



## The LLC Option To Control Your True, **Self-Directed IRA**

by Doyle Weaver

In my last article, I introduced readers to the idea of using a self-directed individual retirement arrangement (IRA) to broaden their retirement options. Using a self-directed IRA is an idea new to most readers, so in this article, I want to discuss some practical aspects of this retirement and investment strategy. First, I will discuss the difference between a typical and so-called self-directed IRA account and a true, self-directed IRA account. Then, I will discuss a popular option of using a limited liability company (LLC) in conjunction with a true, self-directed IRA.

A true, self-directed IRA custodian is an IRA custodian that allows you to choose your own investments. Now, it is true your current IRA custodian may allow you to choose your own investments, that is between an "Alpha Fund" and a "Beta Fund," but that is not true, self-direction. With a true, self-directed IRA custodian, you can invest in not only stocks and mutual funds, but also, real estate, businesses, notes, and just about anything else that interests you. You only have to avoid certain "prohibited transactions." In general, a prohibited transaction occurs when you use IRA money to benefit yourself, or a close relative, instead of your IRA account. The Internal Revenue Code (IRC) also particularly prohibits you from investing IRA funds in collectibles, life insurance, and sub "S" corporate stock.

It is easy to convert your current IRA account to a self-directed IRA account using a true, self-directed custodian like Pensco, Sterling Trust, Equity Trust, Entrust, or Sunwest Trust, just to name a few of the most popular ones. Once converted, the self-directed custodian will actually do the investing for you, at your direction, and hold all the acquired assets in the IRA fund's name, for your benefit. You simply direct your custodian to make the investments you want with your IRA funds. The custodian needs to be paid for its time so this investment procedure can be time-consuming and costly, with routine transaction fees.

To save costs and gain even more control, there is another additional option you may want to consider. Set up an IRA limited liability company (LLC). Make your IRA fund the sole member of the LLC, and yourself as the manager of the LLC. Once your specialized LLC is formed, direct your custodian to invest your IRA funds in the IRA LLC. You now have direct control of the IRA investment funds and need not filter every transaction through the custodian. Now, you can write the investment checks yourself. Using a LLC, eliminates the custodian's oversight and transaction costs.

Not so fast though. The IRA LLC is a specialized LLC in that it requires a specialized operating agreement. If the operating agreement is drafted correctly, courts will respect your limited personal liability and the IRS and Department of Labor (DOL) will respect your intentions to use the LLC to make IRA investments. Beware of using a standard LLC operating agreement or even some of the "canned" internet versions of so-called IRA LLC operating agreements. Your LLC operating agreement should be written and scrutinized by competent legal counsel knowledgeable about prohibited transactions and in particular, IRC Sections 408 and 4975.

True, self-directed IRA accounts and

IRA LLC's are not for everyone, but they are options you need to know about so you can make the right investment decisions for yourself and your future retirement. Use due diligence and seek out professional legal, accounting, and investment advice before proceeding with setting up a self-directed IRA or IRA LLC.

*The content of this article is not intended to create an attorney/client relationship between the reader and this author nor is it intended as specific tax, legal, investment or other advice concerning the reader's particular fact situation.*

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