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MARKETS | TAX REPORT

Want to Keep Gold in Your IRA at Home? It's Not Exactly Legal

Ads suggest people can invest IRA funds in gold coins and bullion and store the metals at home



Ads claim people can invest their tax-free retirement accounts in gold and store it at home, but the IRS begs to differ.

PHOTO: LEONHARD FOEGER/REUTERS



By

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Advertisements this summer have claimed that people can invest their tax-free retirement accounts in gold and store it at home. But the IRS has issued a stern warning against the move.

The internet and radio pitches suggest that people can invest funds from their individual retirement accounts in gold coins and bullion and store the metals at

home or in a safe-deposit box, away from stock-market collapses and government intrusion. One ad, for Hartford Gold Group, shows a smiling couple near an open safe containing gold bars and the text, “Your Gold, Your Hands, Your Control.” Others urge consumers to “Start Your Home-Storage Gold IRA” and “Store IRA metals wherever you choose, even in your own home.”

Experts on “alternative-asset” IRAs, which hold investments other than traded securities, are highly skeptical of this strategy. In such holdings, “the result is one the IRA rules are intended to prevent—which is that the account owner possesses tangible personal property belonging to the IRA,” says Amiram Givon, a lawyer with GCA Law Partners in San Francisco.

The Internal Revenue Service says it “warns taxpayers to be wary of anyone claiming that precious metals held in your IRA can be stored at home or in a safe-deposit box.”

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As is often true of such maneuvers, the tax law isn't entirely clear in this area, giving advocates room to operate. As written, the law prohibits investments of IRA assets in “collectibles,” such as antiques, artwork, wine or gems. That leaves room for IRA investments in a wide variety of alternative assets, including real estate, untraded securities, tax liens and even fishing rights.

The law specifically allows IRA investments in certain U.S. gold, silver or platinum coins and in gold, silver, platinum or palladium bullion-quality bars. Details are in IRS Publication 590A and Section 408(m)(3) of the code.

Putting coins and bullion into an IRA is often more involved and expensive than making typical investments. It can be hard for investors to find sponsors that offer physical gold or silver as an investment option along with traded securities.

Neither Vanguard Group nor [Charles Schwab](#) Corp. offers direct IRA investments in physical metals.

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Fees are also typically higher than those for investments in traded securities. At Fidelity Investments, which does offer IRA investments in permitted coins and bullion, commissions range from 2.9% to 0.99% to buy coins or bullion and 2% to 0.75% to sell, compared with \$7.95 to buy a stock.

Fidelity also charges a quarterly storage fee of 0.125% of the asset's value, which includes insurance. IRA sponsors usually require physical metals to be held at a qualified storage firm to ensure compliance with tax rules. Jon Potts, a managing director at Delaware Depository in Wilmington, which stores precious metals for many purposes, including IRAs, says the firm doesn't allow IRA owners to withdraw or even look at bullion or coins in their accounts without a notification from the IRA custodian, such as Fidelity.

Such outside storage bothers a segment of IRA owners who want to invest in physical metals because "they don't trust government-regulated entities like depositories," says Timothy Schubert, the owner of Blue Diamond Documents LLC in Glendale, Ariz., who provides paperwork for home-storage IRAs.

Advocates of IRAs containing precious metals stored at home or in bank safe-deposit boxes believe another approach is valid. It involves having an IRA own a limited-liability company that uses the IRA's funds to buy permitted precious-metal coins or bullion. The IRA owner is also the manager of the LLC owned by the IRA.

Augusta Precious Metals, which is based in Beverly Hills, Calif., and advertises a Home Delivery IRA, has posted opinion letters from eight attorneys across the country that generally support home or safe-deposit-box IRA storage of precious metals. A disclaimer from the firm says it does not "provide legal, tax, or

investment advice.” The head of the Augusta Precious Metals wasn’t available for comment.

Several of the letters say that such a structure enables the IRA’s owner to store precious-metal coins owned by the LLC in a number of places, even at home— although some note the IRA owner could have to prove to the IRS that he didn’t benefit from the assets in any way. They also conclude that bullion would need to be held in a bank safe-deposit box owned by the LLC.

Warren Baker, an attorney in Seattle who specializes in alternative-asset IRAs for high-net worth clients at Fairview Law Group, believes this logic is flawed, especially for bullion held in IRAs. “If the bank is only aware of the LLC and not the IRA, then it can’t be acting as a trustee,” he says.

While the courts have allowed IRAs to own LLCs, this strategy as regards precious-metals storage hasn’t been addressed in court.

Mr. Schubert, who isn’t an attorney but who prepares documents for LLCs holding precious metals, believes the strategy is appropriate, adding that his business is “fantastic.” He says he charges from \$400 to \$1,200 to set up an LLC, depending on its state, and that he’s averaging 50 new entities a month to hold precious metals.

The current advertisers of home-storage gold IRAs on internet and radio are more cautious. Like Augusta Precious Metals, they typically warn clients that they don’t provide legal advice and that customers should consult outside advisers.

Sanford Mann, CEO and owner of Hartford Gold Group in Los Angeles, says of his customers, “We simply sell them the metals and they make the choice about where to keep it. We don’t need or want to know.”

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