

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

---

## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TEMPORARY WAIVER OF REQUIRED MINIMUM**  
4 **DISTRIBUTION RULES FOR CERTAIN RETIRE-**  
5 **MENT PLANS AND ACCOUNTS.**

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

1           “(H) TEMPORARY WAIVER OF MINIMUM  
2           REQUIRED DISTRIBUTION.—

3           “(i) IN GENERAL.—The requirements  
4           of this paragraph shall not apply in cal-  
5           endar year 2008 or 2009.

6           “(ii) PLANS MUST ALLOW ELEC-  
7           TIONS.—A trust forming part of a plan  
8           shall not constitute a qualified trust under  
9           this subsection unless the plan provides  
10          that it will allow an employee or bene-  
11          ficiary to elect to eliminate or reduce pay-  
12          ments or distributions during calendar  
13          year 2009 which would otherwise be made  
14          to meet the requirements of this para-  
15          graph. This clause shall not apply to an  
16          employee or beneficiary who is receiving,  
17          after the annuity starting date, distribu-  
18          tions under the plan through an annuity  
19          contract issued by a company licensed to  
20          do business as an insurance company  
21          under the laws of any State.

22          “(iii) ELECTION.—An election under  
23          clause (ii) shall be made at such time and  
24          in such manner as the Secretary may pre-  
25          scribe.

1 “(iv) COORDINATION WITH SIMILAR  
2 REQUIREMENTS.—In the case of—

3 “(I) an individual retirement ac-  
4 count or annuity described in section  
5 408, this subparagraph shall be ap-  
6 plied without regard to clauses (ii)  
7 and (iii), and

8 “(II) an eligible deferred com-  
9 pensation plan described in section  
10 457(b), this subparagraph shall only  
11 apply to such a plan maintained by an  
12 employer described in section  
13 457(e)(1)(A).

14 “(v) SPECIAL RULES REGARDING SUS-  
15 PENSION PERIOD.—For purposes of this  
16 paragraph—

17 “(I) the required beginning date  
18 with respect to such individual shall  
19 be determined without regard to this  
20 subparagraph for purposes of applying  
21 this paragraph to calendar years after  
22 2009, and

23 “(II) if clause (ii) of subpara-  
24 graph (B) applies to such individual,  
25 the amount of any distribution re-

1                   quired by this paragraph for 2008 or  
2                   2009 which was not made (or rolled  
3                   over) by reason of this subparagraph  
4                   shall be required to be distributed in  
5                   2010.”.

6           (b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—Section  
7 402(c)(4) of the Internal Revenue Code of 1986 (defining  
8 eligible rollover distribution) is amended by adding at the  
9 end the following new flush sentence:

10           “Subparagraph (A) shall not apply to any distribu-  
11           tions made in 2008 or 2009 to an individual who is  
12           not subject to the required minimum distribution  
13           rules under section 401(a)(9) for the calendar year  
14           solely by reason of the application of section  
15           401(a)(9)(H). In the case of a distribution which is  
16           treated as an eligible rollover distribution solely by  
17           reason of the preceding sentence, such distribution  
18           shall not be treated as an eligible rollover distribu-  
19           tion for purposes of section 401(a)(31) or 3405(c) or  
20           subsection (f) of this section.”.

21           (c) EFFECTIVE DATES.—

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

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

3           (A) IN GENERAL.—In the case of a dis-  
4 tribution from an eligible retirement plan made  
5 during 2008 to an individual who is not subject  
6 to the required minimum distribution rules  
7 under section 401(a)(9) of the Internal Revenue  
8 Code of 1986 for the calendar year solely by  
9 reason of the application of section  
10 401(a)(9)(H) of such Code—

11           (i) the 60-day period under section  
12 402(e)(3) or 408(d)(3) of such Code dur-  
13 ing which such distribution may be rolled  
14 over, whichever is applicable, shall not end  
15 before the later of—

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

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

1 (ii) in the case of an individual retire-  
2 ment plan, the limitation under section  
3 408(d)(3)(B) of such Code shall not apply  
4 to any rollover contribution of the distribu-  
5 tion, and

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

9 (I) notwithstanding section  
10 408(d)(3)(C) of such Code, if such in-  
11 dividual is the beneficiary of an inher-  
12 ited individual retirement account or  
13 annuity, the individual may rollover  
14 such distribution, and

15 (II) notwithstanding section  
16 402(c)(11) of such Code, such indi-  
17 vidual shall not be treated as failing  
18 to meet the requirements of such sec-  
19 tion solely because the transfer is not  
20 made in a direct trustee-to-trustee  
21 transfer.

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

1           (3) PROVISIONS RELATING TO PLAN OR CON-  
2 TRACT AMENDMENTS.—

3           (A) IN GENERAL.—If this paragraph ap-  
4 plies to any pension plan or contract amend-  
5 ment, such pension plan or contract shall be  
6 treated as being operated in accordance with  
7 the terms of the plan during the period de-  
8 scribed in subparagraph (B)(ii)(I).

9           (B) AMENDMENTS TO WHICH PARAGRAPH  
10 APPLIES.—

11           (i) IN GENERAL.—This paragraph  
12 shall apply to any amendment to any pen-  
13 sion plan or annuity contract which—

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

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

20           In the case of a governmental plan, sub-  
21 clause (II) shall be applied by substituting  
22 “2012” for “2011”.

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

1 (I) during the period beginning  
2 on January 1, 2009, and ending on  
3 December 31, 2009 (or, if earlier, the  
4 date the plan or contract amendment  
5 is adopted), the plan or contract is op-  
6 erated as if such plan or contract  
7 amendment were in effect; and  
8 (II) such plan or contract amend-  
9 ment applies retroactively for such pe-  
10 riod.

○