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'Express' deception?

Own an H&R Block IRA? What the lawsuit means for you

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SAN FRANCISCO (MarketWatch) -- More than half a million eager savers signed up for H&R Block's Express IRA product in recent years, and plenty of them are probably wondering how to unravel that decision now.

With its steep fees and low interest rates, H&R Block's retirement-savings product generally depleted account balances instead of building nest eggs, New York Attorney General Eliot Spitzer charged in a lawsuit filed Wednesday.

The product's fees exceeded the interest paid for 85% of Express IRA customers overall, the lawsuit said.

Express IRAs include a \$15 setup fee, a \$15 "recontribution" fee (now discontinued) and a \$25 termination fee (formerly \$75), while the accounts earned interest rates that often hovered at or below 1%, according to the lawsuit. The product's only investment option: a money-market account. "The goal [of the lawsuit] is to make restitution to customers who were harmed," said Juanita Scarlett, a spokeswoman in Spitzer's office.

For its part, H&R Block ([HRB](#)) said that it refutes the lawsuit. "Make no mistake -- we believe in the Express IRA product and are proud of the opportunities it presents for our clients," Mark Ernst, the company's chairman and chief executive, said in a statement.

"At a time when the country's personal savings rate has declined to minus 0.7 percent, we've helped 596,000 of our clients begin saving for their future, and more than 40 percent of them had never saved before," he added.

What should consumers do?

Consumers who currently own an Express IRA may be prompted to close it given the day's headlines, but that may not be the best move.

You might want to wait and see, according to Sarah Ludwig, director of the Neighborhood Economic Development Advocacy Project, a New York-based nonprofit working for fair financial-services access for low-income residents.

"Hopefully, there will be full restitution through the lawsuit, and hopefully people who have one of these will get compensated for the financial harm this has caused them. If you have one of these right now, pay attention to what's happening in the lawsuit," she said.

NEDAP is not a party to the lawsuit, but did participate in the New York attorney general's office press conference on the topic Wednesday.

One important consideration before rushing to close your account: The 10% tax penalty that applies to most premature IRA fund withdrawals; plus, some distributions are taxed at ordinary income-tax rates. One way to avoid that tax hit: Roll your money into another qualified retirement plan.

Another consideration: Interest rates have been rising. The interest rate on the Express IRA's money-market account rose three times in 2005, from 1% to 2.5% by the end of the year. The rate is now 3%, H&R Block said on its Web site.

Before you make a decision based on the headlines, consider your full financial picture and the reasoning you used to justify purchasing the product. For instance, taxpayers at certain income levels enjoy a tax break called a saver's credit.

Still, the lawsuit said, "even taking into account as a 'gain' the tax benefits of opening an IRA, analysis of the accounts opened in 2002 -- the year when the Express IRA was first available nationwide and for which the most data is available -- shows that as of now, about 79% of H&R Block customers who opened accounts in 2002 have lost money."

Fees outweigh benefits

Spitzer's statement offered examples of two New York state residents: A 32-year-old Albany resident with taxable income of \$17,847 made a one-time contribution of \$300 to an Express IRA in 2002. Over four years, the investment earned \$10.29 in interest while incurring \$45 in fees.

A 68-year-old Brooklyn resident with taxable income of \$25,421 made a one-time contribution of \$300 to an Express IRA in 2004. The consumer paid a \$15 account opening fee, a \$10 account maintenance fee, and a \$25 closing fee when the account was closed after 18 months. The account earned \$5.18 in interest.

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