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Rollover Rules

Will you be rolling over your 401(k) or other retirement money to an IRA? Or are you planning to transfer your money from one IRA to another? If so, be aware that the IRS has been taking a very hard line on technicalities.

The 60-day rule

If you receive a distribution from your company plan, you have 60 days to roll it over to an IRA. If you miss the deadline, the distribution becomes taxable, and if you are under age 59½, you'll be hit with a 10% penalty, too. The same 60-day rule applies if you choose to move money from one IRA to another.

Escape from the rule

Unfortunately, people (and sometimes even financial institutions) make mistakes. In 2002 Congress directed the IRS to carve out some exceptions to the 60-day rule so as to avoid harsh and inappropriate tax consequences.

Some of the examples in the IRS guidance were very specific – errors made by a financial institution and the inability to complete the rollover as a result of death, disability, postal errors and other similar events. One ruling waived the requirement when an individual deposited a distribution check into a savings account in the mistaken belief that the distribution was an insurance death benefit, and it allowed the “late” contribution to be rolled over without tax or penalty. Similarly, IRS granted relief when a

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How To Avoid Inheritance Fights

In a desire to be fair to everyone, some parents assume that the solution is an equal division of what they own among their offspring. Too many times chaos ensues. Here are the stories of two families with whom we are familiar. They are based upon real situations, but the names are fictitious and some facts slightly altered.

Homefront as war front

Alden left the family home equally to six children. Cassie has lived there her whole life, caring for her widower father and disabled brother. She wants to stay there. Two siblings flew in from across the country for the funeral, almost literally expecting to go home afterward with checks in their pockets from the sale of the house. The other two just want peace in the family.

Did we mention that Cassie is the executor of her father's estate? The battle lines were drawn even before Alden passed on. Cassie doesn't have the funds to buy the others out. The others are half convinced that Cassie's actions over the years prove her incapable of "thinking straight" about the house or handling the division of family assets properly. Everyone is contacting lawyers.

Is it too late? Cassie herself actually does understand that she cannot manage the settlement of her father's estate alone. Her thinking is clearer than her brothers and sisters believe. She has enlisted a corporate fiduciary (in the role of "agent as executor") to handle the administrative and investment responsibilities involved in settling her father's estate. Otherwise, it is too late to satisfy everyone in Alden's family. This story, then, can serve only as an object lesson.

Don't invite them all to dinner

Beatrice made offhand remarks such as these all the time: "You may want the pearls when I'm gone." "The china should stay in the family; it goes back generations." "Dad's matchbook collection reminds me of our best times together." The comments raised expectations about inheritances, and paved the way to conflicts.

Beatrice's will divided her estate "equally" among her four children. The failure to identify who was to get what from a substantial estate that included valuable antiques, works of art, and jewelry (not to mention items of sentimental value) was disastrous, leading to arguments so fierce that one sibling remarked to another, "At least after this is over, we won't have to see each other again."

A more formal approach. There are no simple solutions when it comes to the division of personal property among heirs. Beatrice could have used the annual Christmas gathering to give everyone the opportunity to discuss inheritance preferences. She could then have been the arbiter, with specific will instructions (Suzy gets the pearls; Arthur takes custody of the matchbooks; etc.). Alternatively, they could have come up with a process to resolve conflicts amicably. It also would have been a good time for Beatrice to make "annual exclusion" gifts (up to \$12,000 per child in 2008), removing the gift amounts from her estate and from potential taxation.

A glimmer of hope. Beatrice's sister, unhappy with how things have turned out, has "brokered a deal" with her nieces and nephews. Everyone has agreed to formal appraisals of the most valuable items and informal prices for other pieces.

Prior to a get-together, everyone will receive a complete inventory of Beatrice's possessions (including those with sentimental value). They may hold an "auction," with each of them having "bidding money" that is equal to one-fourth of the value of the appraised items. The winner of each item has its value subtracted from his or her inheritance. (Online auctions are possible when beneficiaries are far-flung.)

