

# Safeguard Advisors Checkbook IRA Trust Instructional Guide

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# Safeguard Advisors Checkbook IRA Trust Instructional Guide

Congratulations on the formation of your Checkbook IRA Trust. This self-directed retirement plan is a powerful tool you can use to grow your retirement through the ability to actively direct the investments of your plan funds in a wide array of traditional and non-traditional assets.

This Instructional Guide is meant to assist you with the key concepts of investing with the plan and maintaining the plan through proper documentation and filings.

We have kept this guide short and simple by design. We'd like to write a 100+ page detailed guide but realize nobody would ever read that. Please take a few minutes to read through this guide and familiarize yourself with your plan and how it should be operated.

Should you have more detailed questions specific to your situation, please reach out to our team for additional guidance.

## SUPPORT RESOURCES

Safeguard Advisors is your primary resource for questions regarding the usage of your Checkbook IRA Trust. Our role is to help you understand the structure provided and how it can be utilized within the IRS rules to deploy IRA capital into the investments you choose.

Please be aware that Safeguard IRA & 401(k) Advisors cannot provide tax advisement. You are encouraged to work with your own tax advisor when it comes to matters of tax planning, state or federal tax filings, formulating IRA contribution amounts, and IRA distribution activities.

Safeguard Advisors is not an investment provider or advisor and does not recommend investment opportunities or provide investment advice.

For matters specifically related to the management of the IRA account, we recommend you work directly with IRA Services Trust Co. Safeguard can guide you on their processes and how the IRA account interfaces with the trust entity, but ultimately, they are the party handling the IRA. IRA related matters such as making contributions, taking distributions, annual reporting, and the designation of account beneficiaries are handled by IRA Services Trust Co.

### Contacting Safeguard Advisors

Website:	<a href="http://www.ira123.com">www.ira123.com</a>
Learning Center:	<a href="http://www.ira123.com/learn">www.ira123.com/learn</a> IRS rules, vendor resources and other helpful topics
Customer Service	877-229-9763
Support E-Mail	<a href="mailto:support@ira123.com">support@ira123.com</a>
Business Hours:	Monday – Friday, 8:30 am – 5:00 pm Mountain time.

You are also welcomed to contact your dedicated Safeguard consultant directly.

Most general inquiries are best initiated with an email. We often have well-written guidance for common support topics. For matters that require direct support from our team, knowing the issue in advance allows us to have the most appropriate person respond.

## Contacting IRA Services Trust Co.

Website: [www.iraservices.com](http://www.iraservices.com)  
Help Center/Forms [www.help.iraservices.com/hc/en-us](http://www.help.iraservices.com/hc/en-us)  
Customer Service: 800-248-8447  
Business Hours: Monday – Friday, 8:00 am – 5:00 pm Pacific time.

## UNDERSTANDING THE IRA TRUST

A Checkbook IRA Trust is a tool designed to provide the IRA account holder with maximum flexibility and control over investment decisions, while conforming with IRS requirements surrounding the tax-sheltered status of the IRA.

