

1. OVERVIEW

IRA Limited Liability Companies are allowed within an Individual Retirement Account (Traditional or Roth) provided that they conform to the rules and requirements of the Internal Revenue Service. Overall, it is important to remember that all activities within your IRA LLC must conform to the regulations relating to IRAs and specifically to the rules regarding Prohibited Transactions (see Section 5). In addition to the legal requirements regarding this class of asset, IRA Services Trust Company has a set of requirements that investors must adhere to in order for IRA Services Trust Company to accept an IRA LLC within an IRA for which IRA Services Trust Company serves as the custodian. IRA Services Trust Company will not accept LLCs which are operating companies.

2. ESTABLISHING THE LLC

Operating Agreement

- The agreement must be prepared by an attorney or by a facilitator company whose standard documents have been reviewed by legal counsel
- The agreement must include language regarding Prohibited Transactions as defined by IRC Section 4975
- The agreement must include language regarding the potential or the avoidance of Unrelated Business Taxable Income (UBTI) and, if incurred, that the manager will complete and ensure the timely filing of all relevant tax returns to the IRS and state authorities
- The agreement must include language regarding additional capital contribution(s) and whether they are allowed or disallowed; if allowed, the attorney should state in the agreement that: "Subsequent investments by the single member are permitted and do not create a prohibited transaction under IRC Section 4975"
- The agreement must name the participant as a member in this form: IRA Services Trust Company, Custodian FBO [Participant Name]
- The agreement must provide a signature line(s) for IRA Services Trust Company to sign on behalf of the participant/member
- The agreement must name a manager and provide contact information for IRA Services Trust Company
- The participant may act as the manager; the manager must sign the Operating Agreement; IRA Services Trust Company will sign on behalf of the member.

Banking Account

- The LLC must establish a banking account at a bank, credit union, savings bank or brokerage in the name of the LLC in order for funds to be provided to the LLC from the IRA

Legal Entity/Tax Identification

- You must provide a copy of the state-issued LLC formation document (such as the Articles of Organization or Certificate of Formation) showing the entity name.
- You must provide a copy of the Internal Revenue Service Tax Identification Number (TIN) confirmation

IRA LLC Agreement

- You must complete and submit the IRA Services Trust Company *IRA LLC AGREEMENT*

3. VALUATIONS

You must provide an annual valuation of your LLC to IRA Services Trust Company. You must provide this online. Complete and submit the *IRA LLC VALUATION* form, available on our website only if you do not have internet access or if you are 70½ or older. We may require a valuation at the time of any taxable distribution, such as a Roth conversion, investor distribution or required minimum distribution. **The valuation must be certified by a licensed professional (CPA, Accountant, Appraiser, Tax Advisor, Financial Advisor, etc.)** and the *IRA LLC VALUATION* form must be signed by them. **You cannot certify your own valuation.**

4. LLC DISSOLUTION

If you decide to dissolve your IRA LLC, you must provide the following:

- State issued dissolution/termination certification
- Bank statement showing the balance, to be returned to your IRA (you must deliver the funds via check or wire transfer)
- Final valuation of the LLC; please complete the *IRA LLC VALUATION* form
- List of other assets to be transferred back to your IRA (provide proper re-registration documents, completed *IN-KIND INVESTMENT OR EXCHANGE REQUEST* form)
- If there is a loss in the LLC, submit a written statement declaring what caused the loss (attach proof of the loss for review)

5. PROHIBITED TRANSACTIONS (see IRS Publication 590 for further information)

A prohibited transaction is a transaction between a plan (the LLC) and a disqualified person that is prohibited by law.

Prohibited transactions include, but are not limited to, the following transactions:

- A transfer of plan income or assets to, or use of them by or for the benefit of, a disqualified person;
- Any act of a fiduciary by which plan income or assets are used for his or her own interest;
- The receipt of consideration by a fiduciary for his or her own account from any party dealing with the plan in a transaction that involves plan income or assets;
- The sale, exchange, or lease of property between a plan and a disqualified person;
- Lending money or extending credit between a plan and a disqualified person;
- Furnishing goods, services, or facilities between a plan and a disqualified person.

A disqualified person is any of the following:

- You, the owner of the plan (IRA);
- A member of your family (i.e., your spouse, ancestors, lineal descendants and their spouses);
- The Custodian/Administrator of the plan;
- Any person providing services to the plan;
- Any corporation, partnership, trust, or estate in which you own (either direct or indirect) 50% or more;
- An officer, director, 10% or more shareholder, or highly compensated employee of the 50% or more owned entity described above.