

The Proper Care And Maintenance Of Precious Metals IRAs

CPM Group circulated a notice to its clients and Friends of CPM on 22 February discussing the risks to individual investors of improperly storing gold and other precious metals in 'home storage' or 'check-book' IRAs. Given the strong response to that informational piece, CPM is issuing this follow up, which addresses the 'home storage' IRA issue as well as another issue that could pose problems for individual investors and reputational tarnish to precious metals, should the IRS choose to enforce its regulations.

Home Storage

The home storage issue was well covered in the 22 February note. Basically, there are some investors who are storing gold and precious metals in IRA accounts that involve storing the metal in the investors' control. That is in clear violation of IRS guidelines. Investors storing IRA precious metals in this fashion risk having the IRS rule that the IRA account, in total, is invalid, which could involve the investor paying taxes, interest, and penalties.

The IRS rules for IRA accounts puts all of the burden of assuring that the IRA holdings meet IRS procedures on the individual investors, so that any broker, dealer, or service provider who helped establish such an IRA account would not be legally liable, only the investor.

The IRS is aware of these issues but has chosen not to enforce these issues as of now. Given the surge in the federal budget deficit and other political developments, however, the IRS may seek to increase revenues by more fully enforcing its regulations.

The risks of the IRS deciding to enforce these guidelines extends beyond the individual IRA investors to reputational risks for gold and silver among investors, many of whom are wary of precious metals for other reasons already.

Bank or Trust Company Control Of IRA Holdings

There is a second risk that has been hanging over precious metals IRA holdings as well.

The IRS guidelines specify that precious metals held in IRA accounts must be in the *physical* control of a bank, insured credit union, or a trust company.

In reality, some IRA-owned precious metals are being stored in third party vaults, many of which are not trust companies, or are not the trust company that administers and annually reports on the IRA-owned precious metals.

This renders the precious metals holdings out of strict compliance with IRS guidelines and subject to taxes, interest, and penalties.

Some precious metals dealers and IRA custodians seek to talk around this directive by saying that they do not pay the third-party storage companies for vaulting services in a traditional fashion, but rather 'rent' space in the vaults, so that the metal held within the 'rented' portion of the third-party depository ostensibly is in the physical control of a trust company. The IRS has not ruled whether this is a valid approach to meeting this requirement. Legal experts are divided on the interpretation.

As with the home storage issue, the potential exists that the IRS in a search for revenues or in the spirit of enforcing financial guidelines decides to pursue such cases. Individual investors would face possible taxes and penalties, and would be held entirely responsible for not having assured that their banks or brokers were properly storing their IRA metal.

Again, the risks extend beyond the individual investors to the broader gold and silver market. Any such IRS crackdown would carry the risk of tarnishing gold and silver's reputations among investors.

CPM Group's 2018 Gold Yearbook was released on 27 March 2018. It may be purchased for \$160. Send requests to info@cpmgroup.com.