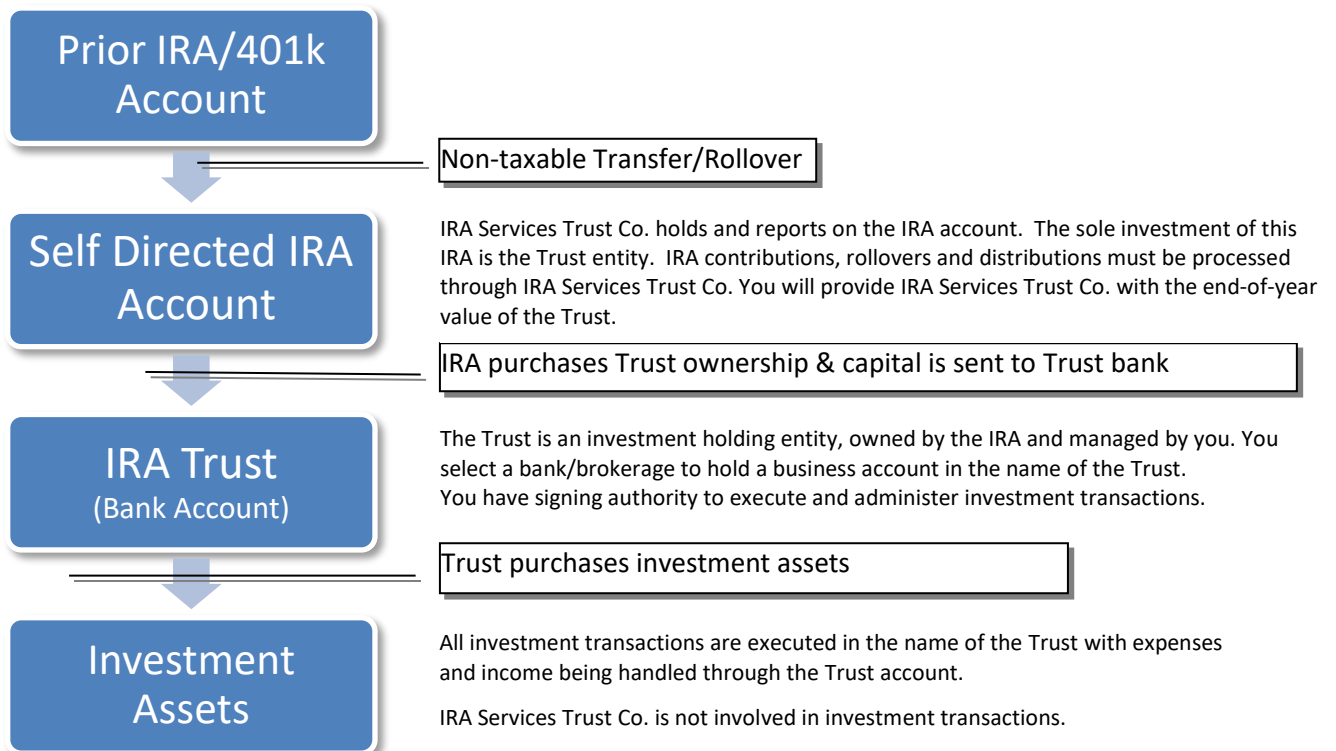
A checkbook IRA Trust consists of two layers:

- A self-directed IRA account held by IRA Services Trust Co.
- A specially formed Trust that functions as an investment holding entity for that IRA account

All IRA events such as contributions, distributions and transfers/rollovers must go through the IRA account at IRA Services Trust Co.. This ensures proper compliance reporting.

All investment transactions take place within the Trust entity. Investments are titled in the name of the Trust, and all expenses and income transactions associated with the acquisition, maintenance or sale of an asset are handled through the Trust bank account.

The following flow chart illustrates how the self-directed IRA and the Trust fit together.



## INVESTING WITH YOUR IRA TRUST

Once you have an established and funded Trust bank or brokerage account, you are ready to start investing.

A Few Quick Tips:

- When making offers, signing contracts or taking title to assets, you will do so on behalf of the Trust, in your role as Trustee, for example:

ABC Investment Trust, John Q. Public, Trustee

- All plan investment related expenses need to be paid with plan funds
- All income received from investments needs to be deposited back into the plan account
- Do not transact in any way between the plan and yourself or disqualified parties

The most important consideration when using the IRA Trust to invest is mindset. This vehicle is not a means to provide *YOU* with capital for investing. Rather, it is a means for you to have greater control over how your tax-sheltered IRA is invested.

All plan activities must be exclusively for the benefit of the IRA and may not intersect with you or disqualified persons in any way.

Your role is simply as a “fund manager”, so to speak. You have the capacity to make decisions and administer plan investments, nothing more.

