



# **YOUR GUIDE TO REAL ESTATE IN AN IRA**

**STRATEGIES AND OPTIONS TAILORED TO MEET YOUR WEALTH GOALS**



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# INTRODUCTION

Real estate is a popular retirement investment among self-directed IRA investors. While purchasing real estate within an IRA has been around for many years, finding an IRA provider who is willing to service this type of investment has been challenging. That's why it's important to do your homework, understand the regulations, and talk to an experienced provider who can walk you through every step of the way. CNB Custody has decades of experience and seasoned IRA experts you can count on. While we cannot give advice about specific investments or strategies, we can point out potential legal issues, provide answers to your questions, and offer a number of educational resources.

If you are considering diversifying your portfolio and adding real estate to your IRA or Roth IRA, read through this guide and feel free to call us with any questions you may have.

## DISCLAIMER

*You are urged to seek professional guidance and/or consider proper diversification and risk tolerance before directing any investment activity. Community National Bank (CNB) does not recommend or evaluate the prudence, merit, viability, or suitability of any investment and will not be responsible for the performance of any investment product. CNB will provide custodial services with respect to the investments in your IRA, but we do not provide investment advice or information, nor are we the agent, partner, employee, representative, or affiliate of any financial representative, product sponsor, or other individual or entity except as otherwise disclosed. We are not responsible for and are not bound by any representations, warranties, statements, agreements, disclosures, advice, or information made by any such person beyond the terms and provisions contained in the CNB Custodial Agreement, Disclosure Statements, or other CNB forms or CNB documents.*

## **BENEFITS OF HAVING REAL ESTATE IN AN IRA**

An IRA can purchase many types of real estate, including residential, commercial, raw land, and agriculture. Some of the benefits: owning a tangible asset that can produce a steady income, potential for the investment to appreciate in value, and providing another option for building a balanced and diversified portfolio. Real estate investments can be a time-tested hedge against inflation and market volatility.

### *Other benefits include:*

- **Real estate is a tangible asset.**
- **You have strategic control over the properties that your retirement account owns.**
- **You can buy, sell, and exchange properties in a tax advantaged account.**
- **Earnings and appreciation from real estate property are tax-deferred if held in a Traditional IRA and have the potential to be tax-free if held in a Roth IRA.**

Real estate investing also offers multiple investment strategies, including “buy-and-hold” or “flip-and-sell.” In addition, there are multiple options for funding your real estate investment. This includes direct purchases, partnering with other investors, and leveraging with a non-recourse loan.

Before investing, it is also important to know the risks and potential pitfalls of owning real estate within an IRA. Speak with an attorney, tax accountant, or investment professional before investing. Review the guidelines and prohibited transaction information available within this guide and Internal Revenue Code (IRC) 4975.

## HOW A REAL ESTATE IRA WORKS

- An IRA is its own financial and legal entity, separate from your personal portfolio.
- As a separate legal entity, your IRA will have its own name.
- The IRA is the owner of the real estate, not the IRA holder.
- All legal documents related to an IRA-owned asset must be in the name of the IRA, not your personal name.
- All expenses for the property must be paid by the IRA. Expenses may include but are not limited to: earnest money, closing costs, appraisal fees, insurance, maintenance, property taxes, etc. Rent from income producing property must be made payable and deposited to the IRA.
- Documents associated with your IRA's real estate investment need to be signed by CNB Custody (as the administrator for your account) to meet IRS guidelines.

### REAL ESTATE OPTIONS YOUR IRA CAN OWN



- Residential real estate, such as single or multifamily properties, condos, and apartments
- Commercial real estate, such as office buildings, retail shops, and convenience stores
- Farms
- Resort property
- Vacant land
- Trust deeds
- Mortgage notes

### REAL ESTATE HOLDINGS THAT ARE NOT ALLOWED IN AN IRA



- Timeshares
- Mobile homes  
*(unless affixed to property)*
- Foreign real estate\*
- Property purchased through an auction\*

*\* May be allowed by other custodians.*

## IRA RESTRICTIONS

It's important to understand all the rules governing IRA investments. The IRS requires IRA real estate to be for investment purposes only and has rules regarding how the real estate can be purchased and used. IRC 4975 also provides a list of disqualified persons that your IRA cannot transact with. It is important to understand these rules and the IRS definition of the term “disqualified persons.”

