

110TH CONGRESS
2D SESSION

S. 3719

To amend the Internal Revenue Code of 1986 to suspend the minimum required pension distribution rules for 2008, 2009, and 2010.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8 (legislative day, NOVEMBER 20), 2008

Ms. SNOWE (for herself and Mr. HATCH) 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, 2009, and 2010.

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. SHORT TITLE.**

4 This Act may be cited as the “Retirement Account
5 Distribution Improvement Act of 2008”.

6 **SEC. 2. TEMPORARY WAIVER OF REQUIRED MINIMUM DIS-**
7 **TRIBUTION RULES FOR CERTAIN RETIRE-**
8 **MENT PLANS AND ACCOUNTS.**

9 (a) IN GENERAL.—Section 401(a)(9) of the Internal
10 Revenue Code of 1986 (relating to required distributions)

1 is amended by adding at the end the following new sub-
2 paragraph:

3 “(H) TEMPORARY WAIVER OF MINIMUM
4 REQUIRED DISTRIBUTION.—

5 “(i) IN GENERAL.—The requirements
6 of this paragraph shall not apply in cal-
7 endar year 2008, 2009, or 2010 to—

8 “(I) a defined contribution plan
9 which is described in this subsection
10 or in section 403(a) or 403(b),

11 “(II) a defined contribution plan
12 which is an eligible deferred com-
13 pensation plan described in section
14 457(b) but only if such plan is main-
15 tained by an employer described in
16 section 457(e)(1)(A), or

17 “(III) an individual retirement
18 plan.

19 “(ii) PLANS ONLY TO MAKE ELECTIVE
20 DISTRIBUTIONS.—A trust forming part of
21 a plan shall not constitute a qualified trust
22 under this subsection unless the plan pro-
23 vides that it will not make a payment or
24 distribution during calendar year 2009 or
25 2010 which would otherwise be made to

1 meet the requirements of this paragraph
2 unless the employee or beneficiary elects to
3 have such payment or distribution made.
4 This clause shall not apply to an employee
5 or beneficiary who is receiving, after the
6 annuity starting date, distributions under
7 the plan through an annuity contract
8 issued by a company licensed to do busi-
9 ness as an insurance company under the
10 laws of any State.

11 “(iii) ELECTION.—An election under
12 clause (ii) shall be made at such time and
13 in such manner as the Secretary may pre-
14 scribe. The Secretary may permit an em-
15 ployer to offer only 1 election that applies
16 to 2009 and 2010 or may require employ-
17 ers to offer separate elections for each cal-
18 endar year.

19 “(iv) INDIVIDUAL RETIREMENT PLANS
20 EXEMPT FROM ELECTIVE DISTRIBUTION
21 REQUIREMENT.—In the case of an indi-
22 vidual retirement account or annuity de-
23 scribed in section 408, this subparagraph
24 shall be applied without regard to clauses
25 (ii) and (iii).

1 “(v) SPECIAL RULES REGARDING
2 WAIVER PERIOD.—For purposes of this
3 paragraph—

4 “(I) the required beginning date
5 with respect to any individual shall be
6 determined without regard to this
7 subparagraph for purposes of applying
8 this paragraph to calendar years after
9 2010, and

10 “(II) if clause (ii) of subpara-
11 graph (B) applies to such individual,
12 the 5-year period described in such
13 clause shall be determined without re-
14 gard to calendar years 2008, 2009, or
15 2010.”.

16 (b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—Section
17 402(c)(4) of the Internal Revenue Code of 1986 (defining
18 eligible rollover distribution) is amended by adding at the
19 end the following new flush sentence:

20 “If all or any portion of a distribution during 2008,
21 2009, or 2010 is treated as an eligible rollover dis-
22 tribution but would not be so treated if the min-
23 imum distribution requirements under section
24 401(a)(9) had applied during such calendar year,
25 such distribution shall not be treated as an eligible

1 rollover distribution for purposes of section
2 401(a)(31) or 3405(c) or subsection (f) of this sec-
3 tion”.

4 (c) EFFECTIVE DATES.—

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

8 (2) RECONTRIBUTIONS OF DISTRIBUTIONS IN
9 2008 OR EARLY 2009.—

10 (A) IN GENERAL.—If a person receives 1
11 or more eligible distributions, the person may,
12 on or before July 1, 2009, make one or more
13 contributions (in an aggregate amount not ex-
14 ceeding all eligible distributions) to an eligible
15 retirement plan and to which a rollover con-
16 tribution of such distribution could be made
17 under section 402(c), 403(a)(4), 403(b)(8),
18 408(d)(3), or 457(e)(16) of the Internal Rev-
19 enue Code of 1986, as the case may be. For
20 purposes of the preceding sentence, rules simi-
21 lar to the rules of clauses (ii) and (iii) of sec-
22 tion 402(c)(11)(A) of such Code shall apply in
23 the case of a beneficiary who is not the sur-
24 viving spouse of the employee or of the owner
25 of the individual retirement plan.

1 (B) ELIGIBLE DISTRIBUTION.—For pur-
2 poses of this paragraph—

3 (i) IN GENERAL.—Except as provided
4 in clause (ii), the term “eligible distribu-
5 tion” means an applicable distribution to a
6 person from an individual account or annu-
7 ity—

8 (I) under a plan which is de-
9 scribed in clause (iv), and

10 (II) from which a distribution
11 would, but for the application of sec-
12 tion 401(a)(9)(H) of such Code, have
13 been required to have been made to
14 the individual for 2008 or 2009,
15 whichever is applicable, in order to
16 satisfy the requirements of sections
17 401(a)(9), 404(a)(2), 403(b)(10),
18 408(a)(6), 408(b)(3), and 457(d)(2)
19 of such Code.

