

## Congratulations on receiving your copy of “Check Book IRA”.

You've taken the first step to having **check book control** and *iron clad asset protection* for your IRA retirement account. Inside you will be able to research in depth the concept of IRAs and find out the exactly what you can and can't invest your IRA money in. The more you research this subject, the more *amazed* you will become to discover how flexible the IRS tax code is in regards to investing and how *exposed* your IRA is to creditors due to a recent US Supreme Court ruling.

The **Check Book IRA-LLC** will provide you much needed Asset Protection as well as enormous freedom in your investment choices. You can invest in:

*all types of real estate (commercial, residential, bare land), real estate options, tax liens, mortgages and deeds of trust, businesses, all types of loans (including personal and hard money loans), stocks, bonds, CD's, call and put options, foreign investments, joint ventures, LLP's, trusts, partnerships, IPO's corporations, bridge financing, plus many other investments.*

**How?** Simply by ripping a check out of the check book and signing it!

Many have been told they were limited to stocks, bonds, mutual funds and CD's. Have you been told by your stock broker or custodian that your IRA could NOT invest in real estate, for example? But is it true?

**The New York Times recently said** “*Real estate has always been permitted in IRAs, but few people seemed to know about this option-until the stock market began to decline. Financial Institutions, meanwhile, **had little incentive** to recommend something other than stocks, bonds or mutual funds.*” (See Appendix 1 for full article)

Why “*little incentive*”? You make money from real estate but they don't.

**The IRS makes the following statement on their website**

“.....because of administrative burdens, many IRA trustees do not allow IRA owners to invest IRA funds in real estate. *IRA law does not prohibit investing in real estate but trustees are not required to offer real estate as an option.*” (Emphasis added)

In fact, there are but two things Congress said your IRA can not invest in,

*Collectibles and Life Insurance.* Also you can not have any “self dealings”, which means you or your immediate family can not borrow from or loan to or enjoy the immediate benefit of your IRA. However you will see and read in the FAQ section about dozens of “exemptions” to these restrictions granted by the Department of Labor. (One allowed the IRA owner to buy his home mortgage.)

It’s exciting to know that you are about to have the ability to diversify your investments and perhaps for the first time invest in what ever it is that you know about the most. Soon when investment opportunities present themselves all you’ll have to do is rip a check out and sign it. And, as an enormous added benefit, your IRA will be much more secure from lawsuits with your IRA-LLC providing you **strong asset protection**.

What this manual represents is a teaching tool, for there is much to unlearn. We feel confident that by the time you reach the end of this manual and research our website you will want to let us help you begin the process leading to solid asset protection and check book control over your retirement. Let’s get started.

### **WHY YOU NEED THIS MORE THAN EVER**

The fact that you have a retirement account proves that you have worked hard, taken charge of your life and probably have some expertise in one or more areas. But 97% of all IRAs are in the control of custodians/brokers that decide for you what your IRA should invest in. Here’s a quote from one ad for brokerage firm, “*We make all the investment decisions for you*”. Wow, you work your whole life to build up a nest egg and a stranger makes all your investment decisions. Don’t get me wrong I have stocks too and some brokers are awesome. However they can’t know everything about a company or their management. What do you know about the companies your IRA is invested in? Recently a CEO of a publicly traded company admitted at his trial to using \$6,000 of stockholder’s money to buy a shower curtain. In yet another trial a CEO from a different company confessed to having the stockholders of the company unknowingly pick up the tab on a million dollar birthday bash for his wife. There have been numerous fines and settlements dealing with investment firms recommending stocks and funds to clients as good investments but **secretly were paid** by those same firms to recommend their stock! Getting paid from them and you! No wonder they have “*little incentive*” to recommend real estate. Finally, how well has your portfolio done over the last few years? Perhaps it’s time to diversify and put some funds in projects over which you have knowledge and control.

### **INVEST IN WHAT YOU KNOW**

Do you have an area of expertise? Although I have investments in the stock market, through out my career I have purchased and remodeled 50+ homes. I think I have a good understanding of real estate! A couple of months ago there was a property that was valued at \$80,000 and the owners needed a \$55,000

loan. By making the loan I was able to get 12% interest plus 2 points while holding the first mortgage. The borrower didn't have much of a credit record but I felt the property provided plenty of security. As a one year loan, I'll make 14% and best of all it's safe. If **real estate** happened to be your area of expertise, **Check Book IRA** would enable you to negotiate the deal and instantly write a check. The point is you can take control and, if need be, act quickly. Perhaps someone is starting a **new business** in a field in which you have knowledge and experience. You may feel it will succeed and would like to get in on the ground level. You could **make a loan** to them or be a partner with your new IRA. **Day traders** can trade call or put options. With the Check Book IRA you can have a checking account for all types of investments AND open one or more brokerage accounts for trading. You can trade online and take advantage of lower commissions.