Disqualified persons are people who cannot benefit from the property owned by the self-directed IRA. This includes the account holder, his or her parents, grandparents, great grandparents, spouse, children, grandchildren, great-grandchildren or any of their spouses. These are called “lineal ascendants and descendants.” For example, you cannot rent a flower shop owned by your IRA to your child. See IRC 4975 for a full list of disqualified persons.

## PROHIBITED TRANSACTIONS

A self-directed IRA cannot own any property that is used for the personal benefit of the account holder or any disqualified person. For example, you cannot run your business out of a building owned by your IRA or live in a house owned by your IRA. If an IRA owner engages the IRA into these types of transactions, it could lead to a disqualification of the IRA and an immediate distribution of the entire account with possible taxes and penalties incurred.

*Prohibited transactions may also include:*

- **The account holder acting as property manager. All rents must be paid directly to the IRA and not the account holder.**
- **Expenses - All expenses related to the property must be paid by the IRA.**
- **Repairs and Maintenance - The account holder or any disqualified person, such as a child, cannot perform any repair or maintenance work on the property. This type of work must be done by a third party and services paid by the IRA. For example, your son or daughter may not mow the grass or paint the walls for a rental property that your IRA owns. The IRA would need to pay someone who is not disqualified for these tasks.**
- **Purchases and Sales - Properties held in an IRA cannot be purchased from or sold to a disqualified person, including the account owner.**
- **Use of Property - Disqualified persons may not live in, rent, or use in any way property owned by the account holder's IRA.**
- **Please see IRC 4975 for a complete list of possible prohibited transactions.**

# SIX STEPS TO SELF-DIRECTED IRA REAL ESTATE INVESTING

## 1. OPEN YOUR IRA



Our experienced staff will work closely with you by providing educational resources to assist you with the rules for real estate investing. CNB will help you establish your account, including filling out our IRA application. We have the expertise to help guide you in account setup, answer any questions, and make the process easy. You can be assured that your calls and emails will be answered promptly and you'll receive the attention you deserve every step of the way.

## 2. FUND YOUR IRA



*There are four ways you can fund your self-directed IRA:*

- **Transfer funds from an IRA you have with another custodian.**

Simply fill out our transfer request form to get started. Transfers do not prompt IRS reporting, taxes, or penalties because they are not considered taxable events.

- **Rollover from another IRA custodian.**

Your current custodian will send funds directly to you as account owner. You have 60 days from receipt of the funds to roll them over to another IRA and avoid taxes and penalties on the distribution. This is considered an indirect rollover and is reported to the IRS on Form 5498 since the initial transaction is a distribution. Only one indirect rollover is allowed per 12-month period.

- **Rollover from a 401(k), 403(b), governmental 457(b) account, or other qualified plan.**

These are considered direct rollovers and are reported to the IRS; however, the rollover would not be taxable since the funds are still held within a qualified plan. You will be required to contact your employer's plan provider with instructions to begin the rollover. We will provide you with our rollover deposit statement.

- **Contribution.**

Simply complete our contribution form and return it with the amount you would like to invest. Check with your tax advisor to be sure you are eligible for a contribution and the amount you are eligible to make. The standard contribution limit for 2023 is \$6,500 or \$7,500 if you are 50 or older.

### 3. FIND THE RIGHT INVESTMENT



- **Investment Goals**

Consider if you are looking for revenue stream through rental income, future asset appreciation, or if a certain type of property is more appealing based on your interests.

- **Investment Amount**

The amount of money you are willing to invest will play a role in the number of options you will have to consider. Property purchase prices will hinge on the local real estate market. You can always partner with others or get a non-recourse loan to help you reach your goals.

- **Expert Assistance**

Having a team of experts to take you through the process of real estate investing is crucial. Some professionals to seek out include a financial advisor, a CPA or tax accountant, an attorney to assist with contract issues, a realtor, a lender specializing in non-recourse loans, a property manager, and an IRA custodian.

### 4. FUNDING YOUR REAL ESTATE INVESTMENT



*There are several options available for funding your real estate purchase. These include:*

- **Direct Purchase**

Using liquid funds in your IRA, you can buy property quickly and easily. Your IRA pays cash for the property and holds the title.

- **Partner**

You can combine your IRA funds with another person's IRA or personal funds, with another IRA you own (such as using a Roth and Traditional), or with your own personal funds. Partnering with yourself or a disqualified person must be done at the time of the original purchase. This will allow you to divide the investment expenses and earnings according to each contributor's investment percentage.

