

# Real Investments for a Secure Future

*How & Why to Use IRA Funds for Real Estate Investments*



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IMPORTANT: Information presented here is provided only as a general resource. It is not intended to provide tax or legal advice for specific facts or particular circumstances. IRAs are very complex with potential for serious tax implications. It is recommended you seek the advice of a certified tax professional or a lawyer before taking action



# WHAT is a SELF-DIRECTED IRA?

Self-Directed” is not a legally defined term, but an industry term for an account that allows the account holder to choose his or her own investments.

It is an IRA that can accommodate Real Estate related investments along with a virtually unlimited list of other asset types.



# BACK TO BASICS

Since 1974 it has been possible for your IRA and other qualified accounts to own Real Estate whether dirt, rental house, office building or apartments. There are few if any investments that have consistently proven more powerful or dependable than Real Estate!

## Opportunities

- ◆ More than \$8 trillion in buying power
- ◆ Real Estate is a great hedge against inflation - Tangible Assets
- ◆ Buy and sell the property that you want, when you want! No time constraints
- ◆ If the investments are made using a ROTH there will never be a tax!
- ◆ Invest in What YOU Know
- ◆ Leverage Your IRA





# HOW ARE SELF-DIRECTED IRA's CREATED?

**By rolling or transferring funds from previous employer-sponsored plans**

401(k)S

Profit Sharing

457 Plans

403(b)s

Defined Benefit

Any qualified Plan

A 401(k) plan from a past employer can be rolled into a new IRA or other plan.

Funds that are in an active 401(k) with a current employer typically cannot be utilized unless the plan allows true self-direction.

Employees that are 59.5 years old or older are typically allowed an “in-service” distribution that allows funds in an active plan to be rolled over into a new plan without penalty

**All IRAs can be self-directed.**





# POSSIBLE INVESTMENTS

***If an investment is not specifically disallowed, it is allowed...***

***ANYTHING but the following:***

Collectibles

Life Insurance Contracts

Stock in a Sub-Chapter "S" Corporation

You name it, and an IRA can probably purchase it.

**Any purchase simply must be for investment purposes.**

# WHAT REAL ESTATE QUALIFIES?

## YES

- ◆ Rental Houses
- ◆ Apartment Buildings
- ◆ Office Buildings
- ◆ Retail Centers
- ◆ Land
- ◆ Any Real Property to be held for Investment...
- ◆ A Future Retirement Home?



## NO

- ◆ Primary Residence
- ◆ Second Home
- ◆ Home for a disqualified party
- ◆ Office Building to be used by a DQ



# “DISQUALIFIED PARTIES”

The IRA is established for the exclusive benefit of the individual so no “self dealing” or dealing with disqualified parties.

## **Disqualified Parties Include the Following:**

- ◆ Individual-members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant)
- ◆ The manager of your IRA, investment advisor to your IRA, or person with discretionary authority over IRA.
- ◆ Other legal entities you own a controlling interest in.



# PROHIBITED TRANSACTIONS

## Examples of prohibited transactions

- ◆ Borrowing money from your IRA
- ◆ Selling property to your IRA
- ◆ Unreasonable compensation for management
- ◆ Using your IRA as a security for a loan
- ◆ Buying property for personal use



**Generally, a prohibited transaction in connection with a traditional IRA account at any time during a year results in the dissolution of the IRA as of the first day of that year.**

# CAN AN IRA GET A MORTGAGE?

**When shopping for a loan consider the following:**

- ◆ The loan **MUST** be **NON-RECOURSE** (i.e., the IRA owner cannot guarantee the loan personally)
- ◆ A disqualified party cannot guarantee a loan for an IRA
- ◆ You pay tax on any income or capital gains derived from leverage\* (UBIT)

\*Self-directed 401(k) accounts are not subject to UBIT





# ESTABLISHING A *BASIC* SELF-DIRECTED IRA

A basic self-directed IRA can be created by rolling or transferring funds from previous employer-sponsored plans or any IRA. The accounts must simply be moved to a “self-directed” custodian.

