



Take Control with a Self-Directed IRASM

Answers to Investors' Top 50 Questions

Self-directed IRAs allow individuals to take control of their financial plans by investing in real estate they can see and private businesses they understand, often with people they know and trust. For many, the heightened tangibility of these assets is a welcome contrast to the more abstract financial markets.

Among the many possibilities for investments using your IRA money are these:

- Start a business
- Earn high interest rates on notes
- Buy income producing real estate
- Buy foreign real estate
- Private placements

Self-directed IRAs were created to allow individuals to select, either directly or with the advice of a broker or investment adviser, those investments they prefer for their IRA account. Now, more than ever, individuals can plan their financial future and take advantage of the significant benefits that IRA, Roth IRA and SEP retirement accounts offer.

©2008 PENSCO Trust Company. All rights reserved.

This publication is designed to provide general information in regard to the subject matter covered. It is presented with the understanding that neither the author nor the publisher is engaged in rendering legal or accounting advice or any other professional services. If such legal advice or other expert assistance is required, the services of a competent professional should be sought. Publisher and author cannot in any way guarantee that this material will be properly used for the purposes intended, and therefore, assume no responsibility for its proper and correct use.



INTRODUCTION

1 What is a Self-Directed IRA?

A self-directed IRA is legally no different from any other IRA. The term "self-directed" simply indicates that you, the client, choose your IRA's investments. Most brokerage houses and banks that offer "self-directed" IRAs limit clients to the scope of their own investment products. Custodians such as PENSCO Trust without proprietary products do not need to impose the same restrictions. What this means for you is **MORE CHOICES & MORE FLEXIBILITY** for your retirement savings plan.

2 What can a Self-Directed IRA invest in?

The rules governing what an IRA CAN invest in are exclusive - not inclusive. That is, the rules only specify where you CANNOT invest. Therefore, there is a virtually unlimited array of possible investments that fall well within the permissible boundaries.

The IRS only defines the following assets as **excluded** (prohibited):

- Life insurance contracts (e.g., a life insurance policy on the life of the IRA owner);
- Collectibles (e.g., antique rugs, cars, stamps, furniture, etc.);
- Capital stock in an "S" corporation.

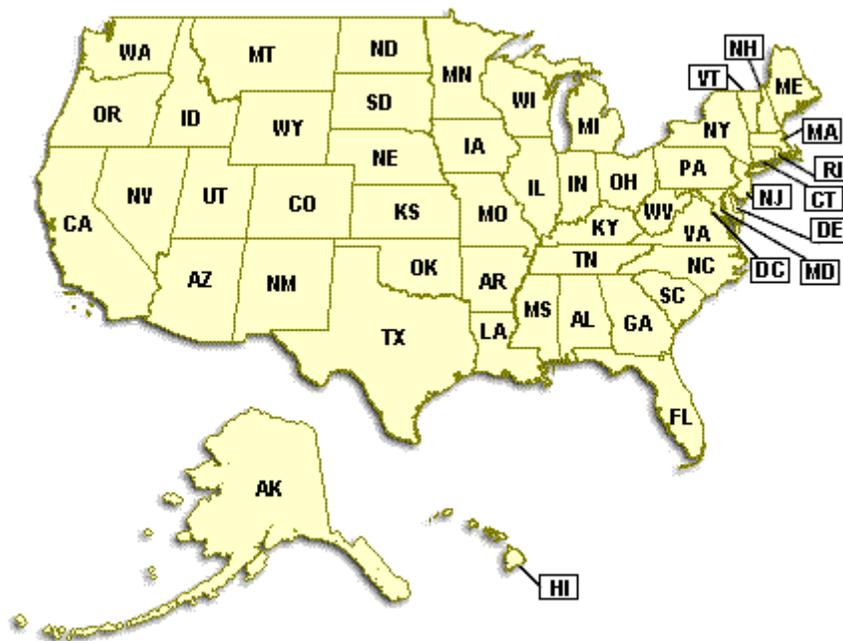
2.1 Examples of investments allowed (specialized assets) within self-directed IRAs

Self-directed IRAs offer you, the investor, tremendous flexibility in choosing investments for your retirement savings.

Investing in real estate through your self-directed IRA may be the key to turning those dreams into reality. While most self-directed custodians accommodate traditional investments such as mutual funds and stocks, specialized companies such as PENSCO Trust also allow clients to invest in all forms of real estate (e.g., raw land; rental properties; commercial properties; even real estate-related private entities, such as limited liability companies, that invest in real estate).

PENSCO Trust also specializes in investments called [private placements](#), such as those associated with funding a startup company. Many people are shocked to learn that they can use the 401-k from a former employer to help start a new business. PENSCO Trust is proud to say that over 15 years, we have helped thousands of entrepreneurs start up their own new businesses, using their PENSCO Trust self-directed IRAs for the initial capital. PENSCO Trust has even helped found dozens of new banks using IRAs as a source of seed capital. If you have an idea for an

investment, contact us and we'll help you determine if such an investment is permitted. We can refer you to our list of professionals on our web site at [Find a Preferred Professional \(P2\)](#) where you can click on your state to obtain a listing of professionals that assist self-directed IRA owners.



3 What investment choices do I have with my SEP, 401k, Keogh, etc?

A SEP is a form of an IRA. Generally, if you are self-employed and have a SEP IRA, you can invest in anything that an IRA can invest in. Keoghs are similar to SEPs, and for the most part act like SEPs. However, many Keoghs are no longer being funded, and are frequently rolled into SEPs, which are less expensive to administer and offer essentially the same benefits to the investor.

401-ks are employer sponsored pension plans which typically restrict the employees' investment choices to mutual funds and stocks. Pension plans that are self-directed, typically place restrictions on investment choices. Once you leave the employ of a company sponsoring a 401-k, you have the option to roll your plan benefits to a self-directed IRA. At that time, you can invest in whatever the new custodian permits. In many companies, when you reach the age of 59 ½, even if you are still employed with the company, you are permitted to roll over your 401-k to a self-directed IRA.



INVESTING IN REAL ESTATE USING YOUR IRA

4 Can I buy real estate using my IRA?

Yes, you can buy real estate within your IRA, Roth IRA, SEP IRA, Coverdell Educational Savings Account (ESA), or Solo(k) Plan. Additionally, you may be able to use existing funds within 403(b), 457, ESOP or other pension plans, by first rolling them into a self-directed IRA or Solo(k). Imagine not being confined to investing your hard-earned cash in the volatile stock market or limited return CDs. You can diversify your retirement money in many creative and beneficial ways.

4.1 How do I buy real estate with my IRA?

It's actually quite simple. You either transfer your existing IRA(s) or rollover your pension plan accounts to PENSCO Trust Self-Directed IRAs. Then you find a property and instruct us to make the deposit and the purchase. Instead of mutual funds or stocks, you'll have a rental property or 5 acres in Arizona as part of your IRA portfolio.

5 Is this new? How long have I been able to invest in real estate with my IRA?

The fact is that you have been able to buy real estate within your IRA account since the first day IRAs were created (31 years ago.). While a small percentage of Americans have already benefited from this knowledge, it's not too late for you to take advantage of the opportunity.

6 Why haven't I heard about this before?

Until recently, the use of IRAs and other retirement plans to purchase real estate was an option that was **not** well known. Things are changing, however – and changing quickly.

Americans have become disillusioned over traditional investment choices and the results of their retirement investment activities. Recent economic and business events, such as the stock market decline from 2000-2003, market and business scandals and corruption, the "dot-bomb" era, mutual fund scandals, etc., along with historically low interest rates, have awakened passive investors whose retirement portfolios have suffered. They are suddenly ready for action. For example, in early 2004, NASDAQ was at the 1900 level, having fallen from its peak of 5000 in 2000. As a result, much of the wealth accumulated in retirement accounts was lost (estimated at \$1.7 trillion) by investors and may never be recovered. At the same time, real estate values have increased, in some cases dramatically, in most parts of the country.



Consequently, investors are now demanding that their brokers, bankers and financial advisors provide information about alternative investments. Today's savvy investors want more control and tangible assets in their portfolios. They are tired of being at the mercy of the large institutional stock buyers and sellers. They are untrusting of large corporations following the series of recent corporate scandals (e.g., Enron, World Com, and Global Crossing).

7 I've asked my broker and accountant about doing this in the past, and they both said you can't do it. Why?

Unfortunately, when seeking alternatives to restore retirement savings or attempting to diversify to reduce volatility, investors are frequently rebuffed by their brokers, bankers, or advisors. They typically respond, either out of ignorance or self-interest, "you can't do that," or, "it's illegal," or, "it's very complicated and we don't handle those types of investments," etc. In all fairness, some of these professionals have never been told that it is quite legal to buy real estate in an IRA. They don't know because the companies that employ them are not interested or informed themselves. Brokers are compensated when they sell stocks, bonds and mutual funds. Therefore, they are not trained in the details of performing real estate transactions.

In addition, many professionals, including CPAs, real estate attorneys, and financial planners, are not aware that buying real estate with an IRA is perfectly legal. I once spoke to 41 real estate attorneys during a seminar, and not one was aware of this possibility. Yet, a March 20, 2005 Sunday Wall Street Journal article on retirement issues began "In the 1980's I put a San Diego condo in my traditional IRA. I've had a \$500,000 gain in appreciation, but I want to leave it to my daughter rather than sell it. Can I do that?"

8 So once my broker learns about buying real estate within IRAs, won't he let me buy some?

There are some basic business reasons why the knowledge of buying real estate through IRAs is not prevalent. It has to do with how different businesses earn their money. Mutual funds (e.g., their company's funds), insurance companies (e.g., annuities or 403bs) and most securities brokers (e.g. stocks and bonds) make their money when you buy their investment products. They are not interested in having you buy a parcel of land and holding it for three years, because then you can't buy their investment products.

