



Owning Real Estate in a Retirement Account

By Will Woodard, CFP®

Investment real estate can be owned in different types of retirement accounts, including IRA's, one-owner 401(k) plans, even defined benefit pension plans. There are several important issues that have to be addressed and steps that must be followed, however, for the transaction to go smoothly. Among these are:

- The transaction must be an "arm's length transaction"--in other words, it must be a deal that would be mutually agreeable to two emotionally detached investors.
- Only non-recourse financing is available on the target property--meaning that most conventional financing is not likely to be available. Non-recourse seller financing and other non-recourse financing may qualify, however.
- The transaction must not contain or come about as the result of "prohibited transactions"--including dealings with direct lineal descendants of the retirement account's owner, or involving property already owned by the retirement account's owner or lineal descendants.
- No personal loans can be made from the retirement account that holds the property to the owner of the retirement account or a disqualified person. Loans can be made from the account to a nondisqualified person at mutually agreeable rates and terms, however.
- The property should be managed in a professional fashion, with rental and expense logs prepared on an ongoing basis.
- The plan to put the property into a retirement account should be started prior to purchase of the target property. This way a professional facilitator can help to properly structure the transaction.

As with any investment, there are risks involved in owning investment real estate, including liquidity and market risk. Additionally, the property and its owners may be the subject of a lawsuit related to use of or an incident on the property. There is also the risk of the property not generating an acceptable investment return.

That said, there are a lot of potential upsides to investors willing to take on and attempt to manage these risks, including negatively-correlated investment returns between investment real estate and other equities and the ability to own Outer Banks resort property in a tax deferred structure.

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