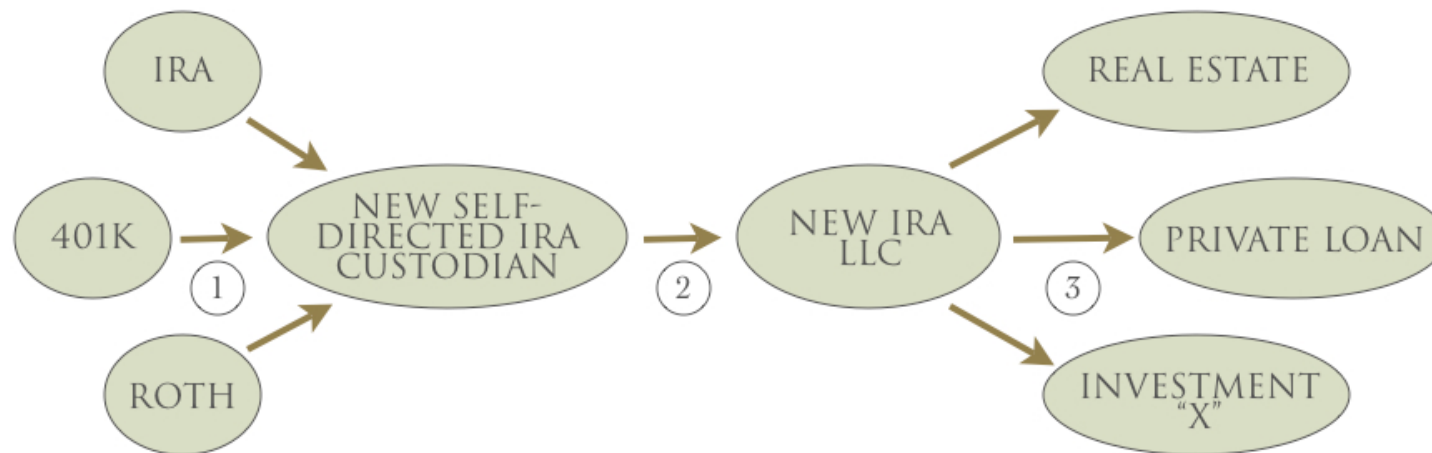
Follow these easy steps:

1. Fill out application for a self-directed custodial account.
2. Establish the new self-directed custodial account.
3. Request the transfer of your retirement account to the new custodian.

A new investment is made by submitting the potential investment to the custodian. Upon custodial approval the investment will be made. Investment approval is based upon the investment’s qualification, not it’s quality.

# ESTABLISHING A “CHECKBOOK IRA LLC”

The IRA LLC (Derived from legal tax case in 1996: Swanson v. Commissioner.)



- ① Your IRA funds are transferred to a “self-directed” custodian.
- ② IRA Advantage creates a new LLC with checkbook control of your IRA account.
- ③ Simply write checks for your retirement investments.



# BUYING THE PROPERTY - *Basic SD IRA*

1. Find the desired investment and negotiate the purchase. The purchase agreement should be written between the seller and the IRA. Earnest money, inspections, etc. all must be paid by the IRA or other non-disqualified party.
2. The offer should contain a contingency stating the purchase is subject to the Custodian's approval.
3. If financing is necessary the loan must be to the IRA and non recourse to the IRA's owner.
4. Close purchase in Custodian's name fbo IRA owner's account.





# BUYING THE PROPERTY - *Checkbook IRA*

1. Find the desired investment and negotiate the purchase. The purchase agreement should be written between the seller and the IRA's new LLC. Earnest money, inspections, etc. can all be paid simply with checks from the IRA LLC's checking account.
2. If financing is necessary the loan must be to the IRA LLC and non-recourse to the IRA's owner.
3. Use the IRA LLC's checking account to write the check for the purchase of the new investment. It's that simple!



# SPECIAL CONTINGENCIES

1. If a basic Self-directed is being used it is essential to include a contingency stating the purchase is subject to the IRA Custodian's approval
2. If financing is necessary the loan must be a non-recourse IRA compliant loan and therefore there should be a contingency stating the purchase is subject to buyer securing such a loan.
3. Establishing an account takes two to four weeks, ask for the time necessary to establish the account and/or fund earnest money and the purchase.



# HOLDING THE PROPERTY

## **Plan Ahead**

When using an IRA for real estate investments planning is essential. Ensure the success of your investment by maintaining adequate reserves to cover all holding costs and any potential emergencies.

The investment is not your's, it is your plan's and therefore all income and expenses are the plan's.



# SELLING THE PROPERTY

1. List property as you normally would. The listing agreement is between the broker and IRA or IRA LLC..
2. Negotiate the sale as usual. If repairs are necessary the expenses can be withheld at settlement or they must be paid by the IRA or IRA LLC.
3. The sale proceeds go to the IRA or IRA LLC and are deposited in the IRA LLC's checking account if a Checkbook IRA is being used.
4. Get ready for the next investment!

# How About a Solo 401(k)?

If you are a small business owner or self-employed individual without any employees other than a spouse you should consider a Solo 401(k) plan.

You can be the Trustee of the plan. Making investments is as simple as investing with a Checkbook IRA though without the need of a custodian and with a variety of advantages...

Consider the following advantages a Solo(k) offers over any IRA:

- ◆ Can make ROTH contributions
- ◆ Increased annual contributions
- ◆ No UBIT on leveraged Real Estate
- ◆ No Custodian required
- ◆ Can invest in Life Insurance and "S" Corporation stock
- ◆ Borrow 50% of the 401(k)'s value up to \$50,000



Is there a Downside?