### **NEEDED ASSET PROTECTION**

The only thing worse than not making any return on your IRA is losing it through a lawsuit. Many, like doctors and such, are in high risk professions, but is anyone safe from lawsuits? How about being sued because your coffee is hot? Consider the now famous McDonald's lawsuit concerning a lady spilling hot coffee on her lap after leaving the drive through. You'd think, since she was in her 60's, that she'd know by now that coffee is generally hot. However, the jury found McDonald's not only guilty of serving hot coffee but ruled that she had suffered enough to be awarded **millions!** My wife's hair dryer has a tag on it warning "DO NOT USE IN SHOWER". There's no commonsense.

***Is your IRA safe from lawsuits?*** The US Supreme court ruled that a court could decide how much of your IRA you get to keep in the event you lose a lawsuit and your creditor is allowed access to your IRA assets.

In California a state statute says:

*"an IRA is exempt only to the extent necessary to provide for the **support** of the judgment debtor and his dependents when the judgment debtor retires, taking into account all resources that are likely to be available at the time of retirement."*

*This was all made possible by a recent US Supreme Court ruling.*

Our **Check Book IRA** could help prevent you from losing your hard earned retirement. I have read articles indicating that the average successful person is sued between four and seven times during his or her life. There are nearly One Million lawyers in America and many of them earn a living by suing people or defending people who are sued.

With our **Check Book IRA** you can make instant investments and sleep comfortably at night knowing it provides **powerful** LLC asset protection.

**HOW AND WHY IT WORKS. *The IRA-LLC***

This is the key that makes the **Check Book IRA** so powerful. First we move your IRA to a Self-Directed Custodian, one with no investments to sell you. Our attorneys help the IRA form and own a special customized LLC (limited liability company). **YOU** are named as the manager and have the sole signature authority. The LLC is a legal entity that has powers and protections that are not possessed by any individual or by any regular IRA.

It is the *combination* of the self-directed IRA custodian and our special LLC that yields such beneficial results. This is an entirely new type of LLC. It is started, created and owned entirely by your IRA. An LLC that is designed *specifically* for an IRA, that respects IRS and Department of Labor codes governing IRAs. The legality of an IRA owning an LLC was affirmed in the case Swanson vs. The Commissioner in 1996. In fact the case for the IRS was deemed so weak that the Tax Court forced the IRS to pay the \$50,000 court costs incurred by the IRA owners.

**Please note that an IRA owned LLC is very different than a regular LLC. One of the lessons learned from the Swanson case was the LLC must contain very specific language that meets all IRA codes and requirements, and that satisfies the Department of Labor (DOL) and all rules must be strictly followed.**

***If the LLC is improperly drafted, the entire LLC IRA may be disqualified and taxed.***

Needless to say, you do not want this to happen! Not to worry, we will handle this transaction from start to finish to make sure it is done according to all the rules and guidelines.

**WHY AN LLC**

An LLC (*Limited Liability Company*) is a business entity that is a cross between a corporation and a partnership. The LLC gives the liability protection of a corporation, that is to say, even if you own all of the LLC, you will not be liable for the LLC's debts. At the same time it can be taxed as a partnership. This is favorable as the LLC itself will not pay any taxes, rather, it will be the owner's of the LLC that pay the taxes. The owner's tax bill will be determined as if they were the ones who earned the money, NOT the LLC. In short, an LLC is a separate legal entity whose tax liability passes through to the owners of the LLC even though the funds might, at the manager's discretion, remain in the LLC. In this case the **sole owner of the LLC will be your IRA** and you or whomever you appoint are the Manager. As a result of this strategy no taxes will be owed on the profits generated in the LLC, using your **Check Book IRA**, unless you elect a distribution from the plan or if you use leverage in buying real estate.

