CHAPTER 9. INDIVIDUAL RETIREMENT ACCOUNTS

Authority

The provisions of this Chapter 9 issued under sections 201 and 202 of the Department of Banking Code (71 P. S. §§ 733-201 and 733-202); section 103(a)(viii) of the Banking Code of 1965 (7 P. S. § 103(a) (viii)); sections 103(a)(8) and 701(a)(22) of the Savings Association Code of 1967 (15 P. S. § 5103(a)(8) and 5701(a)(22)); and section 7 of the Credit Union Act (Rep 1990-198) (15 P. S. § 12307), unless otherwise noted.

Source

The provisions of this Chapter 9 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2361, unless otherwise noted.

§ 9.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Commingle—To invest the funds of different accounts of an institution in a common trust or investment fund.

IRA account—A trust created under the Employee Retirement Income Security Act of 1974 (26 U.S.C.A. § 401 *et seq.*) and amendments to the act, for the exclusive benefit of an individual or the beneficiaries of the individual, or both, which is in accord with the provisions of section 408(a) or (h) of the Internal Revenue Code of 1954 and the regulations of the Internal Revenue Service pertaining to the sections.

Institution—A bank as defined in section 581 of the Internal Revenue Code of 1954, and the regulations of the Internal Revenue Service pertaining to the section, including a savings bank, a savings association and a credit union, but not including a bank the accounts of which are not insured by a department or agency of the United States.

Keogh or *H.R. 10 Plan*—A trust authorized under the act of October 10, 1962, Pub. L. 87-792 76 Stat. 809, for the benefit of a self-employed individual or other participants, which qualifies under the Internal Revenue Code of 1954, exempt from tax under the Code and subject to the regulations of the Internal Revenue Service pertaining to such trusts.

Pool—To combine the funds of different accounts in a single deposit or account.

Trust—A trust or custodial account as those terms are defined in section 408(a) or (h) of the Internal Revenue Code of 1954 and the regulations of the Internal Revenue Service pertaining to such sections.

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§ 9.2. Institutions without fiduciary and other representative powers.

An institution which does not have fiduciary and other representative powers under Chapter 4 of the Banking Code (7 P. S. §§ 401—407) may accept IRA accounts if, under the terms of the instruments creating the accounts, the accounts are savings accounts, share accounts or time deposits with the institution. Such an institution may not commingle an IRA account and may pool IRA accounts subject to the provisions of § 9.4 (relating to rules governing commingling and pooling of IRA accounts).

Cross References

This section cited in 10 Pa. Code § 9.4 (relating to rules governing commingling and pooling of IRA accounts).

§ 9.3. Institutions with fiduciary and other representative powers.

An institution with fiduciary and other representative powers under Chapter 4 of the Banking Code (7 P. S. §§ 401—407) may accept IRA accounts. If an IRA account is accepted by a department of the institution other than its trust department, the instruments creating the account shall establish it as a savings or time deposit with the institution, the account may not be commingled, and the account may be pooled subject to the provisions of § 9.4 (relating to rules governing commingling and pooling of IRA accounts). If an IRA account is accepted by the trust department of an institution, the account may be commingled and pooled subject to the provisions of § 9.4.

Cross References

This section cited in 10 Pa. Code § 9.4 (relating to rules governing commingling and pooling of IRA accounts).

§ 9.4. Rules governing commingling and pooling of IRA accounts.

An IRA account may be commingled or pooled only if permitted under § 9.2 or § 9.3 (relating to institutions without fiduciary and other representative powers; and institutions with fiduciary and other representative powers), and only to the extent the commingling or pooling is permitted by the instruments creating the account, laws applicable to the account, and the applicable rules and regulations of the Internal Revenue Service and the department or agency of the United States which insures the account. Any such commingling by an institution shall also be subject to Chapter 15 (relating to trusts) to the extent that the requirements of Chapter 15 do not conflict with the requirements of the applicable Federal laws and the applicable rules and regulations of the Internal Revenue Service and the department or agency of the United States which insures the IRA

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accounts of the institution. An IRA account may be commingled by an institution only in a common trust or investment fund administered by the trust department of the institution which qualifies for exemption from tax under Internal Revenue Rulings and the Internal Revenue Code and which consists of pension, retirement and profit-sharing funds. Under no circumstances may an IRA account be pooled by an institution except in a time deposit administered by the institution which consists entirely of the funds from IRA accounts administered by the institution; nor may an IRA account be pooled by an institution which has both a commercial and a trust department except with other IRA accounts administered by the same department which administers the IRA account.

Source

The provisions of this § 9.4 amended July 30, 1976, effective July 31, 1976, 6 Pa.B. 1790. Immediately preceding text appears at serial page (23459).

Cross References

This section cited in 10 Pa. Code § 9.2 (relating to institutions without fiduciary and other representative powers); and 10 Pa. Code § 9.3 (relating to institutions with fiduciary and other representative powers).

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