GENERAL EXPLANATION OF CHANGES TO THE

MINIMUM DISTRIBUTION RULES

IRS rules require most retirement plan participants to begin taking distributions from their plans no later than April 1 following the year in which they reach age 70 ½ or retire, whichever is later. Certain owners must begin distributions after reaching age 70 ½ even if they are still working. New regulations, finalized in 2002, made several significant changes to the prior rules. The most important of these changes are described below.

Method of Calculating Minimum Payments

The method of calculating the minimum required distribution was simplified with less confusing options. A uniform table of distribution factors will be applied whether the plan participant is single or married. In addition, the table has been updated to reflect longer life expectancies. This will mean longer pay out periods and therefore slightly lower required payments in most instances.

Designated Beneficiaries

The determination of designated beneficiaries is to be made not later than September 30 of the year following the year of the participant's death. This means, then, that the designated beneficiaries will be determined based on the beneficiaries designated as of the date of death who remain beneficiaries as of September 30 of the calendar year following the calendar year of the employee's death. The period between the date of the participant's death and the applicable September 30 is a period during which beneficiaries can be eliminated but not replaced with a beneficiary not designated under the plan as of the date of death. Under old rules, the determination was generally made prior to the participant’s death which allowed no flexibility in distribution planning.

The regulations also close some loopholes as to the planning opportunities that existed between the date of the participant's death and the date the designated beneficiaries must be determined. Under the regulations, if an individual who is a beneficiary as of the participant's date of death dies before the applicable September 30 without disclaiming benefits, the individual continues to be treated as a beneficiary as of the September 30 of the calendar year following the calendar year of the employee's death in determining the distribution period for required minimum distributions after the participant's death without regard to the identity of the successor beneficiary. This means that, under the regulations, while beneficiaries can be removed after the participant's death, either by receiving a distribution or a proper disclaimer or other permissible means, new beneficiaries may not be added.

Post Death Default Rule—Transition Relief

When a participant dies before the date distributions are required to begin, there are two alternative rules that may apply: the five-year rule or the life expectancy rule. The old rules had proclaimed that the five-year rule was to be deemed the default election unless the spouse was the sole beneficiary. The new regulations change the default rule to the life expectancy rule. They also include a special transition rule under which beneficiaries subject to the five-year rule under the old rules may now switch to the life expectancy rule, provided that all amounts that would have been required to be distributed under the life expectancy rule are distributed by the earlier of December 31, 2003 or the end of the five-year period following the year of the participant's death.

Effective Date

The final regulations apply for determining the required minimum distributions for calendar years beginning on or after January 1, 2003. However, for purposes of determining required minimum distributions for calendar year 2002, a person receiving a distribution may rely on the new regulations or the old rules.