

CLIENT ALERT

A continuing series published by Partridge Snow & Hahn LLP

New Tax Law Benefits 401(k) Plan Beneficiaries

By
Deborah DiNardo, Esq.
David C. Morganelli, Esq.

October 2009



Deborah DiNardo



David C. Morganelli

Beginning January 1, 2010, non-spouse beneficiaries of inherited 401(k) plans will be able to roll over plan assets into inherited IRAs, just like spouse beneficiaries historically have been able to do. This change in the law comes about as part of the economic recovery legislation enacted by Congress in December 2008.

This change allows non-spouse beneficiaries to avoid the requirement of a lump sum distribution from an inherited 401(k) and the immediate tax associated with it.

Previous attempts by Congress to give non-spouse beneficiaries the same tax favored opportunity as spouse beneficiaries failed in 2007 when a ruling by the Internal Revenue Service gave employers which sponsor 401(k) plans the option to choose whether or not to amend 401(k) plans to permit this tax favored rollover. Unfortunately, many employers did not make the required change to the 401(k) plan and consequently taxpayers were unable to take advantage of the tax sav-

ings intended by Congress. Fortunately, the 2008 economic recovery tax legislation requires that 401(k) plans allow non-spouse beneficiary rollovers, as well as spouse beneficiary rollovers, and employers no longer have any option whether or not to opt out.

The ability of a non-spouse beneficiary to rollover a lump sum distribution from a 401(k) plan into an inherited IRA rather than take the previously required lump sum distribution will afford non-spouse beneficiaries substantial tax savings by deferring the tax that would otherwise be due for the tax year of distribution.

PARTRIDGE SNOW & HAHN LLP
COUNSELORS AT LAW

Closer to the issues

Client Alert

Published by
Partridge Snow & Hahn LLP

Authors
Deborah DiNardo, Esq.
David C. Morganelli, Esq.

This publication is part of a continuing series aimed at informing our clients about current issues that may affect their business. It is published by Partridge Snow & Hahn LLP, a business law firm with offices in Providence, Warwick, and SouthCoast. This alert may be copied for educational purposes. We request that any such copies be attributed to the author and to Partridge Snow & Hahn LLP. This publication is not meant to provide legal advice, and readers should consult legal counsel prior to acting on any information contained within. Comments are welcome and they should be addressed to the specific author or to any of the qualified attorneys at the firm. The Rhode Island Supreme Court licenses all lawyers in the general practice of law. The court does not license or certify any lawyer as an expert or specialist in any field of practice.

Disclosure Under IRS Circular 230: Any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any tax-related transaction or matter.

For further information contact
Deborah DiNardo, dd@psh.com. or
David C. Morganelli, dcm@psh.com

Ms. DiNardo is a Partner of the Firm and provides personal planning counsel to clients who may benefit from sophisticated planning techniques. She has extensive experience in lifetime and post-mortem planning issues, including trust and estate administration, financial planning, business succession planning and asset protection planning.

Mr. Morganelli is Of Counsel of the Firm and Chair of the Tax Practice Group. He advises clients concerning federal and state tax issues and in the development of state and local tax strategies to enhance tax filing positions and satisfy compliance obligations.

Copyright © 2009 Partridge Snow & Hahn LLP

Providence
180 South Main Street
Providence, RI 02903
Tel: 401-861-8200
Fax: 401-861-8210

SouthCoast
128 Union Street, Suite 500
New Bedford, MA 02740
Tel: 774-206-8200
Fax: 774-206-8210

Warwick
2364 Post Road, Suite 100
Warwick, RI 02886
Tel: 401-681-1900
Fax: 401-681-1910

PARTRIDGE SNOW & HAHN LLP
COUNSELORS AT LAW

www.psh.com

Closer to the issues