## ASSET PROTECTION OF AN LLC

In addition to offering check book control over the widest choice of investments ever, the IRA-LLC offers much stronger asset protection from judgments and creditors than is offered by any other IRA. The assets in the LLC are protected by all of the IRA laws and are also protected by LLC laws and statutes. Your IRA funds are now in an LLC bank account, your stocks in an LLC broker account, and any other investments are titled in the name of the LLC. You are the manager of the LLC and the owner is the IRA.

The LLC give tremendous asset protection to those assets held inside the LLC (**the only asset** in the IRA is the ownership of the LLC). This is because under the law you, your IRA and the LLC are all viewed as separate legal entities. Under most state laws, if someone were to win a lawsuit against the owner of an LLC, they could not take away the assets inside the LLC from the LLC owner, which in this case is your IRA. What they could receive is a “charging order” against the LLC.

**A charging order** doesn't give the individual full rights over the LLC, actually their rights are very limited. You, the IRA owner would still maintain full management of the LLC and all of it's investments. The most they would have rights to would be any distributions made, but it's strictly up to the manager whether to make any distributions. What if the LLC made \$50,000 in profits that year and you decided to keep it all in the LLC and reinvest. The individual holding the charging order would owe the IRS the tax on that profit since LLC are “flow through” entities. The fact that no funds were distributed or left the LLC makes no difference to the IRS. This wasn't a problem for the owner of the LLC because it's your IRA, which is a tax free entity. But the person holding the charging order is now liable for the taxes each year. Who would want to pay taxes on the profits that may not be distributed for years? Ask any attorney and they will tell you it is almost never worth it to sue an LLC. You can have **great protection** against sue happy lawyers and have **check book control**.

## STEPS TO HAVING CHECK BOOK CONTROL

1. Once you decide to have Check book control we provide you a few forms to sign and we do the rest. We have our staff set up an IRA account with an IRS approved *Self-Directed Custodian*. We then have them contact your old custodian and transfer your IRA to this new Custodian. All or part of your IRA can be moved as well as other retirement plans. We have several leading Self-Directed Custodians from which to choose.

Our attorneys and staff do all the paperwork for you. Because the IRS rules are followed this “roll over” is not a taxable event. Other types of plans may be combined with your IRA into one Check Book IRA if you wish.

2. Next a *special LLC* naming your new Self-Directed IRA as LLC **owner** is

formed. It is very important that it is done correctly. The special Operating Agreement and Subscription Agreement are the key and must be worded precisely. It names your IRA as the sole owner and **you as the manager**. You will have total control. Again we stress this is NOT an ordinary LLC. Ours was put together by one of the best tax attorneys in the country.

Simply put, in the past your IRA may have owned stock in Wal-Mart or GM but it now owns stock in an LLC. In fact it owns **all** of the stock or units. You are the manager but *can not* take any compensation or have any self dealings with it without an exemption from the Department of Labor (DOL).

3. We then fill out an SS-4 form and apply to the IRS for an EIN number for the LLC's bank account.
4. You simply open a bank account where ever you wish and the funds are sent from your IRA to the LLC bank account. You are now ready to invest with all the assets held by the LLC totally protected! You may now open a brokerage account if you wish.

Custodial fees are much lower because the IRA only has one asset, the LLC.

From start to finish it will take between 3 and 4 weeks for you to be up and running. We do all the paperwork with the custodians, IRS, state offices and pay all the fees. This process must be done correctly and we have the experience and knowledge to get you on your way to making the kinds of investments that will allow you to enjoy the retirement of which you've been dreaming.

So far we've discussed how the **Check Book IRA** will allow you to invest in a **myriad of investments** with your IRA-LLC, have **instant control** as manager of that LLC and receive excellent **asset protection** from potential lawsuits.

You're probably wondering why haven't I heard of this before. Why didn't my broker, banker and possibly my accountant advise me of this? You've got lots of questions. We have put together a FAQ sheet. If you have any additional questions please **call us at 541-420-6302 or for more information visit us at [www.CheckBookIRA.com](http://www.CheckBookIRA.com)** and we will show you how we can set you up with minimum effort and expense on your part.

You then will be on your way to **Asset Protection** and **Check Book control** of *your* Retirement!

## **FAQ ABOUT SELF DIRECTED REAL ESTATE IRAs**

### **What is a Self-Directed IRA Custodian?**

A self-directed IRA custodian is approved by the IRS but **you** are allowed to direct the investments of the IRA. Many custodians claim that they allow you to self-direct your IRA investments but then only let you invest in to what they offer. A truly self-directed IRA allows **you** to make the decisions without restriction.

