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September, 2009

TO: CLIENTS AND THEIR ADVISORS

RE: WAIVER of 2009 RMD; REMEDIAL RELIEF AVAILABLE

At the end of 2008, Congress enacted legislation that waived the required minimum distribution ("RMD") payments for 2009 for participants in employer sponsored tax qualified retirement plans and for individual owners of IRAs. This was done in order to spare taxpayers from having to liquidate deeply depreciated assets in order to satisfy the 2009 RMD payment.

There are three (3) distinct classes of taxpayers that are affected by the waiver:

1. Participants in retirement plans and traditional IRA owners over age 70 1/2. Those individuals turning 70 1/2 during 2009 will have their first RMD waived. However, individuals who turned age 70 1/2 during 2008, who deferred the 2008 RMD until on or before April 1, 2009, must take the deferred amount in 2009.
2. Beneficiaries of retirement plan accounts or traditional IRAs of deceased owners; and
3. Beneficiaries of Roth IRAs of deceased owners. While owners (but not beneficiaries) of Roth IRA accounts are not required to take annual RMD payments from Roth IRAs, designated beneficiaries of Roth IRAs are part of the blanket RMD waiver for 2009.

Any payments received in 2009 towards the RMD will be subject to income tax for 2009 unless remedial action is taken. The general rule is that one can rollover 2009 RMD payments to any IRA within sixty (60) days of receipt of the RMD payment without being subject to income tax.

IRS Notice 2009-82 provides remedial relief to those plan participants, IRA owners or their spouse beneficiaries to reverse the 2009 RMD. If the RMD is rolled back into a tax-deferred account within the **later** of sixty (60) days from the date the funds were received or November 30, 2009, there will be no income tax consequence in 2009. This provision (i) does not apply to non-spouse beneficiaries who are prohibited from rollovers and (ii) is subject to the one rollover per year rule.

Our office is available to assist you or your clients with any questions or concerns on the implications of the new law waiving RMDs for 2009, the remedial relief available and to review retirement planning issues. Our other areas of specialization include tax dispute resolution, sophisticated gift and estate tax planning and administration opportunities including family limited partnerships, qualifies personal residence trusts, defective grantor trusts and charitable scenarios which will assist in the preservation of wealth for future generations, business and employment law representation and real estate transactions.