

About the Ascensus "Alert"

Ascensus publishes its Alert when time is of the essence regarding important changes that affect the retirement services industry. Ascensus has advised financial organizations that offer individual retirement arrangements (IRAs) and employer-sponsored retirement plans since 1975. Presently, Ascensus provides services to over 11,000 financial organizations nationwide.

New Guidance Provides RMD Waiver Relief

IRS Notice 2009-82 provides long-awaited required minimum distribution (RMD) waiver guidance for IRAs, qualified retirement plans, 403(b) plans, and governmental 457(b) plans. The waiver, contained in last December's Worker, Retiree, and Employer Recovery Act of 2008 (WRERA), simply removed the statutory requirement that RMDs be taken for 2009. This relief was intended to help taxpayers—whose retirement accounts may have been adversely affected by the current U.S. economic downturn—to retain assets in their accounts. But the waiver has caused confusion for IRA holders and for employers who are unsure how to implement the waiver under their plan documents and whether they should cease or continue paying out 2009 RMDs. This new guidance provides clarifications for employers, plan participants, IRA holders, and financial organizations, and rollover relief for individuals who have already taken their 2009 RMDs.

60-Day Rollover Relief and Clarifications

The IRS provides relief from the 60-day rollover rule for IRA holders, plan participants, and spouse beneficiaries who have already taken all or a part of their 2009 RMDs. Individuals may roll over their RMDs to an IRA or an employer-sponsored plan by the later of November 30, 2009, or the end of their 60-day period.

Other rollover-related clarifications in the notice include the following.

- The one-rollover-per-year rule for IRA distributions still applies, so no more than one 2009 distribution from each IRA may be rolled over.
- Payments to a plan participant that are equal to the 2009 RMD or certain payments that include the 2009 RMD are eligible for rollover.

- Despite their eligibility for rollover, 2009 RMDs are not subject to the 20 percent withholding, the 402(f) notice, or the direct rollover option requirements. A tax withholding notice and election is still required.
- Ordering rules determine whether a 2009 IRA or plan distribution is an RMD. The first distributions in 2009 are any undistributed RMD(s) from prior years, followed by 2009 RMD amounts.

Employer Plan Operational Relief

Because the RMD waiver was passed in December 2008 and IRS guidance was not issued until now, the IRS is offering operational relief to employers and allowing each employer to decide how to apply the RMD suspension. Consequently, an employer-sponsored retirement plan will not be treated as failing to operate according to the terms of its plan from January 1, 2009, to November 30, 2009, if it did not follow its plan provisions with respect to paying out RMDs, did not give participants and beneficiaries the option of receiving or not receiving 2009 RMDs, or did not offer a direct rollover option for 2009 RMDs. Employers must choose how to operate their plans with respect to 2009 RMDs by November 30, 2009, and must operationally comply with those decisions by December 1, 2009.

Sample Amendments Provide Options

Employers must amend their plan documents to reflect their 2009 RMD decisions. The amendment deadline is the last day of the first plan year beginning on or after January 1, 2011 (January 1, 2012, for governmental plans). To address certain operational alternatives, Notice 2009-82 includes two sample plan amendments: one providing that the default (in the absence of a participant or beneficiary election) will be for the plan to pay out RMD amounts, the other amendment providing that the default will be for the plan to retain such amounts. *...continued on the next page*

Both sample amendments allow participants and beneficiaries to choose between receiving or not receiving distributions related to 2009 RMDs. Both sample amendments also provide direct rollover options, but default to not offering the direct rollover option for distributions subject to the RMD waiver.

Although employer plan amendments are generally required, Notice 2009-82 clearly states that “pending ... further guidance,” IRA documents do not have to be amended for this legislation. Because the IRS had not issued amendment guidance and other amendments were required at the time, Ascensus updated its IRA disclosure statement to include the RMD waiver language shortly after WRERA was enacted.

Miscellaneous Clarifications

Notice 2009-82 also provides many clarifications regarding beneficiary elections and other timing issues, as well as more employer plan distribution-related guidance.

Actions You Must Take

- Register for the “New RMD Waiver Guidance” webinar to fully comprehend the implications of the RMD waiver for IRA holders, plan participants, beneficiaries, employers, and financial organizations.
- Develop a client communication strategy.
- Communicate to employer clients that they must make their RMD decisions and operationally comply with those decisions by December 1, 2009.
- Develop appropriate operational procedures, such as accepting rollovers past the 60-day rollover window.
- Prepare staff to answer questions such as which distributions fall under the 60-day rule extension and whether beneficiary election and other beneficiary deadlines are extended.
- Watch for follow-up communication and amendment information from Ascensus.

Look to Ascensus for Assistance

By keeping up to date with the latest guidance, you can offer the viable solutions and solid information your clients are looking for. Ascensus offers support services to help your organization understand this new guidance and provide exceptional customer service.

Training Solutions

New RMD Waiver Guidance—What You Need to Know Before November 30, 2009

This webinar will review the details of Notice 2009-82 and what these rules mean for employer plans, IRA holders, beneficiaries, and financial organizations.

October 21, 2009, 1:30 p.m. CST
October 22, 2009, 1:30 p.m. CST
October 28, 2009, 10:00 a.m. CST
October 29, 2009, 10:00 a.m. CST

Basic and Advanced IRA Fall Tour

The *IRA Essentials* one-day seminar is designed for those who are new to IRAs, and the *Advanced IRAs* one-day seminar is designed for experienced IRA professionals seeking information on complex IRA issues.

Fall Forum

The premier retirement services conference in the nation, Ascensus' *Fall Forum* allows you to design three days of your own curriculum from 25 courses that cover the basics, advanced issues, new guidance, and industry trends.

Boston, MA October 19–21
San Diego, CA November 9–11

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