### **What is a Check Book IRA?**

It is a step further towards putting **you** in full control of your IRA. You don't have to go to your custodian to get approval of the investment and get a check written. You truly have a self-directed IRA because you have checkbook control as the manager of your IRA owned special LLC.

### **What can I invest in if I have a Check Book IRA?**

Your IRA-LLC can make any investment a regular LLC can invest in as long as you stay away from Insurance contracts and collectibles. Also you may not have any "self dealings" without a DOL exemption.

### **Wouldn't you love to have the option to invest your IRA in:**

Residential Real Estate	Commercial Real Estate
Raw Land	Trust Deeds / Mortgages
Private Notes and Loans	Private Stock Offerings
Limited Liability Companies (LLC)	Limited Partnerships (LPs)
Tax Certificates	Receivables
Stocks, Bonds, Mutual Funds	Annuities
Options	Currency
Futures	Commercial Paper
IPO's	And <b>MANY</b> other investments!
Auto loans/paper	

### **What types of retirement accounts can be moved into Check Book IRA accounts?**

Traditional IRAs	Sep IRAs
Roth IRAs	401(k)s
403(b)s	Keoghs
Qualified Annuities	Profit Sharing Plans
Government Eligible Deferred Compensation Plans	
Coverdell Education Savings (ESA)	
Money Purchase Plans	

### **Is this new?**

No. These investments have been allowed by the IRS for 30 years.

**Why haven't I heard of this before?**

*Who would tell you?* Your stock broker? They will only let you invest your IRA in investments that their firm offers. At a bank you may be limited to CDs while at a brokerage firm you will be limited to stocks, bonds and mutual funds. As a consequence, and unfortunately for many investors, it has been a well kept secret that they have other options for their IRAs. The traditional investment community has had control of over 97% percent of retirement accounts, and they have been making a great living off your accounts. Why would they want to let you know of alternatives that they wouldn't benefit from?

As investors have become more disillusioned and frustrated with traditional investment choices, they have begun looking for alternatives. After the steep stock market decline, corporate scandals and corruption (e.g. Enron, ImClone, Worldcom) and many investors seeing their retirement accounts cut in half, they are ready to take control of their own investments. They often want more tangible investments such as Real Estate.

However, when they ask their current custodians / brokers, they are typically told that such investments are illegal, too complicated or that it can't be done. But those are ignorant and self-serving responses. Although those custodians / brokers may not allow it, it can be done. It is just likely you can't do it through your current custodian. They would financially suffer if you make a move so they aren't going to tell you about it.

**How are custodians different from each other?**

The government allows certain institutions to handle the accounting and reporting of IRAs. They must ALL follow the same rules and guidelines. Under the law, **all custodians** can allow you to invest your IRA in the same types of investments (stocks, bonds, real estate, notes, tax liens, etc.). However, the majority of custodians have made the decision to restrict the types of investments you can make. This is not based upon law, but it is based upon what the custodian wants to offer. However, there are a handful of custodians, called "Self Directing" who allow non-traditional investments.

**Do I get complete control?**

Having a self-directed IRA custodian is **one step** toward obtaining complete control. When an account is established with a self-directed custodian, you are still required to get permission from the custodian before making each investment. This is time consuming, cumbersome and more expensive than it needs to be. To obtain a truly self-directed retirement account you need the **CHECK BOOK IRA LLC**. This is the structure that gives you checkbook control.

With the **CHECK BOOK IRA LLC** your IRA makes one investment, it owns the LLC. After that it is the LLC that makes all the investments with the tax liability flowing through to the owners - the IRA. However the profits stay in the LLC where the full untaxed amount is ready for reinvesting. Now you are able to make investments the minute you decide to without getting permission from anyone. You have the checkbook. You are in control of your retirement money.

**How do I know that this is legal?**

This is a question that is frequently asked by investors who have never heard that they could invest in anything other than stocks and bonds. However, we've shown you that Real Estate has been an allowed investment since the day IRAs were created almost thirty years ago.

Find out for yourself by going to the Internal Revenue Service's website . Request Publication 590. On pages 40-41 you will see what investments are not allowed (see below – collectibles, life insurance, s-corporation stock, etc.). Real Estate is NOT mentioned as a disallowed investment just like stocks, bonds, mutual funds are not mentioned as a disallowed investment. Also you can look up "Swanson vs. The Commissioner".

