Why You MUST Check Your IRA (or Plan) Agreements

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Most of the time we are telling you how important it is to check IRA beneficiary forms to be sure they reflect your current planning objectives – such as the stretch IRA. It is also important to check the IRA agreement or an employer's summary plan description (SPD) for the plan.

Why?

Because when we write about the IRA distribution rules, we write about what the tax code allows. An IRA custodian or employer plan can sometimes narrow those choices. They can never allow more than the tax code allows, but in many instances they can offer less.

Most employer plans do not offer a stretch option to a non-spouse beneficiary because they do not have to. However, they do have to allow a named non-spouse beneficiary the ability to do a direct rollover from the inherited plan account to a properly titled inherited IRA (or Roth IRA).

On the IRA side, a custodian does not have to offer a direct transfer option. The custodian could say you either leave it here in an inherited account or we will send a check payable to the beneficiary. The check option is a taxable distribution to a non-spouse beneficiary and the funds cannot be put back into an inherited IRA. A spouse beneficiary could do a 60-day rollover into an account in his or her own name, but only if they have **not** done another 60-day rollover in any other IRA in the previous 365 day period.

Other items to check for are the ability to use a trust as a beneficiary, the ability to use a power of attorney and the ability to disclaim inherited retirement assets. These are all actions allowed in retirement accounts, but IRA custodians and employer plans do not have to allow any of these options. If they are an important part of your estate plan, you better check to see if they will work with the company holding your retirement funds.

Now is the time to find out if you're planning will all work the way you want it to. If an IRA custodian will not accommodate your planning, you can move the account to one who will. If your funds are in an employer plan that will not allow certain aspects of your planning and you are still working there, you will be stuck with the rules of the plan. But at least you know in advance and you can try to plan around the employer plan limits. After your death, it is too late.

- By Beverly DeVeny and Jared Trexler

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