

Using Your IRA to Buy Real Estate

NOTE: This publication is intended for educational purposes only. It is not, and cannot be relied on as, a legal opinion for the subjects discussed.

by Jeff Reed

What Is an IRA-LLCSM (ICOSM), and What Are Its Benefits?

An IRA-LLC, referred to after this as “ICO”, is a special purpose limited liability company, which is either fully or partially owned by an individual retirement account (IRA). (The term “ICO” is a contraction of the phrase: *IRA limited liability company*.)

Since the IRA owns the ICO, IRA funds can be legally transferred to the ICO in exchange for member units (shares) of the ICO. After this funding, both traditional and non-traditional investments may be purchased by the ICO instead of directly in the IRA. Then either you or someone else you choose as manager of the ICO has direct control over those investments. Ultimately all the ICO value will flow back to your IRA as part of your normal IRA retirement nest egg.

Here are the powerful ICO benefits:

1. Very few IRA custodians permit direct ownership of real estate or other non-traditional investments in an IRA, so indirect investment via the ICO is usually the only choice.
2. When an ICO sells real estate or other investments, the capital gains are deferred through the IRA, like any other IRA investment. **The headaches of 1031 exchanges are never necessary.**
3. Ownership of the property in an ICO allows you, as manager, to have direct, hands-on control of and investment decisions over ICO assets, *including control of the checkbook*. Custodian involvement and hassles are eliminated, regardless of whether the investments are in securities, real estate or other assets.
4. An ICO can use its IRA funding as a down payment for a real estate purchase, with the ICO financing or borrowing the balance. But an IRA cannot directly participate in such a financing arrangement.
5. Since you control and handle all ICO transactions, the custodian fees for the self directed IRA will be a modest, flat fee, typically under \$200 per year.
6. Litigation threats which accompany investments such as real estate are substantially reduced. This is done by isolating the investment inside the ICO, and away from the rest of your IRA funds and estate.

What May IRAs Legally Invest In?

According to the IRS the only investments which an IRA may not own are insurance contracts and certain collectibles (see IRS publication 590). So except for these two investments, nothing

else is prohibited for IRAs. This means that it always has been legal to hold non-traditional investments in an IRA, including real estate.

Here is a list of investments which are perfectly legal to be owned through an IRA, and ***therefore in your ICO:***

- Securities. This includes publicly traded stocks, bonds and mutual funds.
- Private Placements. This includes ownership interests in privately held businesses and business entities. (Note that certain private placements will generate taxable income to the IRA.)
- Bullion (precious metals) and Bullion Type Coins. IRS Publication 590 provides a complete list of these allowed investments.
- Real Estate. The types of real property which may be legally owned and rented out by an ICO include: Single family and multi-unit homes, apartment buildings, co-ops, condominiums, commercial property, improved or unimproved land.
- Loans. Trust deeds (real estate mortgages) and conventional loans made or invested in by the ICO. Loans may be made to individuals, organizations and businesses. (Note, however, that loans cannot be made to “related parties”.)
- Miscellaneous. Other investment worthy choices for ICOs include: Mobile homes, race horses, tax liens, airplanes, mineral rights, oil wells, etc.

Regardless of the investment choice, traditional securities or non-traditional, an ICO makes it much easier to personally administer the investments for those who wish to have that flexibility and control.

The tax strategies that Mr. Reed utilizes are private annuity trusts (PAT), Self Directed IRAs via a LLC, and 1031 exchanges. For more information, contact Jeff Reed at (949) 713-4970 or email jeffreed@nafep.com. This publication is intended for educational purposes only. It is not and cannot be relied on as a legal opinion for the subjects discussed. © NAFEP, 1999-2005 • All Rights Reserved. Salt Lake City, Utah.