7 DEADLY IRA SINS

IGNORE THEM AT YOUR PERIL!

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7 Deadly IRA Sins

1) Rollover Blunders
2) Non-spouse Beneficiary Mistakes
3) Spousal Beneficiary Mistakes
4) Failing to Properly Evaluate Rollover Decisions
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

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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
  - Revenue Procedure 2016-47 relief
- Mandatory withholding from company plans
- Once-per-year IRA rollover rule

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Rollover Blunders

- ***Since 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

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Rollover Blunders

Trustee-to-Trustee Transfers

- Assets go directly from one custodian to another
- Can do an unlimited number of transfers
- Checks made payable to new IRA qualify
- ***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 = failing to properly choose between:

- Remaining a beneficiary
- Doing a spousal rollover.

Hint: Use the “99% Rule”

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Spousal Beneficiary Mistakes

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

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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

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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/PFS, CFP®

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Six Potential "Rollover" Options for Your Plan Funds

1. Leave your employer plan assets in your existing company retirement account.
2. Roll over your plan assets to a new company retirement plan.
3. Roll over your plan assets to an IRA.
4. Take a lump-sum distribution of your plan balance.
5. Convert your plan assets to a Roth IRA.
6. Make an in-plan Roth conversion of your plan assets.

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Option #1 – Leave it in Your Company Retirement Plan

- Possible advantages include:
  - Plan-only exceptions to the 10% early distribution penalty
  - Fees may be comparatively low
  - Creditor protection may be stronger

- Possible disadvantages include:
  - Investment options are often limited
  - Better/more personalized service may be available elsewhere
  - Beneficiaries *may* not be able to "stretch"

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Option #2 – Roll Your Money to a New Company Retirement Plan*

- Possible advantages include:
  - Creditor protection *may* be stronger
  - Fees may be comparatively low
  - You may be eligible to take a loan
  - Consolidation of accounts

- Possible disadvantages include:
  - Investment options are often limited
  - Better/more personalized service may be available elsewhere
  - Certain 10% penalty exception options may be lost
  - Access to rolled-over funds *may* be limited
  - Beneficiaries *may* not be able to “stretch”

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Option #3 – Roll Over to IRA

- Possible advantages include:
  - Broader menu of investment options
  - Simplification of RMDs
  - More flexible distribution options
  - Consolidation of accounts
  - Better service *may* be available
  - Estate planning options *may* be enhanced

- Possible disadvantages include:
  - Loans are prohibited
  - Fees *may* be higher
  - Creditor protection *may* not be as strong
  - RMDs must begin at 70 ½, even if still working
  - Certain 10% penalty exception options may be lost

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Option #4 – Take a Lump-Sum Distribution

- Possible advantages include:
  - Special tax break for net unrealized appreciation (NUA)
  - Special tax break for 10-year averaging
  - Special tax break for pre-1974 capital gains

- Possible disadvantages include:
  - Loss of tax deferral
  - Loss of the “stretch”
  - All or a portion of the distribution may be immediately taxable

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Option #5 – Convert it to a Roth IRA

- Possible advantages include:
  - Tax-free distributions in retirement
  - A hedge against rising tax rates
  - No required minimum distributions
  - Broader menu of investment options

- Possible disadvantages include:
  - Create a taxable event and increases income
  - Roth distribution rules *could* change in the future
  - Creditor protection *may* not be as strong
  - Future tax rates could decrease
  - No opportunity to recharacterize

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Option #6 – Make an In-Plan Conversion

- Possible advantages include:
  - Tax-free distributions in retirement
  - A hedge against rising tax rates
  - ERISA creditor protection *may* be maintained
  - Fees may be comparatively low

- Possible disadvantages include:
  - Create a taxable event and increases income
  - Future tax rates could decrease
  - No opportunity to recharacterize
  - Plan Roth accounts are subject to “normal” RMD requirements

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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

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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>

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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!

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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)

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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

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Beneficiary Form Disasters

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

"The Pension Pickle"
New York Post, January 31, 2005

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Failure to Keep Up With the Latest Changes

- What's Changed Recently?
  - No more recharacterizations of Roth IRA conversions
  - Changes to the medical expense 10% early distribution penalty
  - Relief for victims of the California wildfires and hurricanes Irma, Maria and Harvey
  - The elimination of the deduction for IRA investment management fees (when paid with non-IRA funds)
  - New hardship distribution rules
  - An extension of time in which plan loan offsets may be rolled over
  - QCDs have increased importance under the new tax law
  - A litany of new beneficiary form cases
  - **The never-ending saga that is the DOL Fiduciary Rule**
  - And much more!!!

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