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**TAX UPDATE FOR CLIENTS AND FRIENDS**

To Clients and Friends:

On Dec. 23, 2008 the President signed into law the “Worker, Retiree and Employer Recovery Act of 2008”. Primarily, the Act contains technical and pinpointed provisions relating to qualified retirement plans. However, at least one provision is of more generalized interest.

The Act permits retired beneficiaries of defined contribution retirement plans (e.g., profit sharing and 401(k) plans), annuity plans (e.g., tax sheltered annuity plans offered by non-profit organizations), IRAs and certain other kinds of plans to skip required minimum distributions that would otherwise have to be taken in 2009. The purpose of this one year exemption is to relieve retirees and their beneficiaries from the financial squeeze of having to liquidate already depressed holdings in retirement plans and IRAs in order to make mandatory required minimum distributions.

The one year exemption also applies to designated beneficiaries of deceased plan and IRA participants

The exemption does not appear to fully exempt retirees whose first required minimum distribution was to occur in 2008 but who were planning to defer that first distribution until April 1, 2009: in that case, the required minimum distribution that accrued in 2008 must still be made on or before April 1, 2009, but the required minimum distribution attributable to 2009 can be exempted.

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IRAs and Charities

On the subject of IRAs, the tax provisions of an earlier piece of legislation, the “Emergency Economic Stabilization Act of 2008” (the \$700 Billion bailout bill – which was signed into law on Oct. 3, 2008) extended the provision by which individuals who have attained age 70 and ½ and who own regular IRAs may have their IRAs pay up to \$100,000 per year directly to certain kinds of public tax exempt organizations without having the distribution included in the IRA owner’s income. Such payments do not increase the IRA owner’s “adjusted gross income” and do not cause phase out or elimination of personal exemptions, itemized deductions or other deductions or credits. (On the other hand, such payments do not entitle the IRA owner to an

income tax charitable contributions deduction). The tax break had expired at the end of 2007, but the Act extends it until the end of 2009.

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#### Charitable Donations In the Current Economic Environment

On the subject of charitable gifts, the current economic environment combines historically low interest rates plus sharply reduced market values. In this depressed environment high net worth individuals (they're still out there) who are charitably motivated (ditto), who want to dedicate assets to fund their own future charitable donations in a kind of "fire and forget" way, but who also want the assets, or a good portion of them, to ultimately return to their families, are being encouraged to consider "charitable lead trusts". Income producing assets are placed in such a trust for a period of time. During the period the trust pays a fixed amount to one or more charitable institutions. At the end of the period the assets remaining in the trust (hopefully close to the original asset value, or perhaps even greater than the original asset value if market prices rise) can be used to benefit the family of the donor. Gift and estate taxes may be minimized. In contrast to donor advised funds, it may be possible for a good portion of the "principal" that was originally set aside for charitable use to ultimately find its way back to the donor's family (often children and grandchildren). It's not for everyone, but the confluence of economic circumstances has created a charitable giving opportunity for the right people.

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This Update is intended to provide generalized information. It is not intended to provide information or advice with respect to specific situations. To address real life, specific situations you should consult appropriate counsel.

Under the rules of the Massachusetts Supreme Judicial Court this may be considered lawyer advertising.

END OF ALERT

***This Update is intended only to provide generalized information. It is not intended to provide information or advice with respect to specific situations. To address real life, specific situations you should consult appropriate counsel.***

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