**Can I use funds from a 401K, IRA, Sep IRA, Roth IRA, or 403b with Check book control?**

Yes. You can self direct all of these types of accounts. They can all be invested into the **CHECK BOOK IRA LLC** for truly self-directed investing.

**Can my IRA purchase Real Estate I already own?**

No. This would be considered a prohibited transaction, or "self dealing" (see IRC 4975). You may not purchase property which is currently owned by you or any other disqualified person (see below). You would need to find another piece of Real Estate that you don't already own to purchase unless you filed for an exemption.

**If I buy an income producing rental property, who gets the rental income?**

The income goes back into the **CHECK BOOK IRA LLC**, and you retain the tax deferred or tax free status (in the case of the Roth IRA) of the investment.

**Can I use leverage in buying real estate?**

Yes you can use your IRA money as the down payment and then have your **CHECK BOOK IRA LLC** get a loan for the balance. However, you will not be able to personally guarantee the loan. It must be a non-recourse type of loan which means that if your IRA fails to make payments, the only recourse the lender has is against the property itself. Further, there will be tax ramifications to doing so; UDFI (unrelated debt financed income) tax applies when a loan is obtained. That means whatever percentage was borrowed then that same percentage of any profits is taxed in your IRA. You would want to confer with your tax professional about what forms would be necessary.

**My IRA is small. Can I personally co-invest with my IRA?**

It is not a prohibited transaction for you to co-invest with your IRA. However, there are certain formalities that need to be adhered to, and there are some situations where it isn't advised. Check out page 17 "Super Charge your Roth"

**Can my IRA co-invest with friends?**

Yes. IRAs may purchase an undivided (and proportionate) interest in Real Estate.

**Can I be the property manager of the Real Estate?**

That depends. With just a self-directed IRA the answer is no. In fact you can't even change a light bulb on the property. But with the **CHECK BOOK IRA LLC** you have the ability to manage the property, collect the rent and pay the bills. Unlike just having a self-directed IRA which put restrictions on what you can do, the **CHECK BOOK IRA LLC** structure allows you to perform maintenance on the property, advertise for renters, collect and deposit the rent checks, pay the real estate bills, etc. This saves your IRA a lot of money and helps provide a more comfortable and prosperous retirement for you.

**May I use my IRA funds to make improvements or renovations?**

Yes. In fact, you must use IRA funds to make the improvements and pay all expenses associated with the property. All expenses of the property are paid with IRA funds, and all profits made on the property are returned to the IRA. This makes sense because it is an investment of the IRA.

**Can I buy vacation property?**

Yes. Doing so would not constitute a prohibited transaction. However, you cannot vacation there.

**Can I buy my dream retirement home with my IRA and then live in it when I reach the age of retirement?**

Yes. Your IRA would be the original owner. You would use your IRA money to make the purchase and maintain the property. Any rents generated would be returned to the IRA. However, upon reaching retirement age, the property could be distributed out to you. Of course, you would have to pay taxes at that point but without penalty.

**What are the advantages to using an CHECK BOOK IRA LLC when investing my IRA in Real Estate?**

You can only receive true checkbook control with the **CHECK BOOK IRA LLC**. With a self-directed custodian, you get more control than you get with a traditional custodian, but you still have to get permission from the custodian for every little thing you do. This is problematic, unnecessary and annoying. Further, with any time sensitive investment it puts you at a huge disadvantage. And what Real Estate deals aren't time sensitive. If you don't move quickly, you will miss out on the best deals. And think of tax liens, tax deeds and foreclosures sold on the courthouse steps; you need to have checkbook control or you miss out. With the **CHECK BOOK IRA LLC** you have the checkbook, authority to write the checks and can make an investment without time delays. This ensures that your

IRA is able to make the best investments at the best prices.

With the **CHECK BOOK IRA LLC** your IRA will be subject to fewer and lower fees from the custodian. Thus, there is more money for your retirement, which is the whole goal of an IRA.

You obtain the ability to manage the property, collect the rent and pay the bills. Unlike just having a self-directed IRA which put restrictions on what you can do, the **CHECK BOOK IRA LLC** structure allows you to perform maintenance on the property, advertise for renters, collect and deposit the rent checks, pay the real estate bills, etc. This save your IRA a lot of money and helps provide a more comfortable and prosperous retirement for you.

