



REAL ESTATE NEWS

September 2006



Land Assurance

Real Estate

Buying Real Estate in Costa Rica with your IRA

by Larry C. Grossman, CFP®, CIMA. Managing Director, Sovereign International Asset Management

Contrary to what many buyers have been told by their brokers and bankers, you can own real estate in your IRA. And possibly the most exciting news of all is the fact that you can own real estate outside the United States, as well.

Over the years, advisors have wrongly convinced many people they cannot own real estate, as well as a number of other alternative investments, inside of their IRA and Retirement Plans. Nothing could be further from the truth. Actually, the IRS allows a great deal of flexibility when it comes to investing the assets of your retirement account.

Many buyers do not have a self directed IRA or they work with a custodian who imposes their own investment restrictions. Most of these restrictions have nothing to do with the actual code governing retirement accounts but are instead employed to make life easier for the custodian.

Actually, the rules governing the ownership of real estate are very simple. These are the *Permissible Investments*:

- land
- condominiums
- office buildings
- single family dwellings
- multi-family dwellings
- apartment buildings
- improved land

There is no type of real estate you cannot own beyond the general rules governing prohibited transactions.

Prohibited Transactions and Self Dealing

The IRS has some rather simple and straightforward rules that define what one cannot do. A simple rule of thumb is your retirement plan is meant to benefit you at retirement and not before. You may not, directly or indirectly, deal with yourself or a disqualified person. The term *deal with yourself* means you cannot lend money, extend credit, furnish goods, services or facilities to yourself or a disqualified individual.

Subsequently, it is permissible to invest in real estate as a future investment, as opposed to for current use.

Currently, this is an important part of this puzzle. Let's assume you have found your dream retirement home or the piece of property you would like to build on. This can be inside the United States or abroad. On the day of your retirement you assume ownership of the property for your personal use and benefit simply by assuming possession, in effect, taking it as a distribution of your plan. You would be taxed upon whatever the value is at that time. Of course, you could sell the property outright at any time, as well.

Other Requirements and Restrictions

- you may not purchase the property from yourself
- it may not be purchased from family members, except for siblings
- neither your, one of your business ventures nor any family member may lease or live in any investment property owned by your plan
- only retirement funds may be used as the down payment or

good faith deposit

- the title must be in the name of the retirement account
- you may have fractional ownership of a property

Disqualified Persons

An owner, direct or indirect of 50% or greater of

- the capital interest of a partnership
- the total value of all shares of stock of a corporation including all classes
- the combined voting power of all classes eligible to vote
- a member of your family with the exception of your siblings

Exemptions

One of the most exciting aspects to this area of investing is there are 10 government approved blanket exemptions to the *prohibited transactions* described above. These exemptions have been granted in areas that seemingly contradict the self dealing provisions of the code. In one exemption, a retirement plan was allowed to purchase the mortgage for the participant's primary residence with plan assets. In a second, plan assets were used to purchase the existing mortgage on a property currently being used for the participants business. You too can make use of these blanket exemptions by allowing the government approved process.

Conclusion

Find the dream property you always wanted and purchase all or part of it with your retirement assets and eventually take ownership of it. All of this can be done legally and in full compliance with the IRS code.

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Property Ownership

There are a number of ways to actually purchase real estate. You may own the real estate fully or fractionally with other entities or buyers. You may purchase an option on a real estate or by using a land trust, a stockholder corporation, a limited liability corporation or a similar entity.

The property may be paid for fully by using retirement assets or may be financed. If the property is financed, you must ensure it is structured correctly to avoid any adverse tax consequences. The down payment must be paid for by the plan and all future payments must come from the plan assets, new contributions and/or income the property may produce.

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FEATURED LISTINGS

**Valle Lindo
Tierra Morenas**
3.4 hectares
8.3 acres

US\$ 83,000

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Beautiful property, 95% of the property is usable land, very private, unbelievable price!

This very affordable property has a lot of acreage, and almost all of it is totally usable land, the terrain being mostly rolling hills.

There is a lot of vegetation already on the farm, including a number of different fruit trees, but most of it is the

classic cattle pasture, thus making it easy to build. It also lends itself perfectly for a reforestation project.

This farm has a creek running along one of its borders, providing the property with year round water supply. Road access is good and there is electricity available on the farm today.

Dominical is about a 30 minutes drive away and you can do your weekly shopping in San Isidro de El General at about 45 minutes from Valle Lindo.