9 What about traditional banks? Why don't they offer the option to buy real estate within an IRA?

Traditional banks make money by using their clients' cash deposits, whether that's checking, savings or time deposits such as certificates of deposit (CDs). In fact, they make so much money that they frequently charge little or no fees to administer your IRA, just so that you'll invest with them. For example, a typical bank will borrow your money at 1% (by providing you a savings or



checking account), so that it can loan it back to you or your neighbor. Sounds perfectly fair, right? But what it borrowed from you at 1%, it is loaning back to you at rates from 9-29% on a car loan or a charge card. That's what's called "free checking." Don't get me wrong, there is clearly a place for the traditional bank. But let's not be naive about why they have the large number of branches and big marketing budgets.

The same is true of the large broker/dealers and mutual fund companies, although they are compensated differently. For example, some brokers can receive a one-time commission of up to 6% just for selling you a mutual fund, and continue to receive fees (12b-1 fees) for as long as you own that fund.

10 Well, I see what you mean, but why wouldn't they just start offering a service just like yours?

The self-directed IRA business isn't as profitable as the primary businesses of broker dealers, mutual fund companies and traditional banks. Thus, there isn't any compelling reason for them to take it on. They can't earn as much on this aspect of self-directed investing, and the cost of operations is higher, due to the fact that processing real estate investments is very labor intensive. All of these traditional businesses rely, to a large degree, on electronic processing of financial transactions. They are not geared for a high volume of manual transactions. Nevertheless, as more Americans begin to self-direct, it is very likely that some of the traditional providers will enter the business. It will be difficult for them to perform as well as a company like PENSICO Trust, which has specialized in this area for more than 19 years.

11 Why hasn't the self-directed IRA business been publicized?

Because of their efficiency and profitability, traditional IRA providers control about 97% of the IRA industry. Their huge marketing budgets allow them to maintain a strong public presence, although recent guerilla marketing techniques through the national media are now giving much-needed exposure to the valuable self-directed service industry. The true self-directed industry has the remaining 3% - but rapidly growing - share of the IRA market.

Many feel that the cat has been let out of the bag for the IRA marketplace. The recent publicity surrounding possibilities within the self-directed industry has started a brush fire that will rapidly sweep across the U.S. Please visit our web site at www.penscotrust.com for up-to-date articles.

A recent national publication suggested that all Americans should have 25% of their retirement savings in real estate. That would represent a growth of 1,150% over the current level of 2% of the \$4.6 trillion in retirement savings that is currently in IRA assets. It is also estimated that overall, IRA assets will grow by as much as 500 million per year beginning in 2008 due to the retirement of the baby boomers. Clearly, the self-directed industry is on the rise. The time to join this growing movement is now.



12 How do I know this is all legal?

This is a question self-directed custodians hear frequently from prospects who have never heard that buying real estate with an IRA is possible. The fact is that you have been able to buy real estate with an IRA since the first day IRAs were created. However, because so few knew and took advantage of this capability, today a call to the IRS about such investment plans may be greeted with the familiar refrain of “you can’t do that.” Ironically, however, many major banks have been buying real estate in IRAs and pension plans for their clients for years.

13 Why hasn’t my bank offered this service?

This is not done through your typical bank branch. In fact, unless your bank has a Trust department, it is highly unlikely that they will allow you to buy real estate with your IRA. Major bank Trust departments are fee based, just like specialist Trust companies like PENSCO Trust. As a result, they can afford the staff and systems to support these types of IRAs and the nature of the transactions associated with them (e.g., paper-based transactions). However, such Trust departments cater only to the very rich who can afford their fees (1%-2%+ of assets). Specialist companies such as PENSCO Trust typically do not practice full Trust powers, nor do they offer products such as living Trusts, testamentary Trusts, estates, probates, etc., which all have their own levels of complexity and cost. Because they are simpler, they can afford to provide self-directed services for less (generally .5% to 1%), please visit [PENSCO Trust's Fee Schedule](#) for details.

There are approximately 20 institutions that are true self-directed administrators. Many of these are regulated (e.g., PENSCO Trust) by state and federal regulators just like the major banks. But just because they exist doesn’t mean that buying real estate in an IRA is legal. Right? Right.

14 So how do I really know it’s legal?

To get to the heart of the issue, go to www.irs.gov, the Internal Revenue Service’s own website. Once there, perform a search for Publication 590, which is the 100-page IRS booklet, which defines everything the IRS wants you to know about IRAs. On pages 44-49, you will see the definition of what you CAN’T do within an IRA. You will see, as previously mentioned, that you cannot purchase collectibles or life insurance contracts. You will NOT see that you cannot purchase sub-chapter “S” corporation stock because, in this case, it is not the IRA that is prohibited from investing with a sub-“S” corporation, but rather the sub-“S” corporation that is prohibited from having an IRA as a shareholder.

You will also notice that real estate is NOT mentioned as one of the asset types in which an IRA is prohibited from investing. There IS mention that you cannot borrow from an IRA or use an IRA as collateral for a loan. Because that would be a prohibited transaction, many have felt that real estate investing would be a problem. Well, certainly it can be, IF you use your IRA as collateral for a loan that you, the IRA owner, take out personally. Clearly, under the tax laws, that is a prohibited transaction, just as borrowing \$100,000 out of your IRA to buy a house would be a prohibited



transaction. BUT, there are **MANY** other ways to buy real estate, some of which we will discuss now.

But before we do, if you are still not convinced that what we're about to discuss is genuinely, fully, 100% legal, go to our website page, [Find a Preferred Professional \(P2\)](#), to contact any one of the hundreds of professionals on our website (many in your area). These individuals are very aware that buying real estate in an IRA is perfectly legal, as long as you avoid some key prohibited situations. They can help you settle the issue of legality, once and for all.

15 So, now that I am convinced that it is legal to buy real estate with my IRA, what exactly can I buy?

Chances are that if you want to invest in something other than the life insurance policies, collectibles, and S Corporations, you probably can. That includes buying any form of real estate or real property. As my friend [Pat Rice, author of *IRA Wealth: Revolutionary Ways to Build Wealth through Real Estate Investing with your IRA*](#), says: "You buy your neighbor's wheel barrow and rent it back to him." (UBTI tax may apply).

Your IRA can purchase raw land, rental properties, commercial property, condominiums, mobile homes, boat slips, locomotives, earth-moving machines, race horses, tax liens, airplanes, tax certificates, foreign real estate, billboards, fishing rights in the State of Alaska, and even a seat on the New York Stock Exchange. Of course, all of these have to be handled strictly as investments and cannot be used personally.

16 How can I take funds out of my IRA to buy real estate, without paying taxes and penalties?

That's simple. You DON'T take the funds out. Buying 100 acres of raw land in Wyoming is just like buying 100 shares of IBM, a standard transaction for a self-directed IRA. Buying real estate is just a purchase of a different TYPE of investment. The mechanics of execution are also quite different. Whereas the purchase of 100 shares of IBM can be performed instantaneously through the Internet, the completion of a real estate transaction takes place in many steps, over 30-60 days. The careful handling of hundreds of real estate transactions simultaneously requires the effort of a specialist such as PENSCO Trust.

17 How do I transfer my IRA Account?

First, you arrange to move your existing IRA(s) or SEP IRA(s) to a custodian like PENSCO Trust (a bank and Trust company), or to "roll over" your existing pension plan (e.g., 401-k, 403b, ESOP, or 457 plan, etc.) to a PENSCO Trust IRA. PENSCO Trust was the first self-directed IRA custodian in our industry to allow you to open a self-directed IRA through the Internet ([click here to learn more](#)).



The basic process entails completing a new IRA application with PENSICO Trust to establish your self-directed IRA, and then completing either a transfer (direct IRA to IRA movement) or a “rollover” (indirect movement - e.g., the movement from one plan, such as a 401-k, to another plan, such as an IRA) of **your existing account(s)**. Each custodian has both a new account application form as well as a transfer/rollover form.

You can TRANSFER funds in the following directions:

IRA (i.e. 'Contributory' and/or 'Rollover' IRAs)		PENSICO Trust IRA
SEP IRA		PENSICO Trust IRA
SEP IRA		PENSICO Trust SEP IRA
Roth IRA		PENSICO Trust Roth IRA
Coverdell Education Savings (ESA)		PENSICO Trust ESA

You can perform a CASH ROLLOVER in the following directions:

IRA (i.e. 'Traditional,' 'Contributory' and/or 'Rollover' IRAs)	YOU	PENSICO Trust IRA
SEP IRA	YOU	PENSICO Trust IRA
SEP IRA	YOU	PENSICO Trust SEP IRA
Roth IRA	YOU	PENSICO Trust Roth IRA
Coverdell Education Savings (ESA)	YOU	PENSICO Trust ESA

**You can perform a DIRECT ROLLOVER in the following directions
(if you have become entitled to take benefits from the plan):**

401(k)		PENSICO Trust IRA
Qualified Annuity IRA		PENSICO Trust IRA



403(b)		PENSCO Trust IRA
Profit Sharing Plan		PENSCO Trust IRA
Money Purchase Plan		PENSCO Trust IRA
Governmental Eligible Deferred Compensation		PENSCO Trust IRA
Defined Benefit Plan		PENSCO Trust IRA
Other Qualified Pension Plans		PENSCO Trust IRA
Keogh		PENSCO Trust IRA

17.1 Then what?

You complete both forms and send them to the new custodian (e.g., PENSCO Trust). PENSCO Trust will accept and sign your transfer form, then send it to your current custodian. Because the current custodian now knows that the successor custodian (PENSCO Trust) is a qualified institution, it will honor the request and transfer or roll over your IRA(s) or pension plan(s), knowing that your qualified (tax exempt) funds won't be taxed or penalized. Once your transfer request has been received and forwarded to your current custodian, PENSCO Trust will track your request until it is completed. We will then notify you by e-mail that your account is ready for action (if you had provided your e-mail address).