Fair Game. Another option that some families consider is to pull numbers from a hat. Number one chooses what he or she wants and then on down the line. After the first round, the order is reversed.

Foolproof? No. But if everyone perceives that the process is fair, who knows? The process of estate settlement could put the heirs on the way to mending some fences, rather than exacerbating divisions. © 2008 M.A. Co. All rights reserved.

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Making Your Retirement Money Last

The fear of outliving one's retirement resources is a reasonable one. After all, advances in medical treatment and healthier lifestyles have resulted in increased life expectancies. For financial security and peace of mind, you will need to know that you will have a steady stream of

retirement income to keep you comfortable for 20 or 30 years – perhaps even longer. At the same time, a longer life span suggests that you need to have funds in reserve to meet any extraordinary expenses that may arise during your lifetime.

What can you do to feel confident that you can meet your goals? Here are a few ideas.

Plan your distributions from your Rollover IRA

A rollover of your distribution from your company plan to an IRA can provide you with a flexible source of retirement income, as well as a reserve for emergencies. You may leave your IRA untouched, or take as much or as little as you need, as the occasion arises, until you reach age 70½, when you must begin making required minimum distributions (RMDs) every year. (This rule is waived in 2009.) But thanks to recent modifications in the RMD rules, your RMDs are less than what was necessary under the old rules, meaning that you can keep more of your assets sheltered from tax for a longer period. At the same time, you may always take out more than your RMDs, giving you the flexibility to meet your income needs or to cover extraordinary expenses when they arise.

The amount that a retiree must take from his or her IRA in any particular year may be determined from the table at the right. For example, at age 71 an individual with a \$100,000 IRA would need to withdraw \$3,774.

Meeting the challenge

To reach a comfort level with your retirement planning is a challenge, but one that need not be faced alone. Calling upon the knowledge and experience of professionals who will listen to your concerns and suggest solutions will help you define and meet your expectations.

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IRA Minimum Distributions

Age	Distribution period (in years)	Percentage distribution	Age	Distribution period (in years)	Percentage distribution
70	27.4	3.6	83	16.3	6.1
71	26.5	3.8	84	15.5	6.5
72	25.6	3.9	85	14.8	6.8
73	24.7	4.0	86	14.1	7.1
74	23.8	4.2	87	13.4	7.5
75	22.9	4.4	88	12.7	7.9
76	22.0	4.5	89	12.0	8.3
77	21.2	4.7	90	11.4	8.8
78	20.3	4.9	91	10.8	9.3
79	19.5	5.1	92	10.2	9.8
80	18.7	5.3	93	9.6	10.4
81	17.9	5.6	94	9.1	11.0
82	17.1	5.8	95	8.6	11.6

Source: Internal Revenue Service; Merrill Anderson Company

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rollover attempt failed because the individual used the wrong form, and the time lapsed for the rollover.

But in the last year or so, the Service has seemed less forgiving. The IRS refused to waive the rule for an individual who received a distribution without any guidance about taxes, withholding and her rollover option from the institution issuing the check. The IRS also refused relief when an individual mistakenly believed that all taxes had been paid on two distributions that he had received and, after learning that more taxes were owed, wanted to do a rollover after the 60-day limit had expired.

“Because the IRS has not been consistent in their rulings,” says Natalie Choate, Esq., a noted retirement planning specialist with the Boston law firm, Nutter McClennen & Fish LLP, “it’s not always clear what leads the IRS to grant or deny a waiver. Lately some of the results have been harsh.”

Avoiding the rule altogether

The 60-day rule needn’t be a concern at all, if you don’t take your retirement money from your company plan or IRA yourself. You simply arrange for a direct or trustee-to-trustee transfer. In both cases, by requesting it, the funds will move from your plan account to an IRA (or from IRA to IRA) without your need to receive the distribution in hand.

When it comes to your company plan, there’s another good reason for a direct transfer to an IRA: no withholding tax. Your employer must withhold 20% of your distribution for taxes, but this withholding is not necessary when the IRA trustee receives the money directly.

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