### Allowable Investment Assets

The Trust may be invested in a diverse range of asset classes, from traditional publicly traded equities, bonds and funds to non-traditional assets such as title to real property, promissory notes and stock of closely held corporations.

The only assets specifically disallowed are life insurance policies and what are referred to as collectibles, including for example:

- Artwork,
- Rugs,
- Antiques,
- Metals - there are exceptions for certain kinds of bullion,
- Gems,
- Stamps,
- Coins - there are exceptions for certain coins of specified purity,
- Alcoholic beverages, and
- Certain other tangible personal property.

There are exceptions to the collectibles exclusion that allow for certain types of coins to be held by the plan.

Note that the IRA Trust may not be a shareholder of a subchapter S Corporation. Such ownership by a non-person is not allowed under the subchapter S rules and would cause the corporation to be re-characterized as a subchapter C corporation.

## Prohibited Transactions

Rules defining the prohibited use of IRA and 401(k) plan funds are defined in IRC 4975(c)(1) and IRS Publications 590 & 560.

Greatly simplified, the key principal is as follows:

**All plan activities must be for the exclusive benefit of the plan, and there may be no direct or indirect benefit between the account holder or a disqualified person and the plan.**

This section of the code identifies prohibited transactions to include any direct or indirect:

- Selling, exchanging, or leasing, any property between a plan and a disqualified person.  
*For example, your IRA Trust cannot buy property you currently own from you.*
- Lending money or other extension of credit between a plan and a disqualified person.  
*For example, you cannot personally guarantee a loan for a real estate purchase by your IRA Trust.*
- Furnishing goods, services, or facilities between a plan and a disqualified person.  
*For example, you cannot use personal furniture to furnish your IRA Trust owned rental property. Sweat equity performing repairs or improvements is not allowed.*
- Transferring or using by or for the benefit of, a disqualified person the income or assets of a plan.  
*For example, your IRA Trust cannot buy a vacation property you or your family intends to use, and no, you cannot use it and pay fair market rent.*
- Dealing with income or assets of a plan by a disqualified person who is a fiduciary acting in his own interest or for his own account.  
*For example, you should not loan money to your CPA.*
- Receiving any consideration for his or her personal account by a disqualified person who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.  
*For example, you cannot pay yourself income from profits generated from your IRA Trust owned rental property.*

## Disqualified Persons

A disqualified person (IRC 4975(e) (2)) is defined as:

- The IRA owner
- The IRA owner's spouse
- Ancestors (parents, grandparents)
- Lineal Descendants (children, grandchildren)
- Spouses of Lineal Descendants (son-in-law, daughter-in-law)

- Investment advisors
- Fiduciaries – those providing services to the plan
- Any business entity i.e., LLC, Corp, Trust or Partnership in which any of the disqualified persons mentioned above has a 50% or greater interest or executive level control over the entity.

More info: [www.ira123.com/learn/irs-rules](http://www.ira123.com/learn/irs-rules)

## Partnerships

The IRA Trust may partner with non-disqualified persons into investments. Examples include:

- Taking title to real property as tenants-in-common
- Joint ventures
- Being a member of a Limited Liability Company (LLC) or Limited Liability Partnership (LLP).

The IRA Trust may also hold an interest in a partnership where disqualified parties hold interest, so long as the combined interest of the plan and disqualified parties does not represent a controlling interest in the entity. Controlling interest can be defined both in terms of equity participation and/or decision-making control. *Extreme caution is advised in such cases, and we strongly recommend you consult a tax advisor prior to entering into such arrangements.*

## Using Leverage

You may leverage the investments of your IRA Trust with debt instruments such as a mortgage or margin trading account. Any such debt must be non-recourse in nature, meaning there can be no personal guarantee pledged by the account holder or a disqualified party to the IRA. The lender's only security must be the asset related to the debt.

When gains from an investment are obtained through the use of leverage, a tax is applied to the Unrelated Debt Financed Income that results.