**Can my CHECK BOOK IRA LLC make loans to other individuals who want to buy Real Estate?**

Absolutely as long as they aren't "disqualified persons" . This is done frequently, and is a great investment for your IRA because the property is the collateral.

**Can I make a loan to my brother, aunt, cousin or stepchild so that they can use the money as a down payment on a home?**

Yes. According to IRC 4975, siblings, aunts, uncles, cousin and "step relations" are not included in the definition of disqualified persons. Thus any dealings between your IRA and these would not be a prohibited transaction. To deal with your children, grandchildren, spouse or parents you would need an exemption.

**Can my CHECK BOOK IRA LLC make loans to a friend?**

Absolutely. Friends are not disqualified persons under the Code, and therefore, your IRA can make a loan to them for any purpose whatsoever (boat, airplane, hot tub, home improvements, etc.). Of course, you want to make sure that there are proper formalities and reasonable terms to the loan. It is your retirement.

**Can my CHECK BOOK IRA LLC make loans to a Real Estate developer?**

Yes. Your IRA can loan money to a Real Estate developer to finance the purchase of property or the development of property. Developers often look for private financing so it is a great way to get your IRA involved in Real Estate development. And because developers often pay an above market interest rate, the loan can be a great investment for your IRA.

**Can my CHECK BOOK IRA LLC make loans to businesses or companies?**

Sure. Your IRA can make a loan to any type of business. However, be aware that there are some restrictions on loaning money to any business that you or any other disqualified person has an ownership interest in. If a disqualified person or persons have part ownership it must be less a total of 50%.

For example if you and your brother had a company and you owned 49.5% then your IRA could buy, sell or loan to it without penalty.

**Are the gains that my CHECK BOOK IRA LLC makes taxable?**

Not in most cases. If an IRA buys a piece of property and then sells it at a profit, the gains stay within the IRA. If you have a traditional IRA, the gains are tax-deferred. If you have a Roth IRA, the gains are tax free. Note, you alter that result if you use leverage through borrowing. If you borrow 1/3 of the money then 1/3 of the profits are taxed.

**Can I invest outside of my state or outside the country?**

Yes! Your IRA can invest outside of the U.S.A. There are many great investment opportunities in other countries. Remember it's the LLC doing the investment so anything an LLC can invest in so can your IRA as long as it's not a prohibited transaction or one with disqualified persons or companies.

**What are Prohibited Transactions?**

Understanding what constitutes a prohibited transaction is very important when it comes to making investments within your IRA. The **IRS defines** a prohibited transaction as follows:

*“Generally a prohibited transaction is any improper use of your IRA account or annuity by you, your beneficiary or any disqualified person. Disqualified persons include your fiduciary and members or your family (spouse, ancestor, linear descendant, and any spouse of linear descendant).”* IRS Publication 590

IRC 4975 is the section that lays out the rules on prohibited transactions. Prohibited transactions generally involve one of the following:

- (1) doing business with a disqualified person;
- (2) benefiting someone other than the IRA;
- (3) loaning money to a disqualified person; or
- (4) investing in a prohibited investment.

In plain English, prohibited transactions are those transactions that violate the basic intent of the IRA. Your IRA must benefit rather than benefiting you personally. In other words, there can be **no “self dealing”** transactions. However, there are many ways in which you can invest your IRA and not be in violation of the prohibited transaction law. And when your IRA benefits, you benefit because it is for your retirement.

**Are there investments that are prohibited?**

Yes, but you probably aren't investing in them anyway. The Internal Revenue Code does not specifically authorize investments within an IRA; rather, the code outlines what types of investments are **not** allowed. The Prohibited Investments include:

Artwork	Rugs
Antiques	Metals
Gems	Stamps

Coins  
Life Insurance Contracts  
And certain other tangible personal property

Alcoholic Beverages  
Stock in a S-Corporation

### Who is a disqualified person?

- the IRA holder and his or her spouse;
- the IRA holders ancestors, lineal descendants and their spouses;
- investment advisors and managers
- any corporation, partnership, trust or estate in which a disqualified person has 50% or greater interest; and
- anyone providing services to the IRA such as a trustee or custodian.