- **Non-Recourse Loan**

This allows you to borrow money to purchase a property. Not all banks and credit unions offer these loans. If you are interested in a non-recourse loan, work with your attorney or real estate agent to locate a company that provides these types of loans.

## 5. DIRECT CNB CUSTODY TO MAKE THE PURCHASE



When you have made a decision and are ready to make your real estate investment, simply contact CNB. Our experts will help get you started and answer any questions you may have.

## 6. CLOSE YOUR ESCROW



When the title company is ready to close escrow, you will submit the following to CNB Custody:

- **Warranty or grant deed**
- **Preliminary title report**
- **Estimated closing cost statement**
- **Loan documents (if applicable)**



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### Investment Products:

*Not a Deposit - Not FDIC Insured - Not Insured By Any Federal Government Agency - Not Guaranteed By The Bank - May Go Down In Value  
The savings balance and any CNB certificates of deposit are the only portion of your account insured by the FDIC.*

# CHECKLIST FOR REAL ESTATE AS A RETIREMENT INVESTMENT



Use this checklist as a reference when considering or setting up a real estate investment with CNB Custody.

## Prior to Investing

- Establish a retirement account at CNB Custody.
- Plan to fund the account so funds are available upon execution of your investment. Also consider the amount of funds to have available for future expenses such as property taxes, repairs, HOA dues, etc., so CNB can pay for expenses from your account.
- Hire a property manager if necessary.
- Notify non-recourse lender how loan documents should be titled (if applicable).
- Review Internal Revenue Code 4975 regarding prohibited transactions.

Once your account with CNB Custody has been established and funding has been made or initiated, please use the following checklist to ensure all documents for a real estate purchase are in order so CNB may proceed with your investment.

## Note:

**Property must be titled in Community National Bank's name in order to be held in a CNB Custody account.** Please double check that all documents show the following registration for your property prior to submitting:

Community National Bank CUST  
**FBO:** (Your Name) (IRA Type) (% of Ownership)\*  
**Example:** John Doe, Roth IRA 100% Owner  
225 Main St ~ PO Box 225  
Seneca, KS 66538  
**TIN:** 48-0976372

*\*Any percentages other than 100% should also show "Tenants In Common" in the registration.*

## CHECKLIST FOR REAL ESTATE AS A RETIREMENT INVESTMENT

### Initial Purchase Documents

- Real Estate Contract/Offer - Must be titled as shown on previous page
- Earnest Money Authorization Form - Down payment on property must be made from IRA
- Real Estate Purchase Form - To authorize final closing

### After Offer Is Accepted, Prior to Closing

- Title Commitment - Must be titled as shown above
- Non-Recourse Loan (if applicable) - All loan documents must be titled as above

### Closing on the Property Purchase

- Real Estate Purchase Form - To authorize final closing costs
- Copy of Proposed Deed - Must be titled as shown above
- Final Loan Documents - Send original note to CNB Custody
- Settlement Statement - All costs must be paid by IRA: appraisal fees, inspection costs, insurance, etc.
- Property Manager Agreement (if applicable)



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## ABOUT CNB CUSTODY

With more than 35 years of experience, we've built a solid reputation for providing exceptional service, accuracy, and competitive fees. Located in the heartland of America, we pride ourselves on delivering a level of customer care and dedication unmatched in the industry. We are known for our expertise, responsiveness, and reliability. CNB Custody works closely with advisors around the country providing innovative solutions, professional services, and education that empower clients to control their investment options.



## SUMMARY

Congratulations! You've taken the first step in learning about the rules, regulations, and opportunities associated with owning real estate in your IRA. Moving forward, it's important to talk with your tax professional and the experts at CNB Custody to get the process started.

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# FAQ

## ■ Will CNB help me make investment decisions?

No, CNB is a custodian and does not provide any financial advice. Please consult your financial advisor, tax preparer, or an attorney for advice on investing in real estate products.

## ■ Why do I need an IRA custodian?

Since Congress is providing certain tax incentives for saving money through an IRA, an IRA must meet Internal Revenue Code requirements, which include the use of a bank or other entity approved by the IRS to act as either trustee or custodian. As your IRA custodian, CNB is responsible for the record keeping for your account, produces statements showing the activity and status of your account, provides tax reporting of contributions and distributions, and reports fair market value to the account owner and the IRS.

