

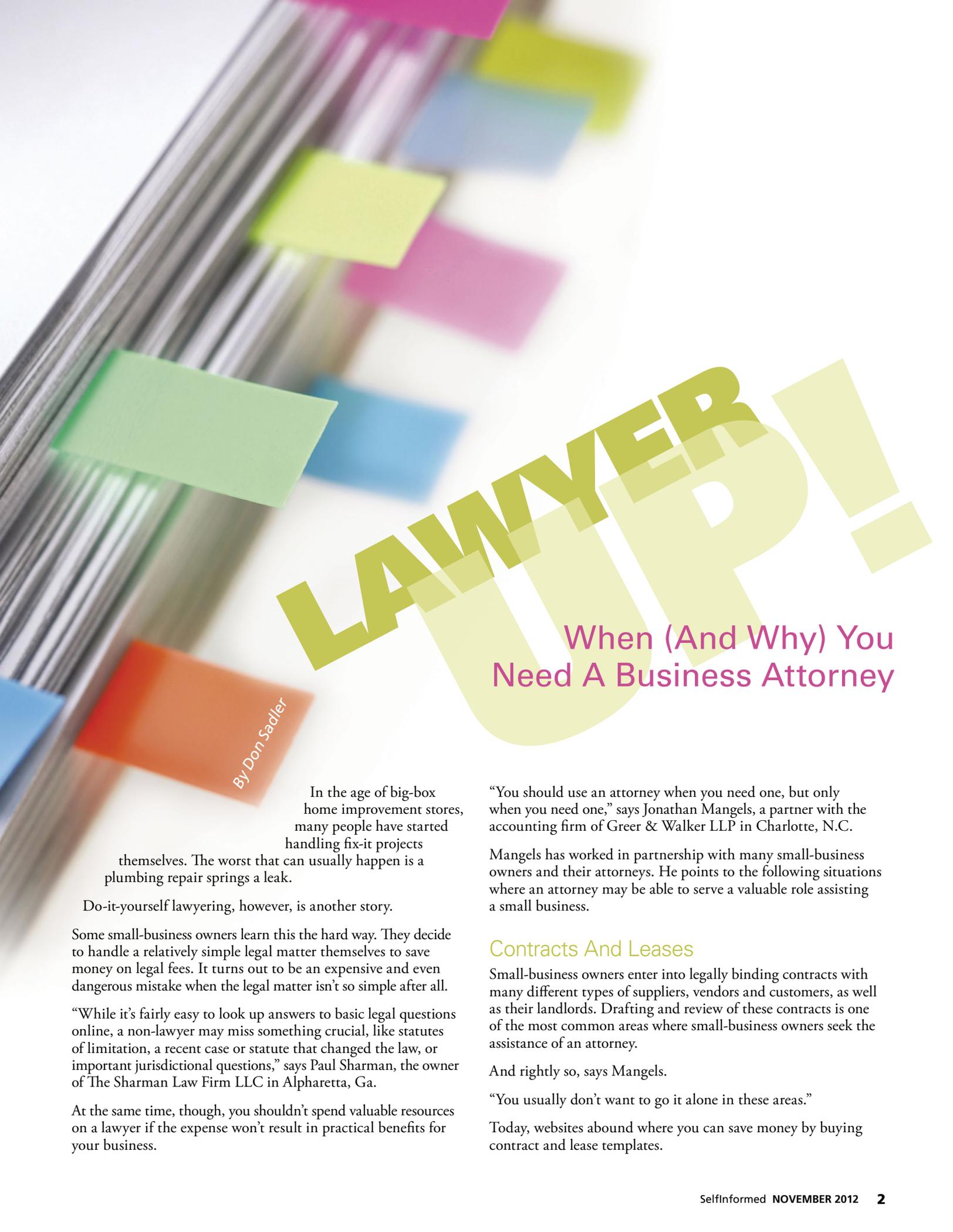
SelfInformed

Published by the National Association for the Self-Employed

November 2012



NASE Member Bill Reichardt is using his Succeed Scholarship to complete an MBA program.



LAWYER UP!

When (And Why) You Need A Business Attorney

By Don Sadler

In the age of big-box home improvement stores, many people have started handling fix-it projects themselves. The worst that can usually happen is a plumbing repair springs a leak.

Do-it-yourself lawyering, however, is another story.

Some small-business owners learn this the hard way. They decide to handle a relatively simple legal matter themselves to save money on legal fees. It turns out to be an expensive and even dangerous mistake when the legal matter isn't so simple after all.

"While it's fairly easy to look up answers to basic legal questions online, a non-lawyer may miss something crucial, like statutes of limitation, a recent case or statute that changed the law, or important jurisdictional questions," says Paul Sharman, the owner of The Sharman Law Firm LLC in Alpharetta, Ga.

At the same time, though, you shouldn't spend valuable resources on a lawyer if the expense won't result in practical benefits for your business.

"You should use an attorney when you need one, but only when you need one," says Jonathan Mangels, a partner with the accounting firm of Greer & Walker LLP in Charlotte, N.C.

