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New York sues H&R Block over money-losing Express IRA

More than half-million customers bought plan

By Samuel Maull
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NEW YORK – The state of New York filed a \$250 million fraud lawsuit against H&R Block yesterday, claiming that the nation's largest tax-preparation service steered more than 500,000 customers into a money-losing retirement account plan.

H&R Block defended the plan and said it would fight to see that it remains available to its clients “who rely on it as a helpful savings option.”

But its shares sank more than 6 percent on news of the lawsuit filed by Attorney General Eliot Spitzer as the tax-preparation season is in full swing.

It was the latest in a series of problems faced by the tax-preparation company, based in Kansas City, Mo.

A number of states, including California, have sued H&R Block over its “refund anticipation loans,” which are high-interest, short-term loans given to taxpayers and repaid out of their tax refunds. The company recently agreed to pay \$62.5 million to settle a number of class-action lawsuits over the loans; other class-action suits are pending.

In February, the company announced that it had to restate earnings for 2005, 2004 and the first two quarters of this year after discovering it had made a mistake in determining its own state income-tax rates.

The latest lawsuit, filed in state Supreme Court in Manhattan, alleges that Block advised clients to buy an “unsuitable, fraudulently marketed, poorly performing, fee-ridden 'retirement vehicle' called the Express IRA” that actually shrinks over time.

The suit said the amount of money placed in a consumer's retirement account decreased because the only investment option was a money-market account with an interest rate so low that it didn't cover the fees. Those charges included a \$15 setup fee, a \$15 “recontribution” fee and a \$10 annual maintenance fee, Spitzer said.

Customers “paid more in fees than they got back in interest,” he said. “They were not told this would happen. This is a violation of state law.”

H&R Block said it will “fight vigorously to defend the Express IRA product and ensure it remains available to

our many clients who rely on it as a helpful savings option.”

“Make no mistake: We believe in the Express IRA product and are proud of the opportunities it presents for our clients,” Chairman and Chief Executive Mark Ernst said.

Spitzer said H&R Block opened more than half a million Express IRA accounts in the past four years. He said 85 percent of customers who opened the accounts paid H&R Block more in fees than they earned in interest.

More than 150,000 customers closed their accounts, incurring additional undisclosed fees and nearly \$6 million in tax penalties, the attorney general said.

But Spitzer said he suspected the “real reason they set up these accounts was that once their clients had these accounts, they would continue to come back to H&R Block to have their taxes done.” He said the company considered the IRA accounts “bait.”

Sarah Ludwig, director of the Neighborhood Economic Development Advocacy Project, said at a news conference that the Express IRA was part of an array of “deceptively marketed, high-cost junk products” aimed at low-income, working-class families.

The state's lawsuit asks that the company be required to stop engaging in any fraudulent practices, be forced to disgorge profits and pay damages and restitution caused by its alleged scheme, and pay civil penalties in an amount no less than \$250 million.

The investigation by the Attorney General's Office was launched in 2005 after it received information from an H&R Block tax preparer.

H&R Block shares fell \$1.37, or 6.2 percent, to close at \$20.63 on the New York Stock Exchange, after sinking to a new 52-week low of \$19.80 earlier in the session.