



Clark's LAWS PC

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Setting Up an IRA LLC

Completing a real estate transaction with a self-directed IRA can be a slow and cumbersome process. Since an IRA is a tax-deferred vehicle, governed by the Internal Revenue Code (the "IRC"), your IRA custodian and you need to use extreme caution to avoid tripping the penalty provisions of the IRC. These penalties could have tax consequences that can wipe out a good portion of your retirement savings. For that reason, funding a transaction with a self-directed IRA often turns into a gauntlet of documentation that needs to be cleared well in advance by your IRA custodian and signed by parties to the deal you may not meet until the closing. Add a time sensitive, short sale or REO transaction, that needs to close within days and self-directed IRA investors often find themselves frustrated and unable to get it done.

The concept of an IRA LLC appeals to real estate investors by eliminating the time consuming documentation and dealings with the IRA custodian prior to funding the deal. In other words, accessing the IRA funds becomes as simple as writing a check. In real estate, where the best deals go to those who can act quickly, the IRA LLC is often the only way to go.

Setting up an IRA LLC is way more involved and costly than a traditional LLC for a few reasons. First, the owner of the LLC is your IRA account - not you. Second, the Operating Agreement needs to be written such that the permissible activities of the LLC will be in compliance with IRC regulations and not be deemed a "prohibited transaction." Third, your IRA custodian will have a laundry list of requirements, forms and documentation that will need to be completed before funding the new LLC. Seems like a hassle, but usually well worth it because once you're done, you'll have a ready source of funds for your real estate deals that can be accessed simple by writing a check.

Sounds like a great way to go, right? Here's the downside. The IRS has not explicitly ruled on the legality of IRA LLC's. Proponents of the IRA LLC point to regulations similar to those governing IRA's as to why they're legal, but others argue that until there's an explicit ruling by the IRS, we simply don't know for sure. The use of IRA LLC's is small enough that it really hasn't garnered the attention of the IRS . . . yet.

If you're willing to assume this risk and want to set up an IRA LLC, you'd be well-served to use an IRA custodian that is comfortable with this structure and get an attorney who knows the prohibited transaction rules and other applicable regulations so that your IRA LLC will be compliant with the IRC. We have assisted many investors in setting up IRA LLC's, so if you have any questions, feel free to give us a call.

*Attorneys for landlords
and active real estate
investors.*

LEASING & EVICTIONS
WHOLESALING & ASSIGNMENTS
FIX, FLIP & REDEVELOP
RESIDENTIAL BUY & HOLD
COMMERCIAL BUY & HOLD
COMMERCIAL DEVELOPMENT
PARTNERSHIPS & JOINT VENTURE
SYNDICATION
ASSET PROTECTION
REAL ESTATE LITIGATION
LAND USE & ZONING

*"The best way to predict
the future is to create it."*

Abraham Lincoln

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Ideas From the Front Lines

1. **Assignments & Wholesaling can be difficult to nearly impossible in New York.** It's a huge barrier to entry. Ever think you could do better with your investing if you had less competition? Maybe that barrier to entry could be your ace in the hole.

2. **It's never too early to start planning and visualizing.** A client of mine told me recently about a lunch he went on with a property manager for large apartment buildings. It was odd because this client has done only one deal, a single family flip, and he's no where near ready for apartment buildings. He said, "I like to visualize where I'm headed and where I want to be, get comfortable with it. This helps me focus on the end game and gives me some clear things to strive for."

3. **What is Your Time Worth?** Write down what you do every day for a week. Think of how much money it all earns you, and divide that by the hours you spent—that's your hourly rate. Now go back to that list of things you did all week and determine if one or more of those things can be done by someone else for less than your hourly rate. If so, maybe its time to delegate? That way you'll have more time to focus on the things that will pay you your hourly rate or more.

Like these ideas? Want to get more? Shoot us an email at getmore@clarkslaws.com and let us know your name and whether you are a new or experienced investor. We'll add you to our [free mailing list](#) and keep you updated with our latest ideas and war stories.

I know Jim has my back. He's got my well being front and center on his mind. That frees me up to focus on my business and do what I do best.

- M. Vetri, Commack, New York (Business Owner & Landlord)

More Info?

Interested in hearing more about us and if we might be a good fit you. Here's how:

1. Give us a call at the office at 631.669.6300 and schedule a call with Jim Clark.
2. Send me an email at jclark@clarkslaws.com.

CLARK'S LAWS PC focuses exclusively on representing landlords and active real estate investors. We help clients reach their real estate investment goals, and seasoned investors preserve and enhance their real estate assets.

James E. Clark, Esq. is the principal and founder of the firm.

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Jim Clark Family & Investment Update

"You're thirsty? I hear they have good water in Tennessee." - Abraham Lincoln speaking to a client during recess of a criminal trial as he looked out an open window outside the Kentucky courtroom, where he and his client were just taking a beating by the judge and the prosecutor in a criminal defense trial.

Before he was president of the United States or a public figure, Abraham Lincoln was a defense lawyer. Lincoln cared about his client and didn't want to see him get locked up, but the trial wasn't going well and he was about to be convicted. As an attorney, Lincoln couldn't do something illegal and get directly involved with an escape, but the subtle message in this quote was all he needed to deliver for his client to find freedom. Lincoln went back to the courtroom, but a few moments later his client jumped out the window and ran for Tennessee! Escaping a conviction for the moment.

I love this story because it speaks to the type of relationship I strive to have with my clients. One which I'm willing to do anything for them (within the bounds of the law, of course), and one which we're on the same page, so that a subtle signal like this is heard, understood and brings the client salvation.

I had the opportunity recently to have such an experience with a long-time investor client during a lease negotiation. There was that moment in which the client and I were in perfect synchrony, I made the suggestion, the client heard the message and took action and the deal got done. It was one of those days where I'm so grateful to do what I do for a living!

-Jim Clark

