

## H.R. 7327, the Worker, Retiree, and Employer Recovery Act of 2008

H.R. 7327, the Worker, Retiree, and Employer Recovery Act of 2008 (generally referred to as the “2008 Recovery Act”), passed the House on Dec. 10, 2008 and the Senate on Dec. 11, 2008.

Highlights of the Worker, Retiree, and Employer Recovery Act of 2008 include the following provisions.

- Suspension of RMD Requirements in 2009

The Act allows for a suspension of the required minimum distribution from retirement accounts in 2009. This waiver, which is available to everyone regardless of their total retirement account balances, applies to all defined-contribution plans, including 401(k), 403(b), 457(b), and IRA accounts. Suspending the mandatory withdrawal allows retirees to keep the money in their account if they choose, and possibly recover some of their losses.

- Pension funding relief for both single-employer and multi-employer plans.

For single-employer plans, the 2008 Recovery Act permits employers to “smooth” the value of pension plan assets over 24 months instead of having to apply the mathematical average that the Treasury requires. “Smoothing” means valuing the assets at various points in time. This change softens the accounting of 2008 plan losses. The 2008 Recovery Act also adjusts the transition to the new funding rules, by allowing plans that miss their phase-in funding target to retain the same target and not jump to the 100% target (as required under pre-2008 Recovery Act law). For plans starting between Oct. 1, 2008 and Oct. 1, 2009, multi-employer plans may elect to freeze their current funding status based on the previous year's level. This would freeze the terms of the funding improvement or rehabilitation plan adopted at any time during the previous plan year. In addition, under the 2008 Recovery Act, plans may elect a 3-year extension of the current funding improvement or rehabilitation period, from 10 to 13 years and from 15 to 18 years. Election of this extended correction period will help offset 2008 equity losses.

- Rollover Clarification

The Pension Protection Act of 2006 ( Sec. 829, PL 109-280, 8/17/2006 ) added Code Sec. 402(c)(11) to provide that a nonspouse beneficiary of a deceased employee's eligible retirement plan can make a trustee-to-trustee transfer to an IRA of part (or all) of the deceased employee's account balance in the plan, effective for distributions made after 2006. As described in Notice 2007-7, the IRS interpreted Code Sec. 402(c)(11) to mean that plans *could*, but did not *have to*, allow for nonspouse beneficiary rollovers. The 2008 Recovery Act provides that if the Code Sec. 402(c)(11) requirements for making a nonspouse beneficiary rollover are satisfied, then a plan provision allowing eligible rollover distributions must allow nonspouse beneficiaries to roll over inherited amounts tax-free.

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