20 (ii) ELIGIBLE DISTRIBUTIONS LIM-
21 ITED TO REQUIRED DISTRIBUTIONS.—The
22 aggregate amount of applicable distribu-
23 tions which may be treated as eligible dis-
24 tributions for purposes of this paragraph
25 shall not exceed—

1 (I) for purposes of applying sub-
2 paragraph (A) to distributions made
3 in 2008, the amount which would, but
4 for the application of section
5 401(a)(9)(H) of such Code, have been
6 required to have been made to the in-
7 dividual in order to satisfy the re-
8 quirements of sections 401(a)(9),
9 404(a)(2), 403(b)(10), 408(a)(6),
10 408(b)(3), and 457(d)(2) of such
11 Code for 2008, and

12 (II) for purposes of applying sub-
13 paragraph (A) to distributions made
14 in 2009, the sum of the amount which
15 would, but for the application of such
16 section 401(a)(9)(H), have been re-
17 quired to have been made to the indi-
18 vidual in order to satisfy such require-
19 ments for 2009, plus the excess (if
20 any) of the amount described in sub-
21 clause (I) which may be distributed in
22 2009 to meet such requirements for
23 2008 over the portion of such amount
24 taken into account under subclause
25 (I) for distributions made in 2008.

1 (iii) APPLICABLE DISTRIBUTION.—

2 (I) IN GENERAL.—The term “ap-
3 plicable distribution” means a pay-
4 ment or distribution which is made
5 during the period beginning on Janu-
6 ary 1, 2008, and ending on June 30,
7 2009.

8 (II) EXCEPTION FOR MINIMUM
9 REQUIRED DISTRIBUTIONS FOR
10 OTHER YEARS.—Such term shall not
11 include a payment or distribution
12 which is required to be made in order
13 to satisfy the requirements of section
14 401(a)(9), 404(a)(2), 403(b)(10),
15 408(a)(6), 408(b)(3), or 457(d)(2) of
16 such Code for a calendar year other
17 than 2008 or 2009.

18 (III) EXCEPTION FOR PAYMENTS
19 IN A SERIES.—In the case of any plan
20 described in clause (iv)(I), such term
21 shall not include any payment or dis-
22 tribution made in 2009 which is a
23 payment or distribution described in
24 section 402(c)(4)(A).

1 (iv) PLANS DESCRIBED.—A plan is
2 described in this clause if the plan is—

3 (I) a defined contribution plan
4 (within the meaning of section 414(i)
5 of such Code) which is described in
6 section 401, 403(a), or 403(b) of such
7 Code or which is an eligible deferred
8 compensation plan described in sec-
9 tion 457(b) of such Code maintained
10 by an eligible employer described in
11 section 457(e)(1)(A) of such Code, or

12 (II) an individual retirement plan
13 (as defined in section 7701(a)(37) of
14 such Code).

15 (C) TREATMENT OF REPAYMENTS OF DIS-
16 TRIBUTIONS FROM ELIGIBLE RETIREMENT
17 PLANS OTHER THAN IRAS.—For purposes of
18 the Internal Revenue Code of 1986, if a con-
19 tribution is made pursuant to subparagraph (A)
20 with respect to a payment or distribution from
21 a plan other than an individual retirement plan,
22 then the taxpayer shall, to the extent of the
23 amount of the contribution, be treated as hav-
24 ing received the payment or distribution in an
25 eligible rollover distribution (as defined in sec-

1 tion 402(c)(4) of such Code) and as having
2 transferred the amount to the plan in a direct
3 trustee to trustee transfer.

4 (D) TREATMENT OF REPAYMENTS FOR
5 DISTRIBUTIONS FROM IRAS.—For purposes of
6 the Internal Revenue Code of 1986, if a con-
7 tribution is made pursuant to subparagraph (A)
8 with respect to a payment or distribution from
9 an individual retirement plan (as defined by
10 section 7701(a)(37) of such Code), then, to the
11 extent of the amount of the contribution, such
12 payments or distributions shall be treated as a
13 distribution that satisfies subparagraphs (A)
14 and (B) of section 408(d)(3) of such Code and
15 as having been transferred to the individual re-
16 tirement plan in a direct trustee to trustee
17 transfer.

18 (3) PROVISIONS RELATING TO PLAN OR CON-
19 TRACT AMENDMENTS.—

20 (A) IN GENERAL.—If this paragraph ap-
21 plies to any pension plan or contract amend-
22 ment, such pension plan or contract shall be
23 treated as being operated in accordance with
24 the terms of the plan during the period de-
25 scribed in subparagraph (B)(ii)(I).

1 (B) AMENDMENTS TO WHICH PARAGRAPH
2 APPLIES.—

3 (i) IN GENERAL.—This paragraph
4 shall apply to any amendment to any pen-
5 sion plan or annuity contract which—

6 (I) is made by pursuant to the
7 amendments made by this section,
8 and

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

12 In the case of a governmental plan, sub-
13 clause (II) shall be applied by substituting
14 “2012” for “2011”.

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

17 (I) during the period beginning
18 on January 1, 2009, and ending on
19 December 31, 2010 (or, if earlier, the
20 date the plan or contract amendment
21 is adopted), the plan or contract is op-
22 erated as if such plan or contract
23 amendment were in effect; and

1 (II) such plan or contract amend-
2 ment applies retroactively for such pe-
3 riod.

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