18 How long does this take?

In some cases, depending upon the efficiency of the current custodians, such transfers or rollovers can take considerable time to complete - as long as six to eight weeks. Because of this, a faster alternative to move funds and/or assets to a new custodian is frequently used, especially when clients are in a hurry to fund an investment or have a fixed deadline to meet to make a particular investment. This process is called an "IRA to IRA rollover." The current custodian, upon the written request of their IRA accountholder, will issue a distribution to the accountholder of part or all of the accountholder's IRA(s), in the accountholder's name and NOT in the name of the successor custodian (as in a transfer above). If the IRA owner then either endorses over that check or re-deposits an equivalent amount within 60 days of payment of the funds, the rollover will be exempt from tax and penalties that would otherwise be applicable. IRA owners who execute an "IRA to IRA rollover" must wait twelve months before rolling over again from the transferring or receiving IRA. Therefore, if you have 5 IRAs, you can perform 5 IRA rollovers every 12 months.



19 What happens after the funds are transferred?

When your transferred funds or assets arrive at PENSCO Trust, we will notify you by email or you can check your account through our website after setting up your password. You can also simply check with us periodically to see if your funds have arrived. If your funds arrive in the form of a check, you will not be able to invest them until the check clears through the banking system (a process that takes 2-5 days, depending upon the location of the bank on which the check is drawn). If your funds are received by wire, they are available for investment either the same day or the next, depending upon the time of receipt. Once your funds are "cleared" for use, you are ready to go shopping for your real estate or other investment.

If you have supplied PENSCO Trust with your email address, we will be able to notify you via email when your transfer has arrived from your previous custodian or administrator. Going forward, PENSCO Trust will also be able to notify you of any transaction in your account as it occurs.

Here is an example of what you will see when you receive an email notification concerning a transaction. This one is confirming the receipt of interest from an LLC investment within your PENSCO Trust IRA.

When	Event	Trust	Message
3/25/2006 2:56:00 PM	Income/Interest	ZZ666 (Your account number)	Your account has been credited due to INTEREST RECEIVED FOR 03/06 of \$1,000.00 for asset PRETEND, LLC. This transaction will be viewable in your account activity on our web site the following business day.

19.1 Where does the money go once it's transferred?



20 Do I have to liquidate my other accounts?

If you want to invest in assets other than what you currently hold in your existing accounts, you should liquidate existing assets to the extent that you want to invest in alternatives. It is best to liquidate funds within the existing accounts PRIOR to transferring or rolling them over to PENSCO Trust. This is because you avoid the costs and delays associated with having the current custodian "re-register" the assets into your PENSCO Trust's IRA name, a process that can take months. If the current custodian liquidates your investment positions BEFORE transferring, then the re-registration process is eliminated.



Of course, you can also liquidate some assets (to the extent that you want to invest in real estate, for example) and retain the rest, which can then be transferred “in kind” (e.g., the asset itself) by your current custodian. This will allow your IRA to get started with your real estate investing plans quickly, while giving you the option to hold on to any valuable assets you may have in your portfolio.

21 Can I purchase stocks/CDs in this account?

At PENSCO Trust, you can invest in almost all IRA permitted investments, including bank CDs, mutual funds, annuities, stocks, bonds, etc. If you would like to purchase a CD, you will need to tell us the name of the sponsoring bank, the amount of your investment, the term (maturity period), and the interest rate. We will then contact your selected institution and execute your purchase, which will become another asset within your PENSCO Trust IRA. If you want to purchase a mutual fund, you can fax us our “Investment Authorization for Publicly Traded Investments” form or download our form by clicking this link, [Investment Authorization for Publicly Traded Investments](#) (PDF), specifying the name of the fund and the amount of your desired purchase. We will then send your funds for investment with the appropriate fund(s).

If you want to buy stocks, bonds, or options, you will need to select a broker dealer and notify us through the same process and form used for mutual funds. We will establish your brokerage account, fund it, and contact you so that you can begin trading as soon as it is funded. The brokerage account will become part of your PENSCO Trust account, but you will be able to trade on the account directly with the broker or through their website, without going through PENSCO Trust. We will receive monthly statements and update your balances quarterly on our PENSCO Trust statements. The advantage of having your brokerage account within your PENSCO Trust IRA is that you can move between traded and alternative investments within one or two days, instead of one or two months. In addition, you only have to deal with one custodian for all of your IRA needs.

22 Do I earn interest on the cash balance in my PENSCO Trust IRA?

Yes. Like almost all banks, PENSCO Trust pays interest on customer cash balances. Upon day of receipt, any funds received for a client account are deposited into an interest-bearing savings account at one of PENSCO Trust's depository banks (PENSCO Trust is a non-depository bank and Trust company). All cash in your account is insured up to \$250,000 by the FDIC. Interest is earned from day of deposit to day of withdrawal and is accrued and payable to each account at the close of each quarter. Interest rates vary and generally adjust based on changes in the market and competitive interest rates for similar institutions.

23 How do I buy a real estate property?

Now that your funds are at PENSCO Trust and ready for investment, you are all set to make a purchase offer on a piece of property. Let's say you find a 5-acre parcel on the shore of a beautiful river, and you want to make an offer. You work with your real estate broker to draw up a purchase offer in the name of your IRA (e.g., PENSCO Trust Company FBO “your name” IRA. (This can also



be a Roth IRA, SEP IRA, etc.) Please be sure to sign the purchase offer as well, because we want to be sure that you have reviewed and approved it.

Download our [Investment Authorization for Non-Publicly Traded Investments](#) Form (PDF), indicating what property you intend to purchase and the amount of your deposit. After signing and dating the form, fax us the purchase offer, the wiring instructions of the title company or attorney that will be handling the escrow for your purchase, and the Investment Authorization Form. Once we receive these documents, PENSCO Trust will sign the purchase offer as the buyer on behalf of your IRA, fund your deposit by wire, then forward the signed documents to the title company.

23.1 How is the closing of the transaction handled?

Now that we have made your earnest money deposit for your real estate purchase, your broker and title company or attorney will prepare additional documents in advance of the closing of your purchase. Generally, these include the following:

- 1) the final contract (again, initialed as read and approved by you) with provision for our signature as the actual buyer on behalf of your IRA;
- 2) the escrow statement indicating all costs, contingencies, deposit amounts, pre-paid taxes, etc., and the net amount due the seller from you (your IRA);
- 3) the preliminary title insurance report;
- 4) evidence of insurance (if required);
- 5) final funding instructions.

Other documents may be required, depending upon the state where the real estate is being purchased and the type of real estate being purchased. For example, there may be the requirement of an EPA if the property is commercial or an appraisal if a loan is involved.

23.2 So what happens when we are ready to close?

As the closing date approaches, the title company or an attorney will forward these documents to us, along with your instructions authorizing us to complete the purchase (in the form of another "Investment Authorization for Non-Publicly Traded Investment"), calling for the balance of the purchase money to complete the transaction.

Once we receive your authorization and the final closing documents, we will execute them by signing and notarizing them, then forward them to the title company's (or attorney's) Trust account, after wiring the funds as authorized.

The title company will then give your funds to the seller and record your "grant deed" to the property with the county. When the title company receives the recorded deed back from the county, it will forward the deed to PENSCO Trust for safekeeping (you are not personally allowed to act as custodian of your IRA assets).



23.3 Now that the closing is complete, is there anything else I should know?

Your IRA now owns property. That wasn't so bad. In fact, the process is almost the same as purchasing the property yourself, without your IRA. The main difference is that all of the documents have the IRA as the named buyer and therefore have to flow through PENSCO Trust for the final approval as the custodian.

It is also important to note that all the funds have to come from your IRA (e.g. through PENSCO Trust), **including the deposit. *You are not allowed to use personal funds for the down payment, and then later replace them with your IRA funds.*** That violates the self-dealing rules prohibiting you from transacting personally with your IRA. Unfortunately, many people are disappointed to find out after putting a deposit down on their dream real estate property, that they have prevented their IRA from participating. It is critical to the legal acquisition of property by an IRA that the IRA participate from the outset by making the deposit.

CAN I USE MY IRA FOR A DOWN PAYMENT?

24 Can I use my IRA for a down payment?

Yes, in many cases you can use your IRA as down payment on a real estate purchase. On the other hand, there are important rules and potential consequences that have to be considered when you do. First, one of the prohibited transactions for an IRA is to serve as collateral for your loan. This prohibition is clearly stated in [IRS Publication 590](#) (PDF), page 48.

Essentially, what this means is that your IRA, by virtue of it being a down payment on your real estate purchase, would be serving as collateral for YOUR loan to buy the property, whether you take the loan solely or guarantee it for your IRA. Either one would constitute a prohibited transaction. Banks and other lending institutions are generally unfamiliar with the concept of IRAs buying real estate, and although this is changing, they will usually require you to apply for the loan that your IRA is funding. This is also called a loan guarantee. That is, if your IRA fails to make the loan payments, then the Bank has recourse to go after you personally as the loan guarantor. This guarantee links the IRA owner in a transaction with his or her IRA, creating a prohibited transaction.

Generally speaking, it takes three elements to create a prohibited transaction for an IRA:

- 1) the IRA;
- 2) a disqualified person in relation to an IRA (e.g., the owner or owner's spouse, ascendants, descendants, etc.)
- 3) a transaction between 1 and 2 above.

Thus, by guaranteeing the loan for his or her IRA, the IRA owner is creating a prohibited transaction.

24.1 So, I thought you said that an IRA can serve as down payment?

Don't despair. Your IRA can obtain what is called a "non-recourse loan" when it puts a down payment on a purchase, and then finances or leverages the balance by taking out a loan or mortgage for the difference between the deposit amount and the purchase price. "Non-recourse" means that the only choice the lender has in the event of a loan default is to take back the property and sell it. The lender can only go after the property, not the IRA's other assets, and not you or the custodian to recover the debt. However, because banks are risk-averse and do not want to experience defaults, they look for ways to limit the likelihood of having to actually foreclose.

