110TH CONGRESS
2D SESSION

S. 3720

To amend the Internal Revenue Code of 1986 to suspend the minimum required pension distribution rules for 2008 and 2009.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8 (legislative day, NOVEMBER 20), 2008

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to suspend the minimum required pension distribution rules for 2008 and 2009.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY WAIVER OF REQUIRED MINIMUM DISTRIBUTION RULES FOR CERTAIN RETIREMENT PLANS AND ACCOUNTS.

(a) IN GENERAL.—Section 401(a)(9) of the Internal Revenue Code of 1986 (relating to required distributions) is amended by adding at the end the following new subparagraph:

"(H) Temporary waiver of minimum required distribution.—

"(i) In general.—The requirements of this paragraph shall not apply in calendar year 2008 or 2009.

"(ii) Plans must allow elections.—A trust forming part of a plan shall not constitute a qualified trust under this subsection unless the plan provides that it will allow an employee or beneficiary to elect to eliminate or reduce payments or distributions during calendar year 2009 which would otherwise be made to meet the requirements of this paragraph. This clause shall not apply to an employee or beneficiary who is receiving, after the annuity starting date, distributions under the plan through an annuity contract issued by a company licensed to do business as an insurance company under the laws of any State.

"(iii) Election.—An election under clause (ii) shall be made at such time and in such manner as the Secretary may prescribe.

"(iv) COORDINATION WITH SIMILAR REQUIREMENTS.—In the case of—

"(I) an individual retirement account or annuity described in section 408, this subparagraph shall be applied without regard to clauses (ii) and (iii), and

"(II) an eligible deferred compensation plan described in section 457(b), this subparagraph shall only apply to such a plan maintained by an employer described in section 457(e)(1)(A).

"(v) SPECIAL RULES REGARDING SUSPENSION PERIOD.—For purposes of this paragraph—

"(I) the required beginning date with respect to such individual shall be determined without regard to this subparagraph for purposes of applying this paragraph to calendar years after 2009, and

"(II) if clause (ii) of subparagraph (B) applies to such individual, the amount of any distribution required by this paragraph for 2008 or 2009 which was not made (or rolled over) by reason of this subparagraph shall be required to be distributed in 2010.''.

(b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—Section 402(c)(4) of the Internal Revenue Code of 1986 (defining eligible rollover distribution) is amended by adding at the end the following new flush sentence:

``Subparagraph (A) shall not apply to any distributions made in 2008 or 2009 to an individual who is not subject to the required minimum distribution rules under section 401(a)(9) for the calendar year solely by reason of the application of section 401(a)(9)(H). In the case of a distribution which is treated as an eligible rollover distribution solely by reason of the preceding sentence, such distribution shall not be treated as an eligible rollover distribution for purposes of section 401(a)(31) or 3405(c) or subsection (f) of this section.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) EXTENSION OF ROLLOVER PERIODS FOR DISTRIBUTIONS IN 2008.—

(A) IN GENERAL.—In the case of a distribution from an eligible retirement plan made during 2008 to an individual who is not subject to the required minimum distribution rules under section 401(a)(9) of the Internal Revenue Code of 1986 for the calendar year solely by reason of the application of section 401(a)(9)(H) of such Code—

(i) the 60-day period under section 402(c)(3) or 408(d)(3) of such Code during which such distribution may be rolled over, whichever is applicable, shall not end before the later of—

(I) the due date (determined without regard to any extension) for filing the return of tax imposed by chapter 1 of such Code for the taxable year in which the distribution was made, or

(II) the date which is 60 days after the date of the enactment of this Act,

(ii) in the case of an individual retirement plan, the limitation under section 408(d)(3)(B) of such Code shall not apply to any rollover contribution of the distribution, and

(iii) subject to such rules or guidance as the Secretary of the Treasury or the Secretary's delegate may prescribe—

(I) notwithstanding section 408(d)(3)(C) of such Code, if such individual is the beneficiary of an inherited individual retirement account or annuity, the individual may rollover such distribution, and

(II) notwithstanding section 402(c)(11) of such Code, such individual shall not be treated as failing to meet the requirements of such section solely because the transfer is not made in a direct trustee-to-trustee transfer.

(B) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term ''eligible retirement plan'' has the meaning given such term by section 402(c)(8)(B) of such Code.

(3) PROVISIONS RELATING TO PLAN OR CONTRACT AMENDMENTS.—

(A) IN GENERAL.—If this paragraph applies to any pension plan or contract amendment, such pension plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(ii)(I).

(B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any pension plan or annuity contract which—

(I) is made by reason of the amendments made by this section, and

(II) is made on or before the last day of the first plan year beginning on or after January 1, 2011.

In the case of a governmental plan, subclause (II) shall be applied by substituting "2012" for "2011".

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless—

(I) during the period beginning on January 1, 2009, and ending on December 31, 2009 (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(II) such plan or contract amendment applies retroactively for such period.

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