7 DEADLY IRA SINS

IGNORE THEM AT YOUR PERIL!

Presented by Ed Slott, CPA and Jeffrey Levine, CPA
Ed Slott and Company, LLC

7 Deadly IRA Sins

1) Rollover Blunders
2) Non-spouse Beneficiary Mistakes
3) Spousal Beneficiary Mistakes
4) Non-Traditional IRA Investment Problems
5) RMD Aggregation Errors
6) Beneficiary Form Disasters
7) Failure to Keep Up With The Latest Changes

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Rollover Blunders

60-Day Rollovers vs. Direct Transfers

- There are two ways to move retirement assets:
  1. 60-day rollovers
  2. Trustee-to-trustee transfers – the recommended option

Rollover Blunders

60-Day Rollovers

- A check is made payable to the account owner
- They have 60 days from the receipt of the check to deposit it into another retirement account
- Mandatory withholding from company plans
- Once-per-year IRA rollover rule

Rollover Blunders

- ***Beginning as early as 2015*** – Clients can only do one 60-day rollover in a 12-month period no matter how many IRA and Roth IRA accounts they have

- Exceptions
  - Plan-to-IRA rollovers
  - IRA-to-Plan rollovers
  - Roth IRA conversions

Rollover Blunders

Trustee-to-Trustee Transfers

- Assets go directly from one custodian to another
- Can do an unlimited number of transfers
- ***This is the better way to move retirement funds***

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Non-Spouse Beneficiary Mistakes

- A non-spouse beneficiary can never do a 60-day rollover
- A non-spouse beneficiary cannot move inherited funds into an account in their own name
- The inherited account must be properly titled
  - The name of the deceased account owner must remain in the title
  - Example: John Smith, deceased (date of death), inherited IRA FBO Mary Jones
- A non-spouse beneficiary, including a Roth IRA beneficiary, generally has to begin taking RMDs in the year after the death of the account owner
- A non-spouse beneficiary cannot make a contribution to the inherited account

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Spousal Beneficiary Mistakes

The #1 mistake made by spousal beneficiaries is failing to properly choose between:

- Remaining a beneficiary
- Doing a spousal rollover.

Hint: Use the “99% Rule”

Spousal Beneficiary Rules

- The spouse is the "King" or "Queen" of beneficiaries
    - A spouse can move inherited funds into an account in their own name
    - A spouse can do a 60-day rollover of inherited funds
    - A spouse can make the account their own

- When a spouse does any of these things, they are then treated as the owner of the account

- **Bonus:** During the lifetime when a spouse is more than 10 years younger than the account owner and is the sole beneficiary, the Joint Life Table can be used for calculating RMDs

Spousal Beneficiary Mistakes

- When a Spouse Remains a Beneficiary
  - Funds should only be moved as a direct transfer
  - Special rules for RMDs
  - Special rules for successor beneficiaries

Spousal Beneficiary Mistakes

The "99% Rule"

"If the surviving spouse is under 59 ½, then setting up an inherited IRA is almost always the correct option. Once the spouse turns 59 ½, a spousal rollover can be completed."

"If the surviving spouse is 59 ½ or older, a spousal rollover is almost always the right move."

-Jeffrey Levine, CPA

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Non-Traditional IRA Investment Problems

- Common non-traditional IRA investment issues
  - What can go wrong?
    - Prohibited investments
    - Prohibited transactions
  - Even when you do things right, you have to worry about:
    - Custodial policies
    - Valuations
    - Liquidity issues
    - RMDs
    - Losing out on potential tax benefits
    - Financing issues
    - UBIT (unrelated business income tax)

Non-Traditional IRA Investment Problems

- Prohibited Investments
  - Collectibles
  - Life Insurance
  - S-Corp Stock

Non-Traditional IRA Investment Problems

Prohibited Transactions

- Disqualified Persons
  - Account owner
  - Beneficiary of the account
  - Fiduciary – anyone who exercises or has discretionary authority, control, or responsibility in managing or administering the account or who provides investment advice for a fee
  - Family members – spouse, ancestor, lineal descendant or their spouse

Non-Traditional IRA Investment Problems

- Prohibited Transactions
  - Borrowing from or lending money to an IRA
  - Pledging the account as security
  - Buying, selling or leasing property to, or from, an IRA
  - Buying property for personal use
  - Investing in your own business
    - Disguised transactions
  - Receiving compensation for managing your IRA

Non-Traditional IRA Investment Problems

- Hard-to-Value Assets
  - IRS is looking for more information
  - Custodians will have to tell IRS about hard-to-value contributions on Form 5498 and distributions on Form 1099-R
  - Hard-to-value assets include non-publicly traded stock, partnership or LLC interests, real estate, options, and other hard-to-value investments
  - Reporting will be mandatory in 2015

Non-Traditional IRA Investment Problems

- SEC Investor Alert
  - Issued in September 2011
  - Warns investors to beware of fraudulent promoters targeting self-directed IRA funds

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RMD Aggregation Errors

- IRAs
  - Calculate RMD on each account individually
  - IRA RMDs can be added together and taken from any one or combination of IRA accounts (this includes SEP and SIMPLE IRAs)
  - Special rules generally apply to annuitized IRA annuities

RMD Aggregation Errors

- Employer Plans
  - Calculate RMD for each plan individually
  - RMDs must be taken from each plan
  - Employer plan RMDs ***cannot*** be aggregated
    - 403(b) exception

<u>Under no circumstances can an RMD from one type of retirement account be taken from a different type of retirement account</u>

RMD Aggregation Errors

- Annuities
  - Before annuitization, IRA or 403(b) annuities can be aggregated
  - After annuitization the distribution from the annuity is generally the RMD for that annuity. It cannot be used to satisfy any other RMD.

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Beneficiary Form Disasters

- It is important to periodically check beneficiary forms
- Clients often fail to update beneficiary forms after key life events, like divorce!
- Beneficiary form planning is (way) more complicated than most clients and advisors realize!

Beneficiary Form Disasters

- U. S. Supreme Court rules in favor of ex-spouse, disinheriting the daughter

- Kennedy v. Plan Administrator for DuPont Savings and Investment Plan, (No. 07-636, Decided January 26, 2009)

Beneficiary Form Disasters

- Updated 401(k) beneficiary form is trumped by ERISA, disinheriting children

- Cajun Industries, LLC vs. Robert Kidder, et al. United States District Court; Middle District of Louisiana, No. 09-267-BAJ-SCR – April 26, 2011

Beneficiary Form Disasters

- Broke widower loses $1,000,000 to in-law!!!

“The Pension Pickle”
New York Post, January 31, 2005

- Bruce and Anne Friedman were married for several decades
- Anne never updated her beneficiary form after her marriage
- Her beneficiary form named her mother, her uncle and her sister
- When Anne died, her sister was still living.
  - She inherited it ALL!

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Failure to Keep Up With the Latest Changes

- What's New in 2014?
  - Reporting of hard-to-value assets on Forms 5498 and 1099-R (optional for 2014, mandatory for 2015)
  - MyRAs are created
  - IRS issues new once-per-year IRA rollover rule guidance (effective beginning as early as January 1, 2015)
  - U.S. Supreme Court rules that Inherited IRAs are NOT protected in bankruptcy under federal law
  - IRS issues final regulations for QLACs (qualifying longevity annuity contracts)
  - IRS issues guidance making it easier to convert after-tax plan amounts to a Roth IRA income tax free

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