Therefore, because the threat of going after the IRA, the IRA owner, or the custodian is eliminated with a non-recourse loan, banks will generally require 30-35%+ down for a non-recourse loan to an IRA. They want some extra buffer in the event that the real estate market experiences a short-term slump at the same time your IRA fails to meet its obligations. As a result of bank loan requirements, most custodians have an informal rule of not permitting more than 70% loan to value (less than 30% down).

24.2 Are there alternatives to a commercial non-recourse loan?

A seller can also extend a loan to an IRA by offering what is called a "seller carry-back loan," eliminating the need for a bank loan. In many cases, sellers are willing to accept less money down in order to sell their properties, particularly if they are not concerned about the possibility of the property losing value. Depending upon the circumstances, the custodian may also be willing to process the real estate transaction with less than 30% down. However, the custodian may still be concerned about the ability of the owner's IRA to make the mortgage payments, particularly if there is no income on the property or very little liquidity to deal with contingencies such as taxes, insurance, repairs, the lack of tenants, etc. While custodians are not liable if a self-directed IRA fails to meet its obligations on a loan, most custodians don't want their clients to take on excessive risk, increasing the likelihood that they will experience a loss. It is common sense to understand that clients who lose some or all of their retirement savings will be unhappy clients. Besides, good custodians are not just in it for profit - they are in it because they want their clients to be successful.

25 What if I can't get a commercial non-recourse loan, and I don't have enough in my IRA for a seller carry-back loan? Are there any other ways I can use my IRA funds to invest in real estate?

Absolutely. In fact there are so many ways, it would probably take another 200 pages to describe them. I will explain a few of the most common. First, there are other ways an IRA can be used to make a down payment on a real estate purchase that are perfectly legal. Let's say you have \$30,000 in your IRA and you want to buy a \$150,000 rental house with it. You now know you are unlikely to get a bank loan because you have less than 30% for the down payment. Maybe the seller needs all cash to buy a new house and is therefore unwilling to give your IRA a loan. There are several approaches you can take to fund this investment.



First, you may be able to combine your IRA funds with your personal funds to make an all cash purchase. When you raise enough funds to make an all cash offer, it generally speeds up the sale, resulting in a lower price. In this case, there is no loan, loan contingency, or appraisal standing in the way of the closing.

25.1 I don't personally have that much cash. Can I co-invest with my friends and relatives?

Yes. You can combine your IRA and personal funds with your wife's or husband's savings, her or his IRA, funds from your friends, children or other relatives (or any other combination) in order to enter into the transaction together as tenants-in-common. Each investor appears on the grant deed (the legal document giving title to the property) as a percentage owner, based on the amount of each investor's contribution towards the full purchase price. For example, if your IRA contributed \$10,000 towards the purchase of a \$100,000 parcel of land, the grant deed would specify that your IRA was a 10% owner.

25.2 If I combine with some of my friends and still don't have enough to make an all cash offer, is there a way to get a loan for the balance?

Yes. You could also combine with other parties, where one who is unrelated to you or any other IRA owner (e.g., a friend) takes out a loan to finance a portion of the transaction.

26 I'd like to do this transaction without involving my family and friends. Is there any other way to purchase real estate with my IRA when my IRA doesn't have sufficient funds to make an all cash purchase?

Another approach is to co-invest your IRA with personal funds by taking out an equity loan against your primary residence or other property you own (other than the property you and your IRA are co-investing in). The proceeds of that loan can co-fund the new purchase with your IRA. In this case, your IRA is not serving as collateral for your loan - your primary residence is. It is important to note that whatever percentages you and your IRA own will determine how you and your IRA benefit. For example, if your IRA is 40% of the transaction and the money from your loan represents the remaining 60%, your IRA will be responsible for 40% of any expenses associated with the property and will receive 40% of any income or capital gains at the time of sale. You CAN NOT allocate more earnings than are appropriate based on the original contribution to the purchase to either yourself or your IRA without creating a prohibited transaction.

27 If I buy a rental property with my IRA, can I manage it?

Yes and no. You CAN perform ministerial functions for your property much as you would for any other asset (e.g., making decisions to buy and sell, acquiring legal advice, etc.). This could include



making decisions such as to whom to rent, what plumber to contract with or what builder to choose when you add a porch. You will have to instruct PENSCO Trust to pay these bills, because you cannot pay them yourself and ask for reimbursement from your IRA. You are not allowed to take receipt of funds related to your IRA without them being treated as taxable distributions, even if they are intended to compensate you for legitimate expenses associated with your IRA.

You should not build the porch yourself, or put on a new roof, etc., or, in general, add any material value to your property through your interactions with it. This is because the property is considered a plan asset, and a transaction between a plan asset and a disqualified person in relation to the IRA (you, as the IRA owner) is prohibited. If discovered, the IRS would consider such "sweat equity" activities illegal contributions to your IRA.

27.1 Can I collect the rents for my IRA rental property?

Again, yes, and no. You can have the renters forward rent checks to you, BUT made payable to your IRA. They cannot be made out to you, nor can you deposit them, even if you issue your IRA the equivalent amount in a new check. Rather, simply make a notation in your register that the renters made their payments, and forward the payment on to PENSCO Trust.

You can also instruct renters to forward payments directly to PENSCO Trust, indicating on the memo portion of the check or in a separate note the month associated with the payment and an abbreviated property address. PENSCO Trust will then apply the payment to the appropriate property.

Of course, for larger multi-family units, you will probably need a property manager who can assume these and other responsibilities. Again, you CANNOT pay such expenses for your IRA, nor may you charge for any property management services you chose to perform for your IRA. You might also appoint someone, such as a property manager, a CPA, friend, or a brother or sister, who is not a disqualified person to provide these services for you. They CAN (and should) be paid for doing so.

27.2 Can I buy a resort rental or vacation property and rent it myself for a few weeks a year?

No. Doing so would constitute a prohibited transaction. Remember IRAs are set aside for retirement and you cannot make personal use of an IRA asset, while it is in your IRA.

28 If I buy a plot of land and later build on it and move into it when I retire, are there any tax consequences?

Well, when you buy the property with funds from your IRA and later build a house using funds from your IRA, there are no tax consequences. However, when you move into it, it is tantamount to taking a distribution from your IRA from the standpoint of the IRS. You will pay tax on the full value of the house and property at that time. One way to mitigate this tax hit is to gradually distribute the house and land to you over a period of years by reassigning a portion or percentage of the grant



deed through an "assignment." This is performed by the title company and the custodian until the full ownership is distributed "in-kind" (or as-is) to you. In this manner you can spread out the tax hit over a number of years. Then you can move into it penalty-free when you yourself fully own it.

One man in Oregon wanted to buy an 18-acre plot to develop and eventually retire to. He asked the seller to subdivide it into one 17.5 acre lot and one .5 acre lot. He could then personally buy the .5 acre lot at a nominal cost based on its size, and later build on it using his personal funds and/or a bank loan. By doing this, he has surrounded himself with 17.5 acres of land, owned by his IRA.

29 What if I want to invest in a large commercial property and I do need support from other parties? Are there ways to simplify the purchase and management of the property?

Yes. Yet another popular approach is for a group of investors to combine forces and invest in an entity such as a limited liability company (e.g., LLC). The LLC can purchase the property. This may be done for a variety of reasons (which will be discussed later), but this approach will allow the LLC to take out a loan. Banks are actually more comfortable loaning to companies than IRAs and, in some cases, people. One of the reasons for this is that the bank can get personal guarantees from some of the members to support the loan for the LLC. For example, it is not a prohibited transaction for an LLC member that is unrelated to any IRA owner to guarantee the loan for the LLC, possibly for a greater percentage of equity for the assumption of the extra risk.

29.1 What are the other advantages of using an LLC to invest in real estate?

First, an LLC by definition limits the liability to the assets of the LLC. If your LLC is sued as the owner of a building, recovery is, in most cases, limited to the assets in the LLC (exceptions to this limitation may vary from state to state, so check with your local real estate lawyer; in California, for example, exceptions include if an LLC member actively participates in a tort, signs contracts in his individual name or conducts the LLC in such a way such that a creditor may pierce the company veil). Plaintiffs can't reach through the LLC to the underlying members (shareholders), including your IRA or you as the owner of the IRA. Thus, LLC's are commonly used for asset protection.

Secondly, if you have a large group of investors, LLC's simplify the purchase and management of real estate property by reducing the number of parties in the execution process. For example, an LLC with ten members can appoint a managing member, and that member can sign on real estate contracts and all other legal documents, etc. according to the terms of the LLC's operating agreement. So, instead of ten people signing on a purchase contract or a plumbing contract, you have just one. Similarly, if you expect a lot of transactions, the process can be streamlined through the LLC by eliminating the need to get the custodian (PENSCO Trust) to sign, which is necessary if the IRA owns the property directly.

Another significant advantage to the less experienced real estate investor, or an investor who doesn't have the time necessary to manage a property owned by his IRA, is to assign that to the LLC manager. The IRA investor can be a passive investor. The passive investor will still get most



of the same benefits that it would have if it was buying the property directly, less a management fee generally paid to the managing member. Most of the time, this arrangement suits the needs of both the active and passive investors.

30 Can my IRA get a mortgage on the property?

Yes. As discussed above, an IRA can enter into a non-recourse loan with a financial institution or the seller of a property. The IRA will be responsible for the mortgage payments, so it will need to have enough cash flow or cash reserves to support the monthly mortgage payment, as well as the normal expenses such as property taxes, insurance and repairs. If the IRA loses a tenant, it still needs to be in a position to meet the monthly contingencies. You are not permitted to pay bills, etc. for your IRA, but you can make an IRA contribution of up to \$5,000 (\$6,000 if over age 50) each year to increase cash in your account. If you have a SEP IRA, the amount is \$46,000 or 25% of adjusted gross income, whichever is less. You can also transfer in more funds from other IRAs you may have, or roll over funds from any existing pension plans. After that, if the IRA fails to meet the loan obligations, your choices are to have the IRA sell the property or face foreclosure.