Mangels has worked in partnership with many small-business owners and their attorneys. He points to the following situations where an attorney may be able to serve a valuable role assisting a small business.

Contracts And Leases

Small-business owners enter into legally binding contracts with many different types of suppliers, vendors and customers, as well as their landlords. Drafting and review of these contracts is one of the most common areas where small-business owners seek the assistance of an attorney.

And rightly so, says Mangels.

"You usually don't want to go it alone in these areas."

Today, websites abound where you can save money by buying contract and lease templates.

LEARN MORE

The NASE doesn't offer legal advice. But, the association does provide members with exclusive online content that will help you understand your legal responsibilities. Here are just a few of the free articles that are online now.

- Know the Legalities of Operating Your Business
- Choose the Right Business Structure
- Everything You Need to Know About Succession Planning for Micro-Businesses
- How to Protect Your Employees' Health and Privacy Rights
- Ask the Experts: Can I Enforce a Non-Compete Agreement?

"But if it's more than just a plain vanilla contract or lease, you might want to have an attorney review the contract or lease to look for potential landmines," says Mangels.

Business Startup

Entrepreneurs must make crucial legal decisions during the early days of launching a business. One of the first is deciding which ownership structure will be the most beneficial. And the options can be confusing: sole proprietorship, partnership, limited liability company or corporation.

While an attorney can help you choose the right form of ownership and can draft the necessary paperwork (like articles of incorporation, for example), Mangels says this may be a task that savvy owners can tackle themselves.

"Some websites make it easy for owners to draft these documents themselves. In fact, this decision is as much tax-driven as legal-driven, so you might want to consult both your CPA and your attorney," says Mangels.

Another startup contract you might face: the buy-sell agreement.

"Any business with two or more partners or joint ownership should have a buy-sell agreement in place that specifies how partners can buy each others' shares and how potential disputes are handled," says Sharman.

Better to consult with an attorney to get the buy-sell agreement right than to risk problems on down the road.

Employment Issues

Employees and personnel may be the area of greatest legal liability for many small businesses today. Attorneys can help in this area by working with owners to draft or review:

- Employment contracts
- Non-compete and confidentiality agreements
- Employee benefit plans
- Employee handbooks

"Any business, regardless of size, that possesses trade secrets or proprietary information should make sure it has drafted a strong confidentiality agreement for employees to sign," says Sharman.

Meanwhile, if your business is faced with employment-related legal issues, such as a wage and hour lawsuit or discrimination claim, Sharman recommends that you hire an attorney who specializes in employment law to represent you.

"An experienced employment law attorney will be able to understand the claims, investigate the validity of such claims and determine how best to proceed in defending you and your business," Sharman says.

Collecting Customer Payments

In the ongoing sluggish economy, many small-business owners are facing greater challenges in collecting accounts receivable.

If a receivable has stretched beyond 90 days, and you've received no response to your own payment inquiries, Sharman says it might be time to consider hiring professional help in the form of a collection agency and attorney.

"When you have collections issues, contact a collection agency, which will attempt to collect the debt for you in exchange for a percentage of the amount owed," Sharman explains. "If the agency is unsuccessful, and you decide to file suit against the debtor, this is where the attorney would come in."

Estate And Succession Planning

Estate and succession planning may go hand in hand, but they differ in their goals.

Estate planning determines how you will distribute assets (including your business) to your heirs while minimizing estate taxes. Succession planning determines who will own and manage the business after you leave.

Both types of planning are critical, but often neglected, by small-business owners. And both types of planning can benefit from the assistance of an attorney.

First, a lawyer can demonstrate how estate planning tools like wills and trusts help ensure that your wishes are fulfilled and taxes are minimized when your assets are distributed to your heirs. An attorney can then draft and review these estate planning documents for you.

3 WAYS THE NASE CAN HELP

NASE Members have access to special benefits that will give your micro-business a competitive edge. Check out these today.

1. BizFilings

Get the assistance you need to incorporate your business, form a limited liability company, apply for business licenses and more. NASE Members receive up to \$60 off business formation services and discounts on doing business as filings.

2. Legal Club of America

Through Legal Club of America, the NASE gives members access to a nationwide network of attorneys who provide free and discounted legal services such as:

- Review of independent legal documents

- Preparation of a free simple will for you and your family
- Assistance with representing yourself in small claims court
- Write letters and make phone calls on your behalf when deemed appropriate by your plan attorney
- And much more

3. Business Law Experts

The NASE attorneys can't offer specific legal advice, but they can help you learn about your legal responsibilities as a business owner. The **Business Law Experts** will answer your questions in a way you can understand and apply to your individual business. And there's no charge for NASE Members.

An attorney can also consult with you in planning for the future ownership and leadership of your business. Drafting important succession documents like a buy-sell agreement are best handled by a lawyer who specializes in that field.

