



## IRA LLC REQUIREMENTS

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### A. OVERVIEW

IRA Limited Liability Companies are allowed within an Individual Retirement Account (Traditional, Roth, SEP or Simple) provided that they conform to the rules and requirements of the Internal Revenue Service. Overall, it is important to remember that all activities within your IRA LLC must conform to the regulations relating to IRAs and specifically to the rules regarding Prohibited Transactions (see Section E). In addition to the legal requirements regarding this class of asset, Mountain West IRA (MWIRA) has a set of requirements that investors must adhere to in order for MWIRA to accept an IRA LLC within an IRA for which MWIRA serves as administrator.

### B. ESTABLISHING THE LLC

#### OPERATING AGREEMENT

- The agreement must be prepared by an attorney or by a facilitator company whose standard documents have been reviewed by legal counsel
- The agreement must include language regarding Prohibited Transactions as defined by IRS code 4975
- The agreement must include language regarding the potential or the avoidance of Unrelated Business Taxable Income (UBTI) and, if incurred, that the manager will complete and ensure the timely filing of all relevant tax returns to the IRS and state authorities
- The agreement must include language regarding Additional Capital Contribution(s) and whether they are allowed or disallowed
- The agreement must provide a signature line(s) for MWIRA to sign on behalf of the participant/member as well as a signature for the participant to sign as "read and approved"
- The agreement must name a manager and provide contact information to MWIRA, the participant may act as the manager
- The manager must sign the Operating Agreement, MWIRA will sign on behalf of the member

#### BANKING ACCOUNT

- The LLC must establish a banking account at a bank, credit union, savings bank or brokerage in the name of the LLC in order for funds to be provided to the LLC from the IRA

#### LEGAL ENTITY/TAX IDENTIFICATION

- You must provide a copy of the state issued LLC formation document showing the entity name and verification of good standing
- You must provide a copy of the Internal Revenue Service Tax Identification Number (TIN) confirmation

#### IRA LLC AGREEMENT

- You must complete and submit the Mountain West IRA Direction of Investment Form and all Mountain West IRA Private Placement documents
- You must provide MWIRA with proof of good standing and a list of the entity's officers or managers annually as provided by the state in which the entity is registered.

### C. VALUATIONS

You must provide an annual valuation of your LLC to Mountain West IRA. You must use the Fair Market Valuation form provided by MWIRA as well as supporting documentation.

We may require a valuation at the time of any taxable distribution such as a Roth conversion, investor distribution or required minimum distribution. The valuation must be certified by a licensed professional (CPA, appraiser, etc.) and the MWIRA Fair Market Valuation form must be signed by them.

### D. LLC DISSOLUTION

If you decide to dissolve your IRA LLC, you must provide the following:

- State issued dissolution/termination certification
- Bank Statement showing the balance, to be returned to your IRA (you must deliver the funds via check or wire transfer)
- Final valuation of the LLC; please complete the Mountain West IRA Fair Market Valuation form
- List of other assets to be transferred back to your IRA (you must provide proper re-registration documents)
- If no assets are being transferred back to your IRA, a statement declaring the loss, if any, from your LLC

### E. PROHIBITED TRANSACTIONS (see IRS Publication 590 for further information)

A prohibited transaction is a transaction between a plan (the LLC) and a disqualified person that is prohibited by law.

Prohibited transactions include, but are not limited to, the following transactions:

- A transfer of plan income or assets to, or use of them by or for the benefit of, a disqualified person;
- Any act of a fiduciary by which plan income or assets are used for his or her own interest;
- The receipt of consideration by a fiduciary for his or her own account from any party dealing with the plan in a transaction that involves plan income or assets;
- The sale, exchange, or lease of property between a plan and a disqualified person;
- Lending money or extending credit between a plan and a disqualified person;
- Furnishing goods, services, or facilities between a plan and a disqualified person.

A disqualified person is any of the following:

- You, the owner of the plan (IRA)
- A member of your family (i.e., your spouse, ancestors, lineal descendants and their spouses);
- The Custodian/Administrator of the plan;
- Any person providing services to the plan;
- Any corporation, partnership, trust, or estate in which you own (either direct or indirect) 50% or more;
- An officer, director, 10% or more shareholder, or highly compensated employee of the 50% or more owned entity described above.