



## **e\*Advisory Notice – Worker, Retiree and Employer Recovery Act of 2008**

On December 23, 2008, the President signed into law the Worker, Retiree and Employer Recovery Act of 2008 (the Recovery Act). The Recovery Act waives required minimum distributions (RMDs) for 2009.

Generally, RMDs must begin to be made from qualified plans by April 1 of the calendar year following the later of the calendar year in which participants reach age 70½ or retire (if they are not more-than-5% owners). Participants who fail to take RMDs must pay a 50% excise tax on any shortfall between the RMD and the amount that actually was distributed for the year.

Under the Recovery Act, no RMD is required for 2009 from 401(k) (and certain other individual account) plans. But the waiver does not lift RMD requirements for 2008 or for calendar years after 2009. For example, participants whose required beginning date is April 1, 2009 (because they reached age 70½ in 2008) must take their 2008 RMDs by April 1, 2009, but they would not need to take a 2009 RMD (which they would have otherwise been required to take by December 31, 2009); participants whose required beginning date is April 1, 2010 (because they reached age 70½ in 2009) have no RMD for 2009, and thus no RMD must be distributed by April 1, 2010, but they must take their 2010 RMDs by December 31, 2010. The waiver also applies to RMDs made to beneficiaries under the five-year rule (by extending the five-year period by one year). Plans are permitted, but not required, to allow affected participants to make direct rollovers of 2009 distributions that would have been RMDs without the waiver, but those distributions will not be treated as eligible rollover distributions for purposes of the 20% mandatory withholding or rollover notice requirements. Plan sponsors must adopt conforming amendments by the end of the first plan year beginning on or after January 1, 2011 and operate their plans as if the amendments had been in effect during 2009.

UPAL will prepare any applicable amendments at no additional cost to Plans participating in the UPAL Retirement Program.