; Fax 618-997-8370.

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The Worker, Retiree and Employee Recovery Act of 2008

While the economy is ailing in the biggest and longest recession since the early 1980's, the federal government has been acting feverishly to reverse the economic down trend. The law directly affects those aged 70 ½ and over as well as indirectly affecting many businesses that pay and provide retirement benefits to their workers.

The Required Minimum Distribution Holiday

In the past, those who obtained the age of 70-1/2, who owned IRAs and 401(k)'s were required to take what is known as a Required Minimum Distribution (RMD) from their retirement account. The general purpose of this was to prevent tax deferred accounts from escaping tax in essentially perpetuity. Under the old rule, a taxpayer had until April 1 of the year following their age reaching 70 ½ to either take the remaining balance of a tax deferred account or an RMD. Once the RMD was taken, it was subject to applicable taxes. On the other hand, if the RMD was not taken, in violation of the rule, a 50% excise tax applied on top of the ordinary tax rate.

To illustrate this point, let's pretend Jane Doe is in the 25% tax bracket at age 70 ½. In this example, Jane must take an RMD in the amount of her account balance divided by her expected life span. If she takes the RMD of $5000, her applicable tax would simply result in an amount of $1250, leaving Jane with $3750. If Jane refuses the RMD and violated the rule, a 50% excise tax would apply in addition to the 25% ordinary tax rate. This would leave Jane with the $1250 and the government would tax her a total of $3750. The penalty was clearly Draconian in its penalty and effect as to discourage those who would violate the rule.

Under the Worker, Retiree, and Employer Recovery Act of 2008, RMDs are suspended for 2009. The intent of this appears to be to save an already bruised stock market from further cash outs that result from RMD activity. One word of caution though, this RMD suspension DOES NOT APPLY TO 2008. If you are required to take an RMD in 2008, this rule does not waive the requirement.

Non-Spouse Rollovers

Prior to the Pension Protection Act or PPA, the ability to rollover a decedent's qualified plan, being 403(b)s and 457 plans, was limited to spouses only. The Worker, Retiree, and Employer Recovery Act of 2008 clarifies that ALL plans must permit rollovers for non-spouse beneficiaries and provide notice of the distribution. This rule is effective for tax years starting after December 31, 2009.

Pension Plans

The original intent of the Pension Protection Act was to strengthen defined benefit obligation plans. The actual effect of the rule has been an accelerating trend for companies to eliminate defined benefit plans in favor of defined contribution plans or eliminating retirement benefits altogether for employees. This new law relaxes the rules set under the Pension Protection Act in order to encourage employers from further eliminating plans in a rough economy.

In easing the funding rules, the new law sets target percentages at 92% for 2008 and 94% for 2009 instead of the 100% requirement that was previously required. The new law also runs longer rehabilitation periods for plans whose status is endangered and seriously endangered from 10 to 13 years and from 15 to 18 years respectively.

If you are affected by this legislation, it is best to consult with your tax and financial advisors to determine the best course of action to follow under the new law. Being the stock market is down; taking an RMD may be extremely detrimental to your overall retirement plan and financial situation. If you own a business right now is a good time to begin succession and exit planning. Though the economy is down many people are looking for new opportunities in the business world.

This is just the tip of the iceberg on tax legislation. The newly inaugurated Obama administration will surely enact further legislation to shore up the economy and stock markets of the United States.