31 Can my IRA make loans to others who want to buy real estate?

Yes. In fact, your IRA may make a loan to any person, other than a disqualified person, for any purpose. Such loans involving real estate act just like mortgages and are generally referred to as "Trust deeds" or mortgage deeds. They are secured by the deed to the property that serves as collateral for the loan if the borrower fails to meet the loan obligations. Just like the bank, the IRA lender can foreclose on the property by following the legal proceedings associated with foreclosure.

Usually, there is a loan broker for such loans. Generally these loans are called "hard money" loans because they occur when the borrower fails to secure a bank loan (e.g., due to poor credit or insufficient income), and because they demand higher rates of interest (usually from a low of 8% to 15% or more). Many PENSCO Trust clients have experienced consistent returns of 12% on Trust deeds year after year, without ever having to foreclose. One PENSCO Trust client rolled approximately \$275,000 from his pension plan to a PENSCO Trust IRA when he retired in 1994. He has invested in nothing but Trust deeds and earned 12% on average ever since - no mutual funds, stocks, bonds or CDs. He accumulated over \$800,000 from the effect of compound tax deferred growth, and was still able to withdraw \$80,000 in his first year of mandatory distributions (at age 70.5) without touching his principal (12% of \$800,000 is \$96,000).

31.1 What happens if it comes down to foreclosure?

Even if foreclosure is necessary, your IRA can be protected if there is good loan to value on the property. Most hard money lenders won't lend more than 70% to value, and many won't exceed 60%. The more equity the borrower has in his property, the less likely the borrower will default and walk away from a loan. In addition, if that happens, and there is a good loan to value ratio (e.g., 65%) the IRA lender has a good chance of not only recovering their entire principal, but getting additional profit from the sale of the property at a price which exceeds the principal balance of the loan and the foreclosure expenses.



So, an IRA owner can make a potential real estate buyer a Trust deed loan from his IRA (either a first, second or third position, etc.) just like a bank, where the borrower makes regular monthly mortgage payments to the IRA. There are companies (such as [North American Loan Servicing](#)) that specialize in managing the payment and collecting process for the IRA and IRA owner, including late fee assessments and foreclosure proceedings, if necessary. Fees for this type of service range from \$10/month per mortgage to .5% on the amount of the loan per year.

31.2 Can my IRA make a loan to a developer?

IRA owners can also lend real estate developers money to finance the acquisition, development, and sale of speculative property. Developers typically have difficulty obtaining financing for new projects from banks, and they frequently seek private investment funds to help fund the early stages of development. Because these phases are riskier, lenders typically charge higher interest rates and sometimes also demand a share in the eventual profits from the venture. Properly done, such investments can be quite lucrative.

For example, a gentleman in Texas purchased a parcel of commercial property for \$750,000 with his PENSCO Trust IRA, for the purpose of building a commercial building for lease. He was able to strike a deal with a major automobile tire distributor who was seeking an operating lease instead of having to invest capital in the project. The IRA owner then invested more IRA funds in increments to fund the build-out until the entire project was completed at a cost of \$1.7 million. The IRA now has a 20-year lease with a blue chip company on a brand new commercial building, generating an annual return of 20% including appreciation. That's almost \$90 million after 20 years, tax-deferred.

31.3 Can I make a personal loan (unsecured) to a friend from my IRA so he can buy a house?

Yes. In fact, you can lend your friend money from your IRA for any purpose (e.g., to buy a boat), and it doesn't have to be secured or collateralized. Of course, such loans are risky, because you have only your friend's integrity to rely on for repayment. The boat loan could be secured by the title to the boat for more protection. The tax laws require that the IRA be for your benefit, so the terms of any loan need to make the loan a good and reasonable investment for the IRA.

31.4 Can I loan my sister money that she can use as a down payment on a new house?

Yes. According to IRS Publication 590 and IRC 4975, which provide the two legal definitions of disqualified persons, siblings are not considered disqualified persons under the law. Therefore, a loan or investment with any sibling is not a prohibited transaction. Some custodians don't agree, viewing the omission of siblings from the defined family circle as too close for comfort. However, the fact remains that they are not listed as disqualified persons, nor have there been any rulings by the IRS to the contrary, to the best of our knowledge. However, since the laws are frequently



changing, it is probably prudent to consult with a knowledgeable attorney or other tax advisor if you decide to go forward with an IRA transaction involving a sibling.

32 Are the gains or income taxable from IRA real estate investments?

This is a frequently asked question. The answer is NO - in most cases.

If an IRA buys investment real estate and then sells it at a profit, all income generated while it was held in the IRA and all the gains resulting from sale WILL be either tax-deferred (regular IRA) or possibly tax-free (Roth IRA), IF the purchases were all cash with IRA funds.

If the IRA borrows to finance the purchases, any income and capital gain that is attributable to debt-financing will be subject to taxation. So, for example, if an IRA puts 50% down on a rental property and that property generates \$10,000 net income after expenses per year, the IRA will be taxed on 50% of the net income (the amount financed) less the first \$1,000 which is tax exempt, or \$4,000 (e.g., 50% x \$10,000 = \$5,000, less the \$1,000 exemption = \$4,000). The tax is charged at the Trust tax rate schedule because an IRA is considered a Trust for the purpose of tax. The tax applied is called Unrelated Debt Financed Income tax or UDFI tax.

Similarly, when the property is sold, the IRA will have to pay capital gains tax on any gain that was debt-financed. For example, if the same property was sold two years after purchase for a \$100,000 profit, 50% (assuming there had not been any reduction in the debt) of the gain, or \$50,000, would be subject to tax at a rate of 15% (the current long term capital gain rate). This results in a tax of \$7,500. The remaining \$92,500 would go back to the IRA tax-deferred. The IRA would also have to pay UDFI tax on any income on the property in the year of sale. Finally, if the debt had been reduced through principal payments on the loan, then the amount of UDFI and capital gains tax would be calculated based on the average indebtedness over the twelve months prior to the sale. If all the debt had been paid off one year prior to the sale, there would be no capital gains or UDFI at the time of sale.

32.1 Are you saying that if I buy income-producing or other real estate using all cash and sell it for profit, that I never pay any tax?

No. If you buy real estate, stocks, mutual funds, etc. with a traditional IRA, without incurring debt to the IRA, all the profit and income flows through to the IRA tax-DEFERRED. You can buy and sell property for twenty years or more in an IRA without paying either capital gains or income tax, provided that the investments are not debt-financed. If some or all of the investments are debt-financed you will pay UDFI tax on the amount of income and capital gains that were generated using debt. But assuming, for simplicity's sake, that you buy 100 acres in Wyoming with cash and sell it 10 years later for a \$400,000 gain after the debt has been retired for at least twelve months, all of the proceeds would go back into the IRA tax deferred for the next investment.



You can continue to do this until you either voluntarily decide to take withdrawals from your IRA (penalty-free after age 59 ½), or until you are required to at age 70 ½. Once you begin to withdraw funds or assets from your IRA, you are taxed at current ordinary income tax rates on the fair market value of what you withdraw. If you withdraw \$25,000 in cash, you have to add \$25,000 to your taxable income as reported on your 1040 in the year of the withdrawal. If you withdraw 100 acres in Wyoming in one distribution (as opposed to fractionalizing the distribution over a number of years to reduce the one-time tax hit), you will have to have the property appraised and the value will be reported by the custodian as a taxable distribution on your 1099.

33 With the tax on any leveraged income and the requirement to pay ordinary income tax when I take money out of my IRA at retirement, it doesn't seem that buying real estate with my IRA is a good idea. Why should I consider it?

That's a good question and one I believe that confuses many, including CPAs. First, when you buy real estate outside your IRA, you pay tax on any income. Of course, you can offset the amount of income by deducting expenses and depreciation. However, you still pay tax on the entire amount of net income. In addition, unless you meet the requirements of a 1031 tax-deferred exchange on the sale of your property, you pay capital gains tax on the total profit.

With an IRA, you only have to pay tax on any income or capital gains associated with the amount that is debt-financed, thereby sheltering the balance which goes into the IRA tax-deferred. In addition, much as with a taxable real estate investment, the UDFI calculation allows you to deduct certain expenses, including depreciation, when determining the amount of tax to be paid. See [IRS form 990T \(PDF\)](#) at www.irs.gov to see the details of the calculations.

More importantly, once the tax-deferred portion of any income or gain and any after-tax income or gains from debt financing are returned to the IRA, they will grow tax-deferred (or tax-free if a Roth IRA) until you take them out of the IRA, allowing you to grow your net earnings tax-deferred for years thereafter. This is much like what can be accomplished with much greater effort and expense with the procedures for a 1031 exchange of non-IRA property investments.

In addition, you still get the benefits of using leverage to increase your returns to your IRA. There is tax on the leveraged portion, but you'll usually generate more absolute after tax returns by borrowing with your IRA than if you didn't. These will result in a rapid growth in your retirement account, so you'll have a bigger nest egg when you retire.

But the most important issue is comparing investing in real estate within the IRA versus outside of an IRA. Taxable and disposable funds are treated differently from retirement or tax-exempt funds when real estate investing is involved (as discussed above). But the fact is, they are separate portfolios, with different rules, and need to be treated as such. If you have an IRA or a 401-k that



can be rolled to an IRA, then your decision is limited to 1) continuing to grow it tax-deferred or 2) taking it out and paying taxes and possible penalties on the amount distributed to you.

If you decide to continue to grow your IRA tax-deferred, then the issue is NOT how your IRA real estate investment compares to a non-IRA real estate investment, **but rather how it relates to other IRA investments** such as stocks, mutual funds, and CDs, etc. If you feel you will be most successful in terms of producing more consistent or higher returns through real estate investing, then you'll choose that path to your IRA investing, or simply include some percentage of real estate in your portfolio for diversification and risk protection. They say in real estate it's "location, location, location." In investing, it's "diversify, diversify, diversify." So even if you choose to invest solely in real estate with your IRA, you would be well advised not to put all your eggs in one basket.

