Topics for Retirement Plans

- IRAs
- Types of Retirement Plans
- Required Minimum Distributions
- Retirement Plans FAQs
- Published Guidance
- Forms & Publications
- Correcting Plan Errors
- Newsletters
- Retirement Plans A-Z
- Tax Exempt and Government Entities
- **Retirement Plans Home**

Retirement Topics - Prohibited Transactions

Prohibited transactions are certain transactions between a retirement plan and a disqualified person. If you are a disqualified person who takes part in a prohibited transaction, you must pay a tax.

Prohibited transactions in a qualified plan

Prohibited transactions generally include the following transactions:

1. A disqualified person's transfer of plan income or assets to, or use of them by or for his or her benefit

2. A fiduciary's act by which he or she deals with plan income or assets in his or her own interest

3. A fiduciary's receipt of consideration for his or her own account in a transaction that involves plan income or assets from any party dealing with the plan

4. Any of the following acts between the plan and a disqualified person:

    - Selling, exchanging, or leasing property

    - Lending money or extending credit

    - Furnishing goods, services or facilities

Exempt transactions

The law exempts some transactions from being prohibited transactions. For example, if you are a disqualified person and receive any benefit to which you are entitled as a plan participant or beneficiary (such as a participant loan), this is not considered a prohibited transaction. However, the benefit must be on the same terms as for all other participants and beneficiaries.

Prohibited transactions in an IRA

Generally, a prohibited transaction in an IRA is any improper use of an IRA account or annuity by the IRA owner, his or her beneficiary or any disqualified person.

Disqualified persons include the IRA owner's fiduciary and members of his or her family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant).

The following are examples of possible prohibited transactions with an IRA.

- Borrowing money from it
- Selling property to it
- Using it as security for a loan
- Buying property for personal use (present or future) with IRA funds

Who is a fiduciary?

An IRA fiduciary includes anyone who does any of the following:

- Exercises any discretionary authority or discretionary control in managing the IRA or exercises any authority or control in managing or disposing of its assets.
- Provides investment advice to the IRA for a fee, or has any authority or responsibility to do so.
- Has any discretionary authority or discretionary responsibility in administering the IRA.

Effect on an IRA account

Generally, if an IRA owner or his or her beneficiaries engage in a prohibited transaction in connection with an IRA account at any time during the year, the account stops being an IRA as of the first day of that year. The effect of this is the account is treated as distributing all its assets to the IRA owner at their fair market values on the first day of the year. If the total of those values is more than the basis in the IRA, the IRA owner will have a taxable gain that is includible in his or her income.

Additional resources

- Publication 560, *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*
- Publication 590, *Individual Retirement Arrangements (IRAs)*
- Retirement Plans FAQs regarding Plan Investments
- Internal Revenue Manual - Prohibited Transactions

Page Last Reviewed or Updated: 12-Oct-2016