



## **Required Retirement Distributions Optional for 2009**

Last year, our lawmakers enacted a new law concerning those who are over age 70 ½ and who are normally required to withdraw minimum annual distributions from retirement plans and IRAs. Essentially, the new law makes optional these so-called “required minimum distributions” or RMDs for 2009.

If this new law had not been passed, many folks with retirement plans invested in assets with depressed values (such as stocks or mutual funds) would be forced to sell investments at a loss this year to create cash available for payout in 2009. That would prevent the retirement plan or IRA from experiencing any resurge in market values in 2009. If a retiree does not need cash from their plan this year, then opting out of an RMD will lower the income tax burden in 2009.

The new law change has an impact on three distinct groups of people—here's how you or a family member may be affected.

*(1) Older individuals who are retirement plan participants or deductible IRA owners.* Periodic payouts from IRAs and retirement plans are routinely scheduled to begin when a person attains age 70 ½. The first year's payout may normally be deferred until the following April. For most employees, the first required payout from a company

sponsored 401(k) or a profit-sharing plan in which you have a separate account is either the year you retire, or the year you reach age 70 ½, whichever is later. That payout may likewise be delayed until April of the ensuing year. But if you own more than 5% of the sponsoring company, then you must begin taking payouts the year you reach age 70 ½, and you may not further delay payouts until the year you retire, though later. Once they start, RMDs must be made at least annually following an IRS schedule over your life expectancy, or over the combined life expectancies of you and the person you designate as beneficiary of the retirement plan or IRA. The overall purpose of the RMD rules is to make sure retirement accounts and IRAs are used primarily for the owner's retirement, rather than as a tax-sheltered nest egg for the family; an extremely costly IRS penalty rule applies if an RMD isn't made on a timely basis. Payouts from retirement plans or IRAs are fully taxable as ordinary income (unless you made nondeductible contributions as with a Roth-IRA).

Under the new law, anyone who must normally take an RMD can opt out of doing so for 2009 only.

Note: The new law doesn't waive a 2008 RMD that was deferred to April 1 of 2009.

*(2) Beneficiaries of retirement plan accounts or traditional IRAs.* If a person dies before withdrawing all the funds in an employer retirement plan or IRA, the balance may be left to an individual designated as a beneficiary (or a group of beneficiaries). If you are a designated beneficiary, you also must normally make minimum annual withdrawals (which usually are fully taxable) from your inherited retirement plan or IRA. The pace of the withdrawals depends on various factors, such as the decedent's age when he or she died, how the retirement plan or IRA is set up, and whether you are the spouse of the decedent.

The new law permits designated beneficiaries of retirement plans or IRAs to opt out of a required annual payout for calendar year 2009.

*(3) Beneficiaries of Roth IRAs.* The new law doesn't affect owners of

Roth IRA accounts for the simple reason that they do not have to make lifetime RMDs from these accounts. However, it does affect beneficiaries of Roth IRAs, who must make minimum annual withdrawals after the account owner dies. Thanks to the new law change, designated beneficiaries of Roth IRAs don't have to make a minimum withdrawal for 2009 from their inherited Roth IRAs. This won't affect their income tax, since distributions to designated beneficiaries of Roth IRAs are tax-free. However, it will avoid having to sell reduced-in-value assets to make the otherwise-required distributions, and it will make it possible for designated beneficiaries to leave more money at work within the tax-shelter of the Roth IRA.

Large & Gilbert, P.C.

6849 Peachtree Dunwoody Road, Building A-2, Atlanta, Georgia 30328

Phone: (770) 671-1533, Fax: (770) 671-1347 Email: [info@largeandgilbert.com](mailto:info@largeandgilbert.com)