### What are some types and examples of Prohibited Transactions and / or Self-Dealing Transactions?

- Self dealing with a family member (your IRA purchases a home from your father).
- Self dealing with yourself (your IRA purchases a home from yourself).
- Personal use of IRA property (buying a rental vacation home with IRA money and then staying in the home when on vacation).
- Receiving personal benefit from your IRA (paying yourself for work that you do on the property such as repairing the roof).

### What are Exemptions?

Exemptions are permission to invest in something or in some way that is technically a prohibited transaction. For example, it is a prohibited transaction to rent property owned by your IRA to your child. An exemption would allow you to do so. The Exemption sections begins by saying:

**The Secretary shall establish an exemption procedure for purposes of this subsection.**

This provision goes on to say that the IRS shall coordinate the requests with the Department of Labor. In reality, all power to grant these exemptions has been shifted over to the Department of Labor.

Is it likely that your exemption will be granted? Yes it is. While most tax advisors are not aware of this section, the Department of Labor grants hundreds of these exemptions each and every year. One giant size exemption is provision 96-62. This exemption is amazing. It's called a "class exemption" and it basically states that if two transactions "substantially similar" to yours have been approved in the last five years yours will too.

These exemptions have allowed people to access their IRA money early, without paying any taxes, including penalty taxes, **and the their actions had the full blessing of the government!** In some cases they had their IRAs own their home mortgages or helped them buy a business. I bet your stockbroker never

told you about these scenarios.

**What are some of the other Prohibited Transaction Exemptions that have been granted over the years..**

1. The owner of the IRA was allowed to sell real estate to their IRA. Remember the prohibited transaction for sales of assets between the IRA and the IRA owner? This is a direct violation of that, and yet was allowed by the DOL. Since it has been allowed more than twice in the last 5 years it meets the requirements of exemption 96-62.
2. The IRA owner was allowed to sell stock they owned to their IRA.
3. The IRA owner was allowed to purchase stock from their IRA.
4. The IRA owner was allowed to purchase real estate from their IRA.
5. This one is great. Not only was the owner allowed to purchase real estate from their IRA, they were allowed to have their IRA carry back the mortgage on the property. This one was even written up in Forbes magazine!
6. Hate paying interest to the bank? In this exemption, the IRA owner was allowed to have their IRA purchase the mortgage on their home. Now instead of having to write a check out to the bank each month, they write a check to their own IRA! Even though the interest is flowing into the IRA tax free, they still get the home interest deduction.

Another great aspect of this Prohibited Transaction Exemption is ASSET PROTECTION. Since the IRA owns the mortgage that means that the IRA also has a lien against the home. So now if somebody sues and wins a lawsuit against the IRA owner, the chances of the person who won the lawsuit collecting against the home is very minimal.

7. This is another incredible one! This was an exemption that allowed an individual to have his IRA loan hundreds of thousand of dollars to his 100% owned corporation! Once again, the IRA loaned money to a corporation 100% owned by the IRA owner. This individual was now able to access all that money in a totally TAX FREE manner. There were a couple of other very large benefits with this as well. The loan had to be paid back to the IRA, which of course generates interest. Since the loan was presumably for business purposes the interest would be allowed as a deduction for income tax purposes!

Once again we get to the ASSET PROTECTION aspect. As a requirement to granting the exemption, the DOL required that the pension plan have collateral for the loan. The IRA owner then pledged their home and business assets as collateral for the loan. Just as with the prior exemption ruling, the individual now

has absolutely fantastic asset protection. If somebody were to win a lawsuit against them, the lawsuit winner would be in second line behind the retirement plan for the ability to get the assets.

8. If you are a small business owner this exemption could save you thousands of dollars each year. In this blanket exemption, the DOL said that businesses that sell tangible property via extensions of credit, could have their retirement plans factor the accounts receivables. So if the normal discount for selling off the accounts receivables early would be 10%, that would mean that the business would report 10% less income each year. At the same time, that extra money would flow into the retirement plan in a totally TAX-FREE manner.

The above is certainly not an exhaustive list of all the exemptions granted, or of all the possible exemptions that could be granted.

### **Can I buy a business with my CHECK BOOK IRA LLC?**

Yes you can buy a business with your IRA money via the **CHECK BOOK IRA LLC**. Please contact us for details.

### **Can I invest in an existing business?**

Yes. This can be done as the purchase of stock as a loan to the business.

### **What about S-Corporations?**

S-Corporations do not allow IRAs as investors; they only allow individuals as investors. Therefore, it isn't so much that IRAs are prohibited from investing in S-Corporations rather that *S-Corporations don't permit having an IRA* as a shareholder. It is likely that the investment of the IRA would revoke the sub-s status of the corporation.

