



Direct Rollovers From Qualified Plans by Nonspouse Beneficiaries

Employment, Labor & Benefits Practice Group

Foster Swift Employment, Labor & Benefits Quarterly

July 2009

PRACTICE AREAS

Employee Benefits

For plan years beginning after 2009, all qualified plans must allow a nonspouse beneficiary to elect a direct rollover to an individual retirement account or annuity.

The Pension Protection Act of 2006 ("PPA") added the provision permitting nonspouse beneficiaries to elect a direct rollover for distributions after 2006. Initially, this provision was discretionary. However, the Worker, Retiree and Employer Recovery Act of 2008 ("WRERA") requires that plans permit each nonspouse beneficiary to elect a direct rollover for plan years beginning after 2009.

Plans that added nonspouse direct rollovers beginning in 2007, 2008 or 2009 must be amended by the last day of the first plan year on or after January 1, 2009.

Mandatory amendments must generally be adopted by the later of:

1. The end of the plan year in which the amendment became effective (for distributions in plan years beginning after 2009), or
2. The due date (including extensions) for filing the employer's tax return for the year that includes the date the amendment became effective.