## MAKING THE PURCHASE

### ■ How can I invest in real estate with my IRA?

There are several ways to fund a real estate purchase in an IRA. You do not need to have the full purchase amount in your IRA to buy property. Options for funding include:

- **Direct Purchase** - Your IRA purchases the asset using only the cash from within the IRA.
- **Partnering** - You can partner with other investors' IRAs or personal funds to make the purchase. The investment income and expenses are divided among investors based on ownership percentage.
- **Non-Recourse Loan** - Your IRA can obtain a non-recourse loan to fund the purchase. The leveraged property is held in your IRA and all loan payments must be paid through your IRA.

### ■ **How long does it take to complete a real estate purchase?**

This depends on the complexity of the transaction. It is a good idea to have your CNB account established and funded before you start searching for a property.

### ■ **What type of property may I purchase?**

You may purchase a variety of investment properties and real estate, such as commercial buildings, vacant land, condos, farmland, and apartment buildings. We do not custody foreign properties or properties being purchased at auction. It is highly recommended that you use a title company when purchasing real estate to ensure that the deed is recorded in the name of your IRA.

### ■ **Who can my IRA partner with to purchase property?**

At the time of initial purchase, your IRA can partner with anyone, including a disqualified person. But after the transaction is closed, your IRA cannot buy, sell, or transfer to any disqualified person.

### ■ **Can I get a personal loan on the property that my IRA owns?**

No, the IRS does not allow using an IRA asset to secure a personal loan. Everything the IRA engages in must be for the exclusive benefit of the IRA. A prohibited transaction occurs when an IRA owner uses his/her IRA for personal benefit rather than to benefit the IRA.

### ■ **Can my IRA borrow money to purchase the investment property?**

Yes, your IRA could obtain a non-recourse loan. The IRA is the borrower on the loan. The loan documents are signed by Community National Bank on behalf of the IRA at the direction of the IRA account owner.

### ■ **What is a non-recourse loan?**

A non-recourse loan is secured only with collateral, which is usually the property. If the borrower defaults, the lender can seize the collateral, but cannot go after the borrower for any further compensation, even if the collateral does not cover the value of the defaulted amount. The borrower does not have personal liability for the loan.

### ■ **What is required to initiate a real estate transaction?**

CNB requires a completed Real Estate Purchase Agreement. Your account must have sufficient funds before engaging in a transaction. Please contact us for details and specific requirements for your property type.

### ■ **What due diligence should be performed prior to making a real estate purchase?**

A real estate professional can assist you with performing the necessary due diligence on the property to fit your individual needs. Consulting with a tax professional and attorney to be certain you understand the IRS regulations for holding real estate within an IRA is highly recommended. See IRC 4975 for additional information.

*When considering a property, you will need to:*

- **Verify that the title can be held in the name of an IRA.**
- **Verify that the title company is familiar with self-directed IRA transactions.**
- **Set a realistic timetable for the transaction.**
- **Decide if you will be doing a direct real estate purchase or leveraging a non-recourse loan.**
- **Find someone to handle property management.**

### ■ **I own rental property already; can I transfer it to my IRA?**

No, this is a prohibited transaction. Your IRA cannot buy property that you currently own or contribute property to an IRA. See IRC 4975 for detailed information on prohibited transactions, disqualified persons, and self-dealing.

### ■ **What if I already have a contract in my name and I want the IRA to purchase the property?**

The contract must be in the name of the IRA. The IRA account owner (or any disqualified person) cannot assign his/her interest to the IRA due to the potential for a prohibited transaction. The proper way to handle this is to start a new contract showing Community National Bank, Cust FBO: IRA Owner Name, IRA as the purchaser.

■ **Will the property insurance policy be in my name?**

The insurance policy must be in the name of the IRA. Community National Bank must sign the insurance agreement on behalf of the IRA.

## **PROHIBITED TRANSACTIONS**

■ **Am I able to sell the property to myself?**

No, this is a prohibited transaction. IRC 4975 states that the IRA holder is a disqualified person and the direct or indirect furnishing of goods, services, or facilities between an IRA and a disqualified person is prohibited.

■ **Am I able to rent a home owned by my IRA to my children?**

No, because they are disqualified persons. Property owned by your IRA cannot be used in any way by you, your spouse, your lineal ascendants or descendants, or their spouses.

■ **Can I or a company I own rehab property that my IRA owns?**

No, you cannot rehab the property either at no charge or the going rate because you are a disqualified person to your IRA. Companies owned by you are also not allowed to do any work on the property. The direct or indirect furnishing of goods, services, or facilities between an IRA and a disqualified person is not allowed.

