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MEMBER



Special needs require special lawyers.

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REQUIRED MINIMUM DISTRIBUTION REQUIREMENTS WAIVED FOR 2009

The stock market meltdown in 2008 has resulted in at least one reprieve for seniors. President George Bush recently signed the Worker, Retiree, and Employer Recovery Act of 2008, which, among other provisions, temporarily suspends the penalty for seniors who do not take the required minimum distributions (RMD) from their IRAs or 401(k) accounts in 2009.

There is normally a 50% excise tax as a penalty for failure to withdraw the appropriate amount each year when account owners reach retirement age, after age 70 1/2. The percentage that must be withdrawn is based on life expectancy and increases every year. In order to prevent seniors from selling stock in a down market to fund their RMDs, Congress suspended the RMD rule for 2009. Those who turned 70 1/2 prior to 2008 will not have to take the RMD that would normally be required by December 31, 2009. Those who turn 70 1/2 in 2009 will not have to take the RMD that would normally be required by April 1, 2010. Beneficiaries of inherited IRAs and employer retirement accounts are also covered by the penalty freeze for 2009.

The penalty freeze does not affect RMDs for 2008; unfortunately, this will result in a double hit for seniors. The RMDs are based on a percentage of what the IRAs and other retirement accounts were worth at the end of 2007. If the accounts were heavily invested in stocks, then they could have lost 30% to 40% in the last year. The taxpayers will have to withdraw and pay taxes on a higher amount taken from accounts that may have lost significant value. Those who turned 70 1/2 in 2008 have until April 1, 2009, to take their first RMD. These taxpayers may want to see if the firm holding their accounts will allow them to take an in-kind distribution that could then be transferred to a taxable account. For example, Fidelity and T. Rowe Price allow such distributions, but others, such as Vanguard and TIAA-CREF, do not allow such transfers.

Many elderly taxpayers rely on the RMDs for their daily living expenses; these seniors may not benefit from the penalty freeze. Seniors who do not need the funds from RMDs for their living expenses can benefit more from the penalty freeze. Some taxpayers may decide to take distributions equivalent to their 2009 RMD even with the penalty freeze. If they take distributions in 2009 and pay taxes on the withdrawals, then they may be able to put the after-tax dollars into a Roth IRA if they meet the earned-income requirements for funding Roth IRAs. RMDs cannot be used to fund Roth IRAs, but other non-RMD withdrawals can be used. This could be particularly beneficial for taxpayers turning 70 1/2 in 2009; they could withdraw the funds between January 1 and April 1, 2010, and transfer the funds into a Roth IRA in 2010 when the income restrictions on funding Roth IRAs are lifted.

The economy will continue to be a concern for seniors and their families in 2009. The attorneys at Oast & Hook can assist seniors and their families with their estate, financial, insurance, veterans' benefits and special needs planning.

Correction

Oast & Hook has a correction to last week's article on the Long-term Care Partnership Program and Medicaid. The paragraph on page 2 should read "The institutionalized spouse's share is \$2,000, leaving \$98,000 in excess resources." Oast & Hook thanks Ray Paola, for his input on this issue.

Ask Allie

O&H: Allie, have you heard about any more working cats?

Allie: Yes, I have. Mr. Gregory Xavier Pibb is a nine-month old foster cat who is the official mascot of the Washington Humane Society (WHS). He is rapidly becoming a celebrity who demonstrates WHS's unique behavior and training techniques to help animals overcome fears and build confidence. Mr. Pibb also is the star of WHS's humane education and training efforts with military veterans, children, and foster parents. He also helps socialize rescued cats. This four-legged ambassador helps represent cats in the Washington, D.C., community, and he demonstrates that people can do many things with cats. Mr. Pibb and the WHS's humane educator visit at-risk children in the inner city schools, and by just being himself, Mr. Pibb helps shatter peoples' negative and neutral perceptions about cats. He also visits Walter Reed Army Medical Center, where he demonstrates the therapeutic benefit of animals. You can visit Mr. Pibb's blog at washhumane.typepad.com/blog/mr_pibb/. Our readers can also learn more about the WHS's innovative training programs at www.washhumane.org/learningcenter.asp.

I hope all of our readers and their pets have a happy and safe 2009!



Please feel free to e-mail your pet and animal-related questions to Allie at: allie@oasthook.com.

Speakers

If you are interested in having an elder law attorney from Oast & Hook speak at an event, then please call Jennifer Lantz at 757-399-7506.

Distribution of This Newsletter

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