### **Can I buy Stocks, CDs, Bonds, Options, etc.?**

Yes. You can invest in any IRS permitted investment. That includes publicly traded stocks, CDs, mutual funds, annuities, bonds, stock options, futures, etc. In fact, if you are an active swing trader or day trader, you will be able to trade your IRA in a manner that your current broker does not allow you to trade using the **CHECK BOOK IRA LLC**. For example, you probably have asked your broker if you can buy or sell Options (Calls and Puts). Or maybe you would like to write Covered Calls or do Spreads and have been told no. The **CHECK BOOK IRA LLC** allows you to trade your way. You can also participate in IPOs. Remember it's your LLC that opens the brokerage account. You can have as many as you wish.

### **I have a 401K with an old employer. Can I move it into the CHECK BOOK IRA LLC?**

Yes. You can move these 401K funds into the **CHECK BOOK IRA LLC**. You can start controlling this money yourself rather than letting your old employer control your future. We will help you with this process.

**I have a 401K with my current employer. Can I move it into the CHECK BOOK IRA LLC?**

The 401K plan documents will specify what you can do but most of the time you cannot move money from a 401K plan if you are currently working for the company.

**I have several IRAs and old 401Ks. Can I combine them?**

Yes. They can all be combined and then invested into your **CHECK BOOK IRA LLC** so that your buying power is maximized. The only restriction is on 401(k)s; is that you generally must no longer work for the employer. You can usually combine multiple retirement accounts into one account. Or in the event that they can't be combined, such as the case of a traditional IRA and a Roth IRA, they can still be invested into the same **CHECK BOOK IRA LLC**

**What's this all going to cost me?**

A better question is what's it going to save me. Recently we helped a client set up a real estate closing so that the \$10,000 profit went into a Check Book IRA. We had to hustle to finish the paperwork in time but by doing so he saved 35% in taxes and had the entire \$10,000 to reinvest as soon as the check from the Title Company was in the account. A savings of \$3,500 and he has control the rest of his life!

**Call us today for pricing and start saving today.**

**Call Steve at Check Book IRA**

**541-420-6302**

**Or visit us at our Educational Website**

**[WWW.CheckBookIRA.com](http://WWW.CheckBookIRA.com)**

**Or email me at [Steve@CheckBookIRA.com](mailto:Steve@CheckBookIRA.com)**

## HOW TO *SUPER CHARGE* YOUR ROTH-IRA

The Roth IRA is an amazing retirement vehicle. The contributions are NOT tax deductible HOWEVER all profits generated are forever tax FREE.

So if you had \$2,000 in a Roth and made an investment that generated \$5 million in profits - NONE would EVER be taxed. That's right, when you started your retirement it all would be tax free, not tax deferred like the traditional IRA.

How could you supercharge your Roth IRA with only, say \$2,000 in it.

### HOW ABOUT REAL ESTATE OPTIONS?

What if your brother invested in real estate and bought a property for \$100,000 and you thought it would bring \$120,000 on the market thus making a \$20,000 profit. Your Check Book IRA could give your brother \$2,000 (or any amount reasonable) for an option to buy the property for \$108,000. This would not be a prohibited investment of your IRA because the property is owned by a NON-related party. Remember for purposes of the tax code your brother is NOT considered a related party.

Now your brother has a profit of \$10,000.

\$108,000	Price received when the IRA exercises it's option to buy.
<u>\$100,000</u>	Cost of property
\$ 8,000	Profit on sale
<u>\$ 2,000</u>	Option premium received for selling the option
\$ 10,000	Total profit to your brother

But your Checkbook IRA would have a gross profit of \$12,000 and net of \$10,000 after subtracting the \$2,000 paid for the option. That \$12,000 would be instantly available to reinvest and would NEVER BE TAXED EVER!

What if two doctors formed an LLP with each owning 49.5% and the remaining 1% owned by another non-related party. Then both IRA's could own your business building and rent it to the LLP. The possibilities are endless.

What if two brothers took turns selling real estate options to each other's Roth-IRA's. What if a car or equipment dealer, livestock buyer...you get the idea.

The opportunities are endless in building up your Roth TAX FREE IRA with our **Check Book IRA.** Call Steve today 541-420-6302