■ **Can I use the property?**

No, you may not use the property in any way. The direct or indirect furnishing of goods, services, or facilities between an IRA and a disqualified person is prohibited. See IRC 4975 for information on prohibited transactions and disqualified persons.

■ **Am I able to do my own repairs?**

No, not even free of charge, because you are considered a disqualified person. If you perform any work to improve or repair the property it is considered “sweat equity” and is prohibited. The direct or indirect furnishing of goods, services, or facilities between an IRA and a disqualified person is not allowed, see IRC 4975.

### ■ **Who is considered a disqualified person?**

The IRA owner, their spouse, lineal ascendants or descendants (parents, grandparents, children, grandchildren, etc.) of the IRA owner and spouses of lineal ascendants or descendants, or any entity in which a disqualified person owns 50% or more are disqualified parties. See IRC 4975.

### ■ **What is considered a prohibited transaction?**

*Possible prohibited transactions include:*

- **Buying, selling, or leasing property to a disqualified person**
- **A disqualified person using the property for personal use**
- **A disqualified person doing any repairs or maintenance to the property**
- **Paying expenses or receiving income outside of the IRA**

Please see IRC 4975 for more details and other potential prohibited transactions.

### ■ **What happens if a prohibited transaction occurs within the IRA?**

If a prohibited transaction occurs within your IRA, the IRS may negate the entire IRA. In the event of a prohibited transaction, everything held within the IRA would be distributed. You would receive a 1099-R to report the distribution as taxable income and would be responsible for any taxes and penalties on those funds.

## **INCOME AND DISTRIBUTIONS**

### ■ **How is the rent collected on the property?**

If the property is being managed by a property manager, the property manager collects the rent and sends it to us for deposit. If a property management company is not managing the property, the rental income should be sent directly to the IRA account. Rental checks must be made out to: Community National Bank CUST FBO: Account Owner Name, IRA #XXXXXX.

### ■ **Can I collect rent from tenants?**

Yes, you can receive the rental payments for record keeping. The checks must be payable to the IRA and sent to CNB for deposit to your IRA. You cannot deposit the check in any other account.

### ■ **Do expenses like utilities, repairs, taxes, and mortgage payments need to be paid from the IRA account?**

All expenses for a property held in your IRA must be paid by the IRA. Using personal funds to pay for expenses is prohibited by the IRS (see IRC 4975). When you have an invoice to be paid, complete the Real Estate Expense Payment Form and submit it along with the invoice. CNB will then pay the invoiced amount with your IRA funds.

### ■ **Can I personally pay for an expense and be reimbursed by the IRA?**

All real estate expenses, such as mortgage payments, property taxes, insurance, HOA dues, repairs, and maintenance, must be paid from the IRA. Any expense paid with personal funds could be considered a prohibited transaction.

### ■ **What is Unrelated Business Income Tax (UBIT)?**

UBIT is incurred on debt-financed income, which is usually in the form of rent, interest, or royalties arising from leveraged property. If UBIT is due, the IRA owner must file tax form 990-T for the IRA. Any taxes must be paid out of the IRA. See Publication 598 and visit with your tax preparer for more information.

### ■ **Will the rental income from the property in my IRA be sent to me personally?**

Rental income must be deposited in the IRA first. After the deposit, you can request a distribution from the IRA. Your distribution may be subject to taxes or penalties, depending on your age and the type of IRA.

## **PROPERTY MANAGER**

### ■ **Do I need a property manager to manage the property within my IRA?**

We strongly recommend using a property manager for income-producing properties. A property manager is helpful for the purpose of consolidating the various expenses. If you are partnering with others, your tenants do not have to write multiple rental checks to the various investors. They can just write one to

the property manager, who then distributes the percentages accordingly and sends the IRA's percentage to CNB. A property manager will receive and forward invoices for real estate taxes, insurance premiums, property maintenance expenses, and/or management fees. The property manager is responsible for communicating with governmental entities, etc., concerning easements. The property manager also notifies the custodian and account owner in event of default by a renter and takes action to correct.

■ **Is it possible for me to be the property manager?**

No, you cannot be the property manager but you can hire any third party who is not a disqualified person to be the property manager. A Property Management Agreement is signed by the account owner and property manager for the benefit of the IRA.

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**GET STARTED WITH PROFESSIONAL GUIDANCE FROM THE EXPERTS**

We have many years of experience with self-directed IRAs and we pride ourselves on delivering outstanding customer service. Give us a call. We are ready to answer any questions you may have.



**CONTACT US**

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