More info: [www.ira123.com/learn/ira-mortgages-lending/](http://www.ira123.com/learn/ira-mortgages-lending/)

## Unrelated Debt Financed Income Taxation

When a tax-deferred or tax-exempt entity such as a non-profit or IRA receives income from property that has been financed, a tax is applied on the resulting Unrelated Debt-Financed Income (UDFI).

The general principal is that the tax-exempt entity's investment is fully sheltered from taxation, but the portion of the income generated through the use of borrowed, non-exempt funds is taxable.

Topics surrounding UDFI are outlined in IRC 514, which defines debt-financed property as "any property which is held to produce income and with respect to which there is acquisition indebtedness at any time during the taxable year."

The tax is applied to any profit generated through the use of acquisition indebtedness, such as rental income from real estate or gains on the sale of financed property. UDFI no longer applies once the debt has been paid off for a total of 12 months.

Investors using a self-directed IRA would typically encounter this type of taxation when investing in real estate that has been financed with a non-recourse mortgage. The tax would also apply if the IRA owns an interest in a partnership or LLC that obtained financing.

IRS Publication 598 discusses UDFI taxation.

The tax is reported by the IRA using form 990-T and is a trust tax separate from your personal tax return.

Filing the 990-T return will be your responsibility and we strongly recommend you consult with your tax advisor before entering into a transaction that will incur UDFI.

More info: [www.ira123.com/learn/understanding-udfi/](http://www.ira123.com/learn/understanding-udfi/)

## **Unrelated Business Taxable Income**

If the IRA Trust invests into an activity that represents a trade or business, the income generated from that investment may be subject to Unrelated Business Taxable Income (UBTI). The IRS defines a trade or business as any activity regularly carried on for the production of income from selling goods or performing services. Activities are considered regularly carried on if they show frequency and continuity similar to comparable commercial activities of a non-exempt business.

Examples might include:

- An equity position in a LLC operating a restaurant, retail or other type service business
- Repeatedly purchasing real estate with the intention of improving and/or quickly reselling that property (flipping)
- Leasing plan assets other than real property
- Buying and selling personal property

Generally speaking, dividends, holding real property for rental, and lending money are considered passive and would not be subject to UBTI.

IRS Publication 598 discusses UBTI taxation.

The tax is reported by the IRA using form 990-T and is a trust tax separate from your personal tax return.

Filing the 990-T return will be your responsibility and we strongly recommend you consult with your tax advisor before entering into a transaction that will incur UDFI.

More Info: [www.ira123.com/learn/understanding-ubti/](http://www.ira123.com/learn/understanding-ubti/)

## **Insurance**

If the plan is investing in real property you will want to obtain appropriate insurance for hazards and potentially landlord or liability coverage.

Keep in mind, the insured entity is the Trust. As a result, you should work with your insurance professional to obtain a policy that provides proper coverage for the Trust. This should be a commercial policy separate and distinct from any personal policy you may hold with an insurer.

## MANAGING THE IRA ACCOUNT

Your self-directed IRA is held by IRA Services Trust Co., who serve as custodian and administrator for the account.

Website:	<a href="http://www.iraservices.com">www.iraservices.com</a>
Help Center/Forms	<a href="http://www.help.iraservices.com/hc/en-us">www.help.iraservices.com/hc/en-us</a>
Customer Service:	800-248-8447
Business Hours:	Monday – Friday, 8:00 am – 5:00 pm Pacific time.

### The Role of the Custodian

As custodian, IRA Services Trust Co. is responsible for holding and reporting on the IRA account. They are the conduit through which any IRA contributions, rollovers/transfers or distributions must be made and reported. These services are similar to those provided by any IRA account custodian, but with the ability to hold non-traditional assets such as the Trust in the account.

The IRA essentially holds two assets: cash and ownership interest in the Trust.

IRA Services Trust Co. has policies associated with operating your account that you should be familiar with, as it will be your responsibility to manage the IRA and your relationship with IRA Services Trust Co.