**Las Olas
Matapalo**
0.0893 hectares
0.216 acres

US\$ 45,000

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If you want to be close to the beach and have a place to stay during your vacation at a really good price, this is the perfect property for you.

Located just 100 meters from the beautiful beach in Matapalo, this lot will be great for a vacation retreat since it's only a short one minute walk to the beach. This property also has public water supply and electricity. All of the land may

be used to build your dream beach house.

Matapalo is a small town located 25 kilometers south of Quepos. Quepos is a full-service town, with hospital, banks, stores, gas station, and the Manuel Antonio National Park. We believe Matapalo is going to be one of the nicest beach areas in the Central Pacific Coast.

The property doesn't have a concession yet but there is the all important zoning plan in place and the owner has all the papers in order and the application is up to date.

**Finca Chontales
San Buenaventura**
0.73-2.2 hectares
1.8-5.5 acres

US\$ 90,000-150,000

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With the construction of a new hospital at less than 10 minutes away from these lots and the planned construction of the new international airport at about a 25 minute drive, the area where these lots are located has rapidly become very attractive for retirees and investors alike.

The lots are at about 150 meters (500 feet) above sea level and look out over the

Térraba River, Caño Island and the Osa Peninsula. Both the roads leading up to the property and the internal roads to the lots are well built. All lots come with water and electricity and are ready to be built on.

Lots are priced to sell, starting at \$90,000 and going up to \$150,000. This development is located just south of San Buenaventura, approximately

halfway between Ojochal and Palmar Norte, only minutes off the Costanera Sur coastal highway, one of the best roads in the country.

Lot sizes vary and start at 7,338 square meters (roughly 1.8 acres) and go up to 22,206 square meters (about 5.5 acres).





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US\$ 160,000

**El Filo
 Coronado
 10 hectares
 24.2 acres**

This parcel is ideal for an eco-developer, or someone who wants to build a couple of homes on his property. It includes four potential housesites with very nice views of the ocean and the surrounding mountains. Comes with 2 hectares of 3-4 year old teak plantation in good shape. Plenty of forest too.

This property is located between the towns of Coronado

and San Buenaventura, about half an hour south of Dominical on the paved Coastal Highway. The access through farmland is easy because there are no hills and the road is graveled. A variety of flora and fauna have been observed in the 50% that is still primary rainforest.

The four potential housesites with ocean and mountain views are spacious and well set apart. They sit on an ex-cattle pasture

flat part of the ridge, which means that they are inherently stable to build upon. The 2,000 teak trees have been well managed.

The adjacent forest is primary, and hence beautiful. No power or water here yet, but it will come with time, or it can be brought in from the main road in collaboration with neighbors.



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US\$ 150,000

**Punta Hermosa 3
 Coronado
 3 hectares
 7.26 acres**

This parcel touches the public road and has astounding ocean and surrounding mountain views. Has two spectacular building sites. Includes about 5 acres of primary jungle adjacent to the lot. Comes with driveway and two house sites.

Located at about 800 meters above sea level, this parcel is part of the Punta Hermosa development, yet it has its own

private entrance from the adjacent public road. It is totally private from all the other parcels in the area, and is further protected by the 5 acres of jungle. Great views of the mouth of the Terraba River, and you can even see the Ballena National Park islands, plus Isla del Cano.

Power and water will come over time, as there are many plans by developers and others

to bring them in along the public road, which connects the Coastal Highway with Pejibaye and San Isidro.



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US\$ 275,000

**Cascada Sandalo 4
 Tres Rios
 1.13 hectares
 2.8 acres**

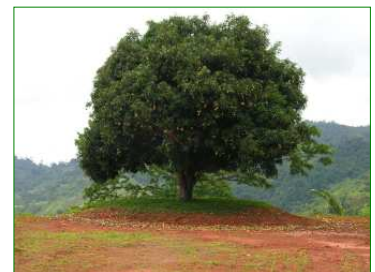
At an elevation of 395m (1,300 feet) above sea level, this property opens up to majestic views of the Pacific Ocean and the coastal mountain range. A beautiful old mango tree gives the main building site a special note.

Cascada Sandalo 4 is part of a beautiful eco-development in the hamlet of Tres Rios. The road leading up to the development is well graded and

gravel-topped and there is water and electricity. The spacious building site has a beautiful old mango tree which gives the property the appearance of an estate.