34 Why should I use a Roth IRA for real estate investing?

If you invest with your Roth IRA (and by the way, your Roth, SEP and regular IRA can all invest together in a real estate investment as co-tenants), all the income and capital gains will go back to your Roth IRA tax-deferred. Because Roth IRAs are funded with after-tax funds, if you leave the earnings (e.g., income and capital gains) in the Roth for five years from the date the Roth was first established AND until you are 59 ½, the entire Roth, **INCLUDING THE EARNINGS, WILL BE TAX-FREE FOREVER.**

Better yet, you are not required to take distributions from your Roth until you die, when your beneficiaries will be the ones taking distributions. So your Roth IRA investments can continue to grow tax free for life.. There is still more. As long as you are working and have earned income, you may be able continue to contribute to your Roth IRA up to \$5,000 per year (there are annual adjustments to the limits) in which your adjusted gross income is below applicable limits.

Let's say you buy a piece of property for \$100,000 at age 40 with your Roth IRA. When you reach retirement age (e.g., at age 65, 25 years later), your property is worth \$1,000,000. You can either sell it and keep the \$1,000,000 in your Roth to grow tax free, or remove the cash OR THE PROPERTY tax free. ([Click here to learn more about a Roth IRA](#) and [click here to open a PENSOCO Trust Roth IRA](#)).

35 Can I invest outside of the state or country?

Yes. Your IRA can invest in any U.S. state, and in many foreign countries. While it is legal to purchase real estate in any country or even on the moon, PENSOCO Trust will only allow investments in countries that are generally democratic and that use English in their documents. Examples include the U.S. Virgin Islands, England, India, New Zealand, Australia, South Africa, Ireland, Mexico, and Canada.

If you are interested in purchasing foreign real estate, please contact a PENSOCO Trust sales representative to discuss your desired purchase. We reserve the right to refuse any investment, including real estate outside the country. Our considerations include the ease of communications,



obtaining valuations, administration, the stability and politics of the government, the Patriot Act, and the complexity of the purchase execution and the manner in which title may be held, among others.

36 Tell me more about prohibited transactions.

While there are only three types of assets that are prohibited for inclusion in an IRA (e.g., life insurance contracts, collectibles, and "S" corporation stock), there are many possible prohibited transactions. The most common prohibited transaction is one between the IRA and what is called a "disqualified person."

A disqualified person includes any of the following in relation to the owner of an IRA:

- the IRA owner;
- ascendants;
- descendants;
- the spouses of descendants;
- spouse;
- the fiduciary of the IRA;
- certain related businesses and Trusts; and
- service providers, such as the custodians and brokers.

Simply stated, you are not permitted to conduct transactions between these persons and your IRA. For example, an IRA is not permitted to buy a house for its owner or the daughter (descendant) of the IRA owner. An IRA also cannot extend a loan to a disqualified person, although loans can be made to unrelated parties, including a brother or sister (sibling).

These rules can be tricky. For example, a married woman wanted to help her father, who had just retired, complete the building of his retirement home by loaning him funds from her IRA. Because her father is her ascendant, her IRA is prohibited from making such a loan. Fortunately, however, her husband could extend a loan from his SEP IRA to his father-in-law, because his wife's father was NOT within the class of disqualified persons of his SEP IRA, even though he is in relation to the father-in-law's IRA.

These rules are sometimes called self-dealing rules and were intended to eliminate what the IRS would call "sham" or "linked" transactions, where family members collude to create transactions designed to avoid taxes associated with distributions from IRAs. It is important to consult with a professional if you are involving any family members in a transaction with your IRA. If you engage in a prohibited transaction with your IRA, you will be taxed on the entire value of your IRA. In addition, you will be subject to the penalties if you are under age 59 ½.

36.1 Okay, tell me a little more about prohibited transactions...

There are many other possible prohibited transactions involving your IRA. For example, you are not allowed to invest in an entity if you and/or the sum of the ownership of your IRA's disqualified persons own 50% or more of that entity (e.g., a real estate LLC) PRIOR to the transaction by your IRA. Ironically, it is not prohibited for an IRA to have a 100% ownership position in a company,



provided that at the time the transaction took place (e.g., at the time the company was formed), the IRA owner and his or her IRA's disqualified persons held less than 50% ownership. In addition, if the IRA owner and the IRA's disqualified persons own 50% or more of an entity, then the IRA of the owner cannot have a transaction with any business partner in the entity that has a 10% or greater interest in the entity.

Another prohibited transaction may occur if the IRA and IRA owner or any other disqualified person and/or IRA of a disqualified person co-invest in an asset and use of the IRA was necessary for the disqualified person to make the investment. For example, let's say Sally and her husband want to use their IRAs and some personal funds to buy 10 acres in New Mexico. If Sally and her husband can establish that they had sufficient net worth such that the transaction could have been accomplished without the use of their IRAs, there should not be any problem. In other words, they need to be in a position, if ever audited, to show that their IRAs were not enabling a transaction for them personally that could not have been accomplished without the use of their IRAs.

There are other less common prohibited transactions that most people will not encounter. However, if PENSOCO Trust is aware that you may be creating a prohibited transaction, we will inform you. Because we are neither lawyers nor professional accountants, you are advised to consult your own professionals when you are entering into a complex or uncertain transaction. The owner of a self-directed IRA is responsible for staying within the rules when directing the transactions within his or her IRA.

PRIVATE PLACEMENTS

37 Can I buy a business using my IRA funds?

Yes. Few people know that you can buy and operate a business with an IRA. Some people, with full-time jobs, will establish a new business just for their IRA account. Such businesses, whether they buy real estate or operate a gas station, restaurant or dry cleaner, are called operating companies when they provide goods and/or services (e.g., a dry cleaner provides a service).

When your IRA owns and operates a business, it is subject to taxation just like any other business. Otherwise, the IRS says, the IRA could provide unfair competition to the dry cleaner that has to pay tax. This tax has a special name called Unrelated Business Income Tax (UBIT) – "unrelated" because an IRA is a tax-exempt entity. The UBIT rules were originally aimed at non-profits which began to create traditional businesses as a means of raising funds while avoiding taxation. The IRS, therefore, created the UBIT rules to protect private businesses from unfair competition.

37.1 Can my IRA invest in my existing business?

Yes. Let's suppose you are an owner of a company that is willing to take on additional capital. If the company is an "operating company" as discussed above, AND you own less than 50% (including the sum of the ownership positions of your "disqualified persons," then your IRA can invest funds in



the company if it is a good investment for the IRA and not made to protect your non-IRA interests. If you own 50% or more, then your IRA could NOT invest in the entity, until your ownership is diluted to less than 50% prior to the transaction by your IRA.

38 Can I start my own company with my IRA or 401-k rollover?

Yes. An IRA can invest alone or with the IRA owner and others, including disqualified persons, in the private stock of a new startup company. The mechanics of the execution of such a plan should be reviewed by a qualified attorney, because if the plan is executed poorly prohibited transactions can be created. For example, the IRA owner should not incorporate personally (without the IRA) when first setting up the new company.

PENSCO Trust has enabled thousands of clients fund companies with their IRAs. People who have been laid off with nothing more than their 401-k savings can roll those funds to their PENSCO Trust IRA to help invest in a new venture. By using these funds, a business owner may get his company off the ground and put in equipment, inventory or product prototypes, etc., before trying to raise capital from outside investors or the venture capital marketplace. By doing so, he or she can frequently raise capital at a lower cost and with less dilution, because the company is already up and running and possibly demonstrating its abilities to produce a profit.

39 Tell me how this can be done with huge results.

For example, several young entrepreneurs want to form a new company. All of them want to invest their IRAs in the new venture, to help build their retirement. In their twenties, none had IRAs. They are all limited to the \$2,000 IRA contribution limit (now \$5,000). Initially, they intend to open traditional IRAs. However, after learning from us about the tax-free attributes of Roth IRAs, they choose to open Roths.

Their new company creates a unique concept for an emerging market. The company goes through several acquisitions. Finally, the successor company goes public, and the original management continues to progress. All the while, the founders' stock keeps appreciating. A few years later, these founders sell their stock for millions of dollars.

Since the retirement accounts are Roth IRAs, and since the Roth IRA owners are in their youth, they each have the potential to grow their Roths to tens of millions (or more) by the time they reach age 59 ½, when they can take distributions tax-free.

What's the moral of this? If you have an idea, and are forming a new company that you intend to put your heart and soul into, consider putting some of your retirement money up as seed capital. Your earnings will grow tax-deferred while you receive a salary (if there are other non-related investor owners, etc.) and possible personal dividends, so you'll have three ways to benefit from your labors.

PENSCO Trust is very experienced with the intricacies of these early stage investments in private companies. It is important to set them up properly in order to avoid the immediate and potential



creation of prohibited transactions. The correct initial steps can prevent the possibility of problems later as the company grows.

40 Can I purchase stock in a private company?

A private company is any company whose stock has not been listed and offered for sale on a public stock market, and YES, you can invest in the stock of a private company with your IRA. Doing so is no different than investing in a company that you start. In fact, most businesses are started with private investment funds instead of traditional sources, such as bank financing. Banks are not willing to take on the risk associated with investments in new businesses. They reserve their investment and loan funds for more established firms with some form of collateral. Consequently, more than three-quarters of all new businesses are started by the private funds of friends and family, including their IRAs.

Each custodian will have its own investment review and acceptance procedures ([PENSCO Trust's File an Investment Kit \(PDF\)](#)) by which to determine whether or not they are willing to administer the investment. These procedures generally call for the receipt and review of certain documents, which may vary with the structure of the company (e.g., LLC, partnership or "C" corporation). Generally, every new company presents a new set of circumstances, and the custodian will want to feel comfortable that, at a minimum, the new company has been recognized by some legal authority (e.g., the state authority in the state of incorporation). In all cases, however, custodians (including PENSCO Trust) go to great lengths to inform investors that their "acceptance" of an investment should and cannot be construed as an approval, positive evaluation of the merit of, or an investment recommendation. It simply means that the custodian will allow you to invest in the company through their IRA - nothing more.