- ◆ A 5500EZ needs to be filed if the total assets exceed \$250,000
- ◆ There are some administration costs



# OPPORTUNITY #1

## **Opportunity:**

IRA Owner would like to diversify his retirement account's holdings by adding real estate. He has a friend that has a subdivision near the beach and he needs to make some deals... Lots are available for \$60k.

## **Solution:**

The IRA Owner decides he can both help his friend and make a great investment by acquiring a lot. The IRA Owner is confident in the property's future value and would like to make the acquisition.

A new Checkbook IRA is formed and funded with \$100k. The LLC made the acquisition of the property for \$60k and will hold it until the desired return has been met.

This investor is now funding a fractional investment in student housing in Boise.



# OPPORTUNITY #2

## **Opportunity:**

IRA Owner would like to diversify her retirement account's holdings by investing in Real Estate. She is a Real Estate broker and wants to be able to use the knowledge she has gained through her years of experience to take advantage of today's market.

## **Solution:**

The IRA Owner decides a Checkbook IRA is the vehicle of choice and she finds her first investment; a home that is currently not able to be financed since the current owner had run into financial difficulties. She purchases the home for roughly \$120k cash and plans to complete the home.

After finishing the bathrooms and kitchen she places the property back on the market where she quickly closes a sale for a \$150k profit!

*The IRA Investor then wrote a check back to the original owner for almost \$50k making good on an earlier promise!*



# OPPORTUNITY #3

## Opportunity

An investor is referred in to convert his \$1M+ IRA to acquire a mobile home park. While discussing the process he is happy to have the opportunity made available. The following day a call is received and the IRA owner asks whether it is possible to buy notes.

He is able to acquire first position notes paying 11% on \$70k properties at 50% LTV. The properties had previously been worth \$200k.

## Solution

The IRA owner has a new IRA-LLC created and acquires the first note. As a retiree, the notes and their relief from the “terrible T’s” of investment property ownership provide a very attractive alternative to property ownership.

Confident in his past experience with the note provider, the investor is excited about his new source of investment capital for this proven investment.





# OPPORTUNITY #4

## **Opportunity:**

The current economic market makes a real estate investment available in raw land.

IRA owner would like to acquire 8 building lots and sell them to an investment company that will later buy them to be developed and sold. The investor would like to be part of the development company.

## **Solution:**

The IRA owner has his new IRA-LLC created and negotiates the purchase of the building lots. After the acquisition is made, the IRA-LLC negotiates a sale of two lots to the Development Company that the IRA owner is 1/6th owner of. After building and selling the properties, the next two are purchased from the IRA-LLC.



# OPPORTUNITY #5

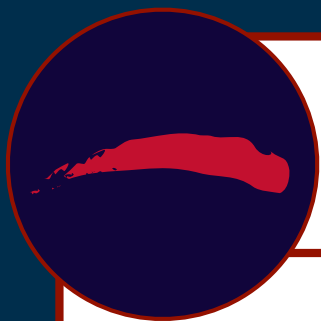
## **Opportunity**

A mobile home/RV park is available and the investors would like to acquire the park using their IRAs. They would also ideally like to manage the park while living in the manager's quarters and receive compensation.

## **Solution:**

Since IRAs prohibit any benefit to a prohibited party and the account owners are clearly prohibited parties an IRA will not work. The solution was a "Roll Over Business Startup" (ROBS). A new 401(k) plan was created along with a new C-Corporation. The plan bought the shares of the C-Corporation which then bought the Mobile Home Park.

The investors were then employed by the new Corporation.



# THE IRA INVESTOR'S CHECKLIST

**When using retirement accounts for a purchase it is essential to remember the item purchased must be an investment and that no personal benefit can be realized until future IRA distributions are taken.**

- ◆ Plan Ahead! It takes two to four weeks to establish your self-directed IRA.
- ◆ You can purchase all types of property with an IRA, SEP/IRA or Roth IRA
- ◆ You can purchase WITH family members and friends
- ◆ You CANNOT purchase FROM or FOR family members
- ◆ Your IRA Cannot sell to you or any other disqualified party
- ◆ You CAN use an IRA to buy a property with a mortgage
- ◆ Negotiate from the deal's inception in the IRA's or IRA LLC's name.
- ◆ Do not over extend! Plan on keeping a nice cushion of reserves.



**Real Estate is *REAL* Investment!**



# OPPORTUNITIES & SOLUTIONS

## **Self-directed Retirement Accounts**

IRA Advantage, LLC

<http://www.IRAadvantage.net>

## **1031 Exchange Services**

Equity Advantage, Incorporated

<http://www.1031exchange.com>

## **Property Listings / Haves & Wants**

<http://www.post1031.com>



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