You may contact IRA Services Trust Co. for assistance in managing your account and understanding their operational policies. You may view your account online, and the forms necessary to execute transactions on the account are available on the IRA Services Trust Co. website.

### Minimum Balance Requirement

A minimum \$300 cash balance is required to be maintained in the IRA account at IRA Services Trust Co. IRA Services Trust Co. draws future fees on your account from this cash portion. IRA Services Trust Co. will notify you if this cash balance is getting low and needs to be replenished. You may incur additional fees if the cash balance is not sufficient to cover costs on the account.

This cash balance is IRA capital, so it must initially be funded via an IRA contribution, transfer/rollover from another plan, or a liquidation of capital from the IRA's investment in the Trust.

### Annual Trust Valuation

In order to produce annual reporting to the IRS on form 5498, IRA Services Trust Co. will require a statement of value for the Trust held by your IRA. They will remind you of this need in December and you can provide the valuation using a form available on the IRA Services Trust Co. website.

### Adding Capital to The IRA Trust

If you wish to add capital to the IRA Trust, this must come from the self-directed IRA, as the IRA is the grantor of the Trust. All IRA funds added to the Trust must be routed through IRA Services Trust Co. in order to be properly reported.

UNDER NO CIRCUMSTANCES should you place capital directly into the Trust that has not been routed through IRA Services Trust Co.– whether from you personally or from another IRA or retirement plan. To do so breaks the proper chain of reporting and can have severe tax consequences.



You may add cash to the IRA account at IRA Services Trust Co. via an IRA contribution or a transfer/rollover from another qualified retirement plan in your name that is compatible with the type of self-directed IRA you have. IRA Services Trust Co. provides the necessary forms and assistance to facilitate these processes.

The IRA capital is added to the Trust via an *Investment Direction* form available through IRA Services Trust Co. This form instructs IRA Services Trust Co. to add capital to the Trust on behalf of your IRA and send the capital to the Trust bank/brokerage account.

The process of adding capital to the Trust can take from 5-20 business days, depending on the source of funds and how responsive another IRA or 401(k) administrator is to a request for transfer.

Some steps in the process may be expedited at an additional cost.

## **Removing Capital from The IRA Trust**

At age 59 ½ or later, you are able to take distributions from your IRA without penalty.

In the year during which you turn 70 ½, you will begin taking Required Minimum Distributions (RMD's) from a tax-deferred IRA account. Such RMD's are not required from a Roth IRA.

You may also choose to move IRA capital from the self-directed IRA Trust to another retirement plan in your name via a transfer or rollover.

There are several tax and reporting considerations that accompany plan distributions, and we strongly encourage you to work with your CPA on planning for and taking distributions from your IRA.

Taking a distribution is a two-step process which must be processed and recorded by IRA Services Trust Co. as custodian for your IRA.

UNDER NO CIRCUMSTANCES should you take capital directly out of the Trust without going through IRA Services Trust Co. – whether to you personally or to another IRA or retirement plan. To do so breaks the proper chain of reporting and can have severe tax consequences.

The first step is to send capital from the Trust to the IRA account. This is a liquidation of capital from the Trust and must be reported using a *Deposit Instructions* form that is available from IRA Services Trust Co. Funds may be sent by check or wire.

Once the cash is in the IRA account, you may request a distribution to you (which may be taxable), or a transfer to another IRA.

The process of taking a distribution personally will typically take 5-15 business days, depending on whether you use checks or wires to move the funds at each stage.

Some steps in the process may be expedited at an additional cost.

## **TAX MATTERS**

### **Tax Structure**

The IRA Trust is wholly owned by a single, tax-exempt IRA.

For federal tax purposes, the Trust is viewed as a disregarded entity. As such, the tax and reporting liability for the Trust flow through to the sole beneficiary– the IRA account. The annual 5498 filing

prepared by IRA Services Trust Co. on behalf of your IRA is generally all that is required. No federal tax return will be required for the Trust.