41 What is a private placement?

"Private placement" is the term used in the securities world to define a non-public offering of an investment vehicle. Securities regulations allow exemption for selected types of private offerings or placements. The primary classifications for these exemptions are Rules 501-506 D. Smaller private offerings can be done where there are less than 35 investors and when the public is not solicited (e.g., friends and family rounds of financing). The most common types of private placements are those involving closely held private corporations. It is estimated that 75% of new businesses formed in the United States are funded through such private placements.

42 Can I invest IRA Funds in Closely-Held Enterprises?

IRA owners are often presented with opportunities to invest IRA funds in an existing or new private (e.g., closely-held) enterprise, such as an operating business, a real estate venture or an investment partnership. However, it is important that each transaction be reviewed by a professional, such as an attorney, to avoid significant tax consequences which can occur if such an investment is a "prohibited transaction" or generates "unrelated business taxable income." In many



circumstances, an IRA's investment in a closely-held enterprise can be structured to eliminate or reduce the risk of adverse tax consequences.

42.1 What kinds of transactions are prohibited in this case?

When IRA funds are invested in an enterprise in which the IRA owner has, or will have, some other relationship - current owner, co-investor, employee, creditor, director or officer - there is an issue of whether the investment will constitute a "prohibited transaction" under the tax laws. A prohibited transaction between the IRA and IRA owner will result in immediate taxation of the IRA's entire value. Prohibited transaction issues may also arise after the IRA investment is made, usually in connection with a transaction or service between the IRA or the IRA owner (or related person) and the enterprise.

The government and the courts have provided only limited guidance regarding when an IRA investment in a closely-held enterprise may give rise to a prohibited transaction. Nevertheless, some general observations can be made:

- In an advisory opinion, the Department of Labor (which interprets the prohibited transaction rules) concluded that investment by both an IRA and the IRA owner in a partnership was not a prohibited transaction where the IRA owner and his family owned less than 50% of the partnership, and the IRA owner derived no (or only an incidental) benefit from the IRA's investment. (Note: In all examples, the terms 'family' or 'related persons' does NOT include siblings - brothers and sisters of the IRA's owner.) Thus, co-investment by an IRA and IRA owner in the same enterprise should be permissible under some circumstances.
- An IRA's investment in an enterprise of which the IRA owner and related persons already own 50% or more (in value or voting power) is a prohibited transaction. However, many believe that a simultaneous co-investment by an IRA and the IRA owner in the enterprise's initial capitalization, resulting in their joint ownership of a majority interest in the enterprise, is not a prohibited transaction.
- An IRA investment should not be made to facilitate or protect the IRA owner's investment or interest. For example, an IRA's investment for the purpose of ensuring the IRA owner's employment with the enterprise, or preserving the IRA owner's investment in the enterprise, is likely to be viewed as a prohibited transaction.
- The IRS appears to take the position that if a transaction between an IRA and a "disqualified person" would be a prohibited transaction, then a transaction between that person and an entity in which the IRA has an ownership interest would also be a prohibited transaction.
- Depending on the type of business and the degree of ownership and decision making power in the business by the IRA, IRA owner, and related person, the IRA owner's rendering of services or receipt of compensation may or may not be a prohibited transaction. For example, where the enterprise makes or sells a product or provides a



service, the IRA owner's rendering of services and receipt of reasonable compensation appears to be permissible, provided a person unrelated to the IRA owner owns part of the enterprise, and the compensation is subject to the approval of an independent person. Specifically, IRS notice 2004-8, indicated that Roth IRA owners could not have any transaction between themselves and an entity in which the Roth was invested if their interest (including that of their Roth) in said entity was a "controlling" interest.

- A recent tax court case, the "Rollins case", went even further saying that a part-owner of one entity through his IRA, could not extend a loan to another company in which he was a 33%owner. They concluded that he was receiving a personal benefit personally from his IRA's investment, even though the IRA neither controlled the decision to transact and that he was only a minority owner in the second company. This case appears to be anomaly, based on facts and circumstances, but it is clearly a high water mark for possible prohibited transactions. Hopefully, it will be appealed and overturned.

If an IRA owner wishes to invest only some IRA funds in the enterprise, it is advisable to first transfer the amount to be invested to a separate IRA. Such separation should ensure that, if a prohibited transaction does occur, any adverse tax consequences would impact only the separate IRA making the investment.

42.2 Is there Unrelated Business Taxable Income in this case?

If the enterprise is a pass-through entity (a partnership or a limited liability company) which produces or sells goods or provides services, the IRA's share of the enterprise's ongoing net income likely will be "unrelated business income" (UBI). An IRA is required to pay income tax on UBI at the Trust income tax rate. Also, if the business is a pass-through entity which acquires any assets through loans or on margin, a portion of the IRA's share of the income may constitute UBIT (Unrelated Business Income Tax).

The IRA generally will not have UBIT on the sale of its equity interest in the pass-through entity (except to the extent that interest was acquired through debt which was still outstanding within twelve months of the sale).

Structuring the enterprise as a C corporation can avoid UBIT, although the enterprise then will be subject to income tax in accordance with applicable corporate taxation rules.

42.3 Are there any special considerations for Roth IRAs and closely-held enterprises?

Transactions between a business of which a Roth IRA (or Roth IRAs of related persons) owns substantially all the interests and the IRA owner or related persons may be "listed transactions" which may need to be reported to the IRS. The fact that the transaction is "listed" and must be reported does not mean it is prohibited. Please see IRS Notice 2004-8 or consult your tax advisor for further details.



42.4 *What about S Corporations?*

An IRA may not be an S corporation shareholder. The S corporation ceases to be an S corporation once an IRA is named a shareholder and reverts to being a "C" corporation. However, limited liability companies are very similar to "S" corporations, and they can have IRAs, other corporations, and Trusts as members. In addition, LLCs have other advantages over "S" corporations such as the fact that they are easier to maintain, there is no legal requirement for meetings and minutes, they are less costly to form and run, and they can have more than one class of ownership.

42.5 *One hundred words or less – what is the deal with closely-held enterprises?*

Careful planning will often enable an IRA to invest in a closely-held enterprise with little tax risk. The transactions which might occur after the initial IRA investment is made (such as how and when the IRA will ultimately dispose of its investment or future capital needs) should be taken into account at the planning stage. An experienced attorney or tax practitioner familiar with prohibited transactions and UBTI issues should be consulted when an IRA owner is considering making such an investment.

FOR ATTORNEYS, CPAS, AND INSOMNIACS

43 What are "Plan Asset" regulations?

Even though IRAs which are not employer-sponsored are not subject to Title I of ERISA, they are subject to the plan asset rules. The plan asset rules, by their terms, cover any plan described in Internal Revenue Code section 4975(e)(1), which defines "plan" to include an IRA. At least one Department of Labor opinion letter (2000-10A) confirms that IRAs are subject to the plan asset rules.

The mere fact that an IRA's assets are plan assets does not create adverse consequences; it only means that the entity's assets are treated as IRA assets for purposes of applying the prohibited transaction rules. For example, if an IRA invests in an LLC, and the LLC's assets are deemed to be plan assets of the IRA, then the IRA holder's purchase of assets from the LLC would be a prohibited transaction.

If an IRA, together with other "benefit plan investors" owns at least 25% of any class of the entity's equity interests, and the entity is not an "operating" company (a company that provides goods and service or is a real estate development company-"REOC") the entity's assets are treated as the IRA's assets, unless an exception applies.

If a person has discretionary authority or control over assets of the entity, that person's interests are disregarded in determining whether the 25% threshold is met. For example, if A manages the LLC, A's IRA owns 23% of the LLC, A personally owns 10% of the LLC, and individuals independent of A own the remaining 67% of the LLC, then the IRA is treated as holding 25.6% (i.e., the ratio of 23% to 90%) of the LLC.



Subject to the exception discussed in the following bullet point, the assets of an "operating company" are not plan assets, even if the 25% threshold is met. The applicable regulations define an "operating company" as either (1) an entity that is engaged primarily, directly or through a majority-owned subsidiary, in the production or sale of a product or service other than the investment of capital; (2) a real estate operating company; or (3) a venture capital operating company.

- The plan asset regulations provide that if an IRA or related group of IRAs own 100% of **any** entity, the entity's assets will be treated as plan assets, even if the entity is an operating company. The regulations do not indicate whether the same result follows if the entity's only owners are the IRA and the IRA holder. It therefore would appear advisable for IRA clients who are investing in an operating company to have an independent, minority investor (with a non-trivial interest) to insure that the 100% rule will not apply in their situations.

Some examples:

Example 1: IRA owns 100% of an operating company (a company that provides goods or services, or real estate operating company). Can the IRA owner or any other ascending/descending family members draw compensation?

Answer 1: No, they cannot be compensated, but the IRA can earn dividends (or get profits from sale of assets). However, if the IRA owns less than 100% of an operating company, an unrelated third party is a significant investor, a truly independent person determines that compensation be paid and its amount, and the payment of compensation is not "pre-ordained" or part of an expectation, then the IRA owner (and his family) may be compensated. The IRA owner can be an officer of the company. The IRA can also earn dividends, but they cannot be unreasonable or they could be considered disguised contributions.

Example 2: Bed and Breakfast owned 100% by IRA. Can the IRA owner be compensated?

Answer 2: IRA owner cannot get compensation, but the IRA can earn income on the business and when it's sold to an unrelated third party, the IRA receives the profit.

Solution 2: If the B&B is less than 100% owned by the IRA (an independent person owns a non-trivial interest) and an independent person approves the compensation, then the IRA owner CAN be compensated, and the IRA will continue to earn income as well as be entitled to its proportionate share of the profit when the business is sold.

Example 3: Bob owns 60% of a company with his IRA. His father privately owns 30% and his brother privately owns 10%. Can Bob take a management fee?