The site opens up to majestic ocean views of Coronado Bay, the Osa Peninsula, Caño Island, the Térraba River and the largest mangrove wetlands in Central America. The brand new Costanera Sur coastal

highway and the good restaurants of Ojochal are only a short drive away. All the beaches of the Parque Nacional Marino Ballena are about a 20 minute drive away. There is a brand new hospital under construction half way between the property and Palmar. The airstrip at Palmar Sur has two daily flights to and from San José and an international airport for the Southern Zone is in the planning.





Dominical · Puntarenas
Costa Rica · Central America

Office Manager
Francine Ocampo

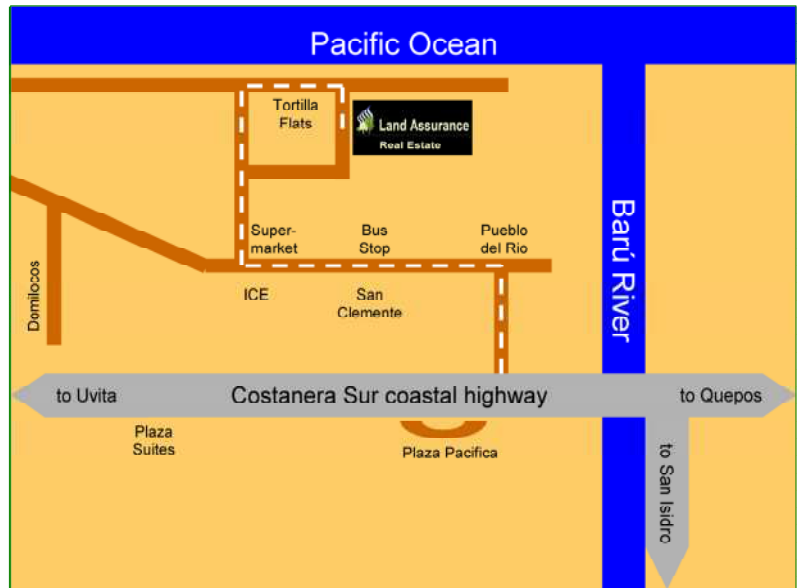


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opening hours
Monday to Friday 8:00am till 5:00pm
Saturday 8:00am till 12:00noon

This is where you find us



The offices of Land Assurance are tucked away on a side street in the middle of Dominical. Simply follow the discrete signs leading you from the Costanera Sur coastal highway to our offices.

Buying Real Estate in Costa Rica with your IRA

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Again, the property may be fractionally owned by the plan but the down payment and an equivalent amount of the ongoing payments must come from the plan. The instructions as to how this is accomplished are included ad verbatim in the next section from a custodian who allows these types of investments.

Special Instructions

If you wish to purchase real estate and you do not have sufficient funds in your IRA, your IRA may incur debt. This debt mortgage must be in the form of a non-recourse note loan. The only recourse for default of the loan is the underlying real estate property.

A non-recourse loan may be obtained from a lending institution, a private buyer or the seller of the property. The loan may *not* originate from you or any family member that is of direct linear descent (i.e. grandfather/grandmother, father/mother, husband/wife, son/daughter etc.). You may not personally sign for the loan.

Property Management

As a result of a recent tax ruling, some custodians will now allow you to act as your own property manager. You may collect a *reasonable fee* for this service from your retirement plan. You will receive a 1099 at the end of the year for these fees. Any income from the property must be returned to the retirement plan as a profit of the plan, less any expenses incurred.

The plan assets may pay administrative and record keeping expenses as well. Conversely, you may hire an outside property manager to perform this service as well,

provided they do not fall under the *disqualified persons* definition.

What To Do?

There are two critically important keys to this process in order to maintain the integrity of your retirement plan. You must work with a qualified custodian who understands these issues and allows you to make these types of investments. We have identified and established relationships with several custodians who specialize in this area.

Secondly, it is equally important to work with a qualified advisor, like myself, who understands this process and can assist you in making these types of investments in a timely, smooth and compliant fashion.

Fees

The fees vary somewhat depending upon the type of transactions you are considering and the transactions structure. In general, the fees are as follows:

- account establishment cost US\$100 (includes 1st year's annual fee)
- annual fee US\$100-400 (depending upon custodian and account value)
- one time fee of US\$100 to review a real estate purchase
- one-time fee of 1% of the transaction value (US\$500 minimum)

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