## Tax IDs & IRS Form W-9

Two Tax IDs have been obtained for the IRA trust structure:

For the IRA account itself - This represents the actual taxpayer and should be used on form W-9 (sample below). It is critical when communicating who the taxable party to a trust transaction may be that you indicate the IRA, not the trust itself.

For the Trust – This represents the trust entity, but is not generally used for tax matters, as the taxable party is the underlying IRA. The trust tax ID is used for establishing relationships at the entity level, such as a bank account.

## Sample W-9 Indicating IRA as Taxpayer for Trust

Form <b>W-9</b> (Rev. August 2013) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer          Identification Number and Certification</b>	Give Form to the requester. Do not send to the IRS.																				
Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) JOHN Q. PUBLIC IRA																					
	Business name/disregarded entity name, if different from above ABC INVESTMENT TRUST																					
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input checked="" type="checkbox"/> Other (see instructions) ▶ <span style="margin-left: 100px;">IRA</span>																					
	Exemptions (see instructions): Exempt payee code (if any) <u>  1  </u> Exemption from FATCA reporting code (if any) <u>  A  </u>																					
	Address (number, street, and apt. or suite no.) 123 MAIN ST City, state, and ZIP code ANYTOWN, CA, 90001 List account number(s) here (optional)																					
<b>Part I Taxpayer Identification Number (TIN)</b> Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.  <b>Note.</b> If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.		Social security number <table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> <td style="width: 25px;"> </td> </tr> </table> Employer identification number <table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 25px;">1</td> <td style="width: 25px;">2</td> <td style="width: 25px;">-</td> <td style="width: 25px;">3</td> <td style="width: 25px;">4</td> <td style="width: 25px;">5</td> <td style="width: 25px;">6</td> <td style="width: 25px;">7</td> <td style="width: 25px;">8</td> <td style="width: 25px;">9</td> </tr> </table>											1	2	-	3	4	5	6	7	8	9
1	2	-	3	4	5	6	7	8	9													
Use EIN for IRA Account >>>																						

## Taxable Income

If the IRA has unrelated business income or debt financed income, the IRA will have additional filings associated with these activities. A Federal form 990-T will be required. The Trust state may also have a tax return requirement in these scenarios.

Work with your licensed tax professional on matters related to tax filings for your IRA.

## **ESTATE CONSIDERATIONS**

As part of the plan setup, you will have established one or more beneficiaries for your IRA account. In the event of your death, your account beneficiaries will inherit the IRA as well as the Trust that is owned by the IRA.

As manager of the Trust, you should also plan for the administration and wind-down of the Trust in the event of your death.

You may have appointed your spouse or other trusted individual as a co-trustee or successor trustee of the Trust. This would give that person the administrative control necessary to handle the Trust at your death.

You should be sure that whoever will be handling your affairs is aware of the existence of the IRA Trust and knows where the plan documents are held. It is also important that any such person be able to identify the investments made with the plan.

## **ADMINISTRATIVE REQUIREMENTS**

In your role as Trustee of the Trust, it is your responsibility to document plan activities and fulfill certain reporting obligations.

Generally speaking, you will need to:

- Keep records of Trust investment activities such as bank statements, title to assets and receipts for expenses and income.
- Provide IRA Services Trust Co. with an annual statement of fair market value for the Trust.
- Manage tax records such as forms W-9 and 1099-Misc for any contractors providing services to the plan as required by law.
- File form 990-T if the IRA Trust is subject to UDFI or UBTI taxation.
- Notify plan vendors and counterparties if your address changes. This would include Safeguard, Kingdom, your trust bank, insurance provider, etc. There is no state filing associated with the trust that needs to be updated.

If you require services such as those of a tax advisor, bookkeeper, or attorney to assist in the administration of the IRA Trust, reasonable fees may be paid from plan funds for such services.

### **Terminating the Trust**

The Trust may be terminated by the process of distributing the assets to the beneficiary (the IRA).

You should consult with your tax and/or legal advisor prior to terminating the Trust.