Answer 3: Yes. Bob can take a fee based on 40% management effort (the portion of the company that is NOT owned by his IRA).

Example 4: Regardless of the ownership percentage of the IRA in an operating company (but less than 100%), can an individual hold a significant position in a company (including a salaried position such as CEO), and still avoid potential prohibited transactions?

Answer 4: The situation is subject to the facts and circumstances. If the actions of the officer or manager unfairly benefit or impact the IRA as a result of a conflict, that would suggest self-dealing. Also, the compensation must be set and approved by an independent person. This scenario should be reviewed by counsel to ensure that potential conflicts and problems are considered to be unlikely, and therefore, the risk of an adverse interpretation by the IRS is diminished.

If a divergence of interests between the IRA and the individual develops, the individual must take steps to eliminate the conflict in order to avoid engaging in a prohibited transaction.

Prohibited transactions as defined in IRC 4975

(These examples involve transactions between the IRA and the company)

Prohibited Transaction Example 1: An IRA (alone or together with certain related persons) owns at least 50% of a company. Can further IRA investments be made with the same company?

Prohibited Transaction Answer 1: NO - no further investments, capital contributions, loans, stock purchases can be done with IRA funds, but initial IRA ownership of over 50% with no further transactions is fine. The IRA can continue to earn dividends and may sell to an outside buyer and earn profits.

Prohibited Transaction Solution 1: Less than 50% ownership.

If the IRA (alone or together with certain related persons) owns less than 50% of a company, then further sales or exchanges at arms-length terms are allowed.

Prohibited Transaction Example 2: (Involving the 50/50 Rule): An IRA owns 70% of a corporation or LLC. Can the IRA owner add more money PERSONALLY if the company needs capital?

Prohibited Transaction Answer 2: Probably, if an independent person approves the additional contribution.

Prohibited Transaction Solution 2: Use a LOAN from an outside source. This way, the IRA's percentage of ownership remains unchanged and the company gets working capital it needs.

Restricted Stock

Restricted Stock Example: An IRA owns a 10% share in a company with Restricted Stock, with the restrictions based on the IRA owner's continued employment. Is this prohibited?



Restricted Stock Answer: Unclear (but very possibly) prohibited, so it is not prudent to have the IRA's interest depend upon the individual's non-IRA actions. If the IRA is benefiting from the individual's effort for the company, (i.e.- getting better terms or a special deal on subsequent stock offerings based on the individual's performance within the company), then the situation might be suspect with the IRA benefiting from IRA owner's actions (a version of "self-dealing.")

Restricted Stock Solution:

- a) Make the IRA's stock restriction based on a time-period that is unrelated to continued employment.
- b) Personally own stock that has less favorable restrictions and request that the IRA's stock be vested immediately.

(The foregoing is a general discussion. It is not intended, and may not be relied upon, as an opinion or advice on any legal, tax or investment aspects of IRAs. An IRA owner considering an IRA investment in a private placement or closely held corporation should consult with his or her attorney, tax advisor and CPA before making such investments. PENSCO Trust does not provide tax, legal or financial advice.)

44 Now that I know what I can and cannot do with a self-directed IRA, where can I get one?

There are approximately 20 custodians in the United States that are dedicated to providing self-directed IRA services.

LEARN MORE ABOUT PENSCO Trust

45 Why do I need a Custodian and what are the differences?

Unlike with pension funds, such as 401-ks, IRA owners are not permitted to be the Trustees or custodians of the assets of their IRAs. Consequently, the government has appointed certain financial institutions to handle the accounting and reporting of IRAs.

There are only two classes of companies legally permitted to hold IRA assets: banks (e.g., banks, Trust companies, savings and loans and credit unions), or non-bank custodians which are separately licensed by the IRS (e.g., broker -dealers, mutual fund companies, and insurance companies).



Some companies which are neither a bank nor an IRS approved non-bank custodian appoint a licensed institution to act as their "nominal" custodian. Such companies generally represent more risk to the consumer because they are not regulated or audited by a government authority and, in most cases, are not fully subject to regulatory controls (e.g., operational audits, etc.) and requirements.

46 Who are PENSCO Trust and PENSCO Trust, Inc.?

PENSCO Trust Company, formed in July of 2001, is a New Hampshire chartered non-depository bank and Trust company. It is the wholly owned subsidiary of PENSCO Trust, Inc., a California bank servicing company and formerly an IRS approved non-bank custodian and broker/dealer. PENSCO, Inc. was founded in 1989 (formerly PENSCO Pension Services, Inc.) and with PENSCO Trust Company now services thousands of customers in all 50 states.

47 Why should I Trust PENSCO Trust?

PENSCO Trust's mission is to be the premium provider in the self-directed IRA industry. We feel there are three elements vital to achieving our mission:

- Integrity;
- Knowledge and expertise;
- Service.

For over 15 years, PENSCO Trust has been serving its customers fairly. PENSCO Trust has been regulated by the IRS, the NASD (National Association of Securities Dealers), the SEC (Securities Exchange Commission), and now by a state banking commissioner. Neither the Company nor any of its employees have ever been sanctioned or disciplined by any authority. Furthermore, we have been an "Honor Roll" Member of the Better Business Bureau for many years. Our track record is indicative of how we fulfill our responsibilities to our customers and how issues that can occur are dealt with quickly and fairly.

We pride ourselves on our knowledge of the rules and transaction mechanics associated with self-directed retirement account transactions. We stay abreast of all the changes in regulations regarding IRAs, and we are active in lobbying for improvements. For example, we are a member of the Savings Coalition of America, which is a group of 75 major corporations focused on improving the levels of savings in America. We are also a member of the National and State Mortgage Brokerage Associations, the California Mortgage Association and the Retirement Industry Trust Association, and the Association of Independent Trust Companies. We employ several outstanding law firms that help keep us informed of the latest developments in our industry.

Unlike many of our competitors, we go to extra lengths to inform clients about the opportunities inherent in self-directed retirement accounts, and we provide a variety of free information materials to customers at their request. Some of our competitors charge excessive fees for seminars (ranging from \$150 to \$6,500.), and/or sell tapes, CDs, books, etc. to explain what we explain at no charge as part of our service. In fact, we provide free CDs, books, newsletters, and other media-



based documents to assist our clients with their retirement investing. We have hosted a radio show in several regions of the country called "Creative Ways to Maximize your IRA," and we have participated in the editing of a nationally recognized book entitled *IRA Wealth* by Pat Rice and Square One Publishing, which details all the ways you can invest your IRA in real estate. We have even educated hundreds of professional accountants, CPAs, attorneys, financial planners and real estate professionals for free (or for a nominal fee to cover expenses), to help educate more and more Americans across the country about the benefits of self-direction for creating retirement savings. Go to the webpage [Find a PENSCO Trust Preferred Professional \(P2\)](#) to locate a professional in your area who can assist you.

PENSCO Trust has always been a leader in the industry. We have developed our own proprietary Trust accounting system and have refined it over 15 years to make it as efficient and customer-service oriented as possible. However, we continually find new ways to innovate and respond to the needs of our customers and changes in our industry. We are proud to say we are the pioneer in the use of automation and the Internet. We believe we were the first firm in our industry to have a website and to allow customers to view their accounts through our secure website. We also were the first to allow clients to interactively open accounts online through our website, and now we are the first to give clients e-mail notifications of all transactions as they occur within their accounts.

We have guaranteed overnight (within 48 hours) funding for over ten years (dependent upon collected funds and complete investment documentation), assuring our customers that their transactions will be processed promptly or there will be no transaction fee. Some competitors have charged extra "expediting fees" to have transactions processed in less than 72 hours.

We have a dedicated customer service team. Our goal is to return all customer calls and e-mails within 24 hours - if not immediately. Because most of our transactions are paper-based, many customer inquiries may require research and it is, therefore, not always possible to give immediate responses to direct or voice mail queries. However, our customer service system tracks outstanding issues to completion. Our phone system provides customers with several options (e.g., to hold for the next available operator, or to listen to an informational explanation of a new product or service). Soon clients will be able to inquire about cash balances and/or recent transactions and get immediate voice responses.

48 Can I apply online?

YES. [\(click here for PENSCO Trust's Online Application\)](#). As yet another example of our leadership, PENSCO Trust is the first in the industry to allow you to interactively complete your IRA application conveniently from your home PC through the PENSCO Trust website. Over eighty help-screens guide you through the process, automatically gathering your information while filling out your forms for you. You simply follow the instructions and enter the requested information. When you are done, simply hit the print button as instructed and your application and transfer/rollover forms print out, completely filled in. The process helps limit errors by editing much of the data as entered, and speeds up the process of opening an account. It even highlights in yellow where you need to sign. Just send in the completed documents as instructed and keep the copy of your contact for your records and receipt. By the time your signed forms arrive via mail, your account



will already in our Trust accounting system, further accelerating the process for you and PENSCO Trust.

49 How long does it take to transfer the account?

Once we receive your signed application and transfer/rollover form, we immediately mail (or overnight at your option), your request to your current custodian(s). The time it takes from that point to the receipt of funds at PENSCO Trust can vary from a minimum of two weeks to sometimes 6-8 weeks, depending upon the institution and their workload, policies, and efficiency. It is sometimes helpful to contact your representative (e.g., broker) to see if the process can be expedited for you. PENSCO Trust has an automated transfer tracking system that periodically notifies the sending institution of outstanding transfers, and our staff proactively follows up on significant delays as part of our service.

50 What are the fees to open account?

Our fee to open a new PENSCO Trust self-directed IRA is just \$50. You can either send in a check for \$50 payable to "PENSCO Trust Company," or ask us to charge your credit card. [For more details on PENSCO Trust's fees click on this link.](#)

We look forward to the opportunity to work with you. Every day we renew our commitment to give clients maximum flexibility in the selection of their investments, utmost confidence in our stewardship, and dedicated customer service at every stage of account life. Visit us today at www.PENSCOTrust.com.