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From:

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Cc:

Subject: RE: IRA Question - Prohibited Transaction

This kind of scenario is the reason why I think that there needs to a tightening of the custodian provisions. An IRA owner should not be receiving the proceeds from the sale of the investment of the IRA owned LLC. This is the intent of section 4975(c)(1)(E) of the Internal Revenue Code, to not allow the IRA owner to be able to deal indirectly or directly with assets of the plan for her own personal use. If we are not going to allow compensation to be paid directly to the IRA owner, why would we allow a distribution of sale proceeds of the LLC owned by the IRA to the IRA owner? My feeling is that at the very least a 1099-R must be issued to the IRA owner by the custodian of the IRA account indicating a distribution from the IRA, if not then I would say you have a PT. Also, based on when the 1099-R is issued could also raise a factual question as to whether the custodian really has management of the IRA account and whether the custodian is just a figure head.