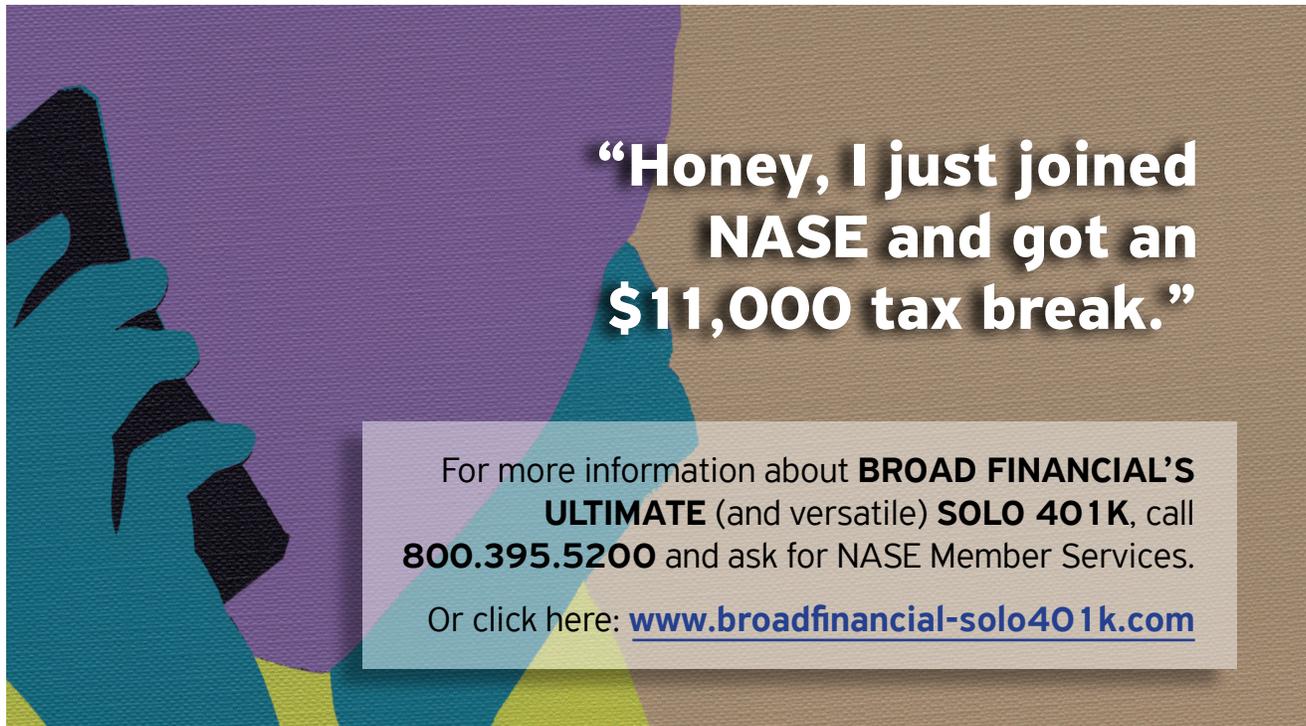
Business Mergers Or Acquisitions

Mergers and acquisitions are usually complex transactions that require the professional guidance and assistance of a team of outside experts, including an attorney.

"In particular, small-business owners should work closely with their accountant and an attorney when selling their business or buying another business," says Mangels.

M&A attorneys tend to specialize in this area, he adds, "so be sure to seek out an attorney with M&A experience—ideally, in your particular industry or type of business." ■

Don Sadler is a freelance writer who covers topics related to small businesses and self-employed individuals.



"Honey, I just joined NASE and got an \$11,000 tax break."

For more information about **BROAD FINANCIAL'S ULTIMATE** (and versatile) **SOLO 401K**, call **800.395.5200** and ask for NASE Member Services.

Or click here: www.broadfinancial-solo401k.com

10 MEMBERS

Receive NASE Succeed Scholarships® in 2012

\$31,181 Awarded For Continuing Education And Training In Program's Second Year

By Molly Nelson

This year, a certified nursing assistant school will be offering more courses for students on gerontology. A jeweler will use advanced stone setting skills to create more intricate pieces of custom jewelry. An accounting firm will begin providing services for new clients like nonprofits and local governments. These businesses—and seven others—have been able to pursue continuing education with an NASE Succeed Scholarship® of up to \$4,000.

In the program's second year, the association awarded a total of \$31,181 in scholarship funds that members were able to use toward university or college courses, training courses for business licensing and certification, or participation in conferences and seminars supporting business survival and growth.

“We know that education is important for small-business owners personally and for the growth of their businesses,” says NASE President Kristie Arslan. “We're proud to support our members as they expand their skill sets and knowledge base with the Succeed Scholarship® program.”

Here's a look at how one NASE Member put his scholarship money to work.

Bill Reichardt, an information technology project manager from Oswego, Ill., launched his business, Reichardt Consulting LLC, out of necessity in 2008. After being laid off from his job in the corporate world because of the economic downturn, Reichardt started as a consultant through his network connections, and established his business in 2009. As a consultant, Reichardt manages e-commerce, health and financial services, and other IT projects.

In addition to starting his own project management consulting business, Reichardt was also working on an MBA through Northern Illinois University to make his business more marketable. Reichardt has funded the majority of his degree himself and through government loans. He says that he applied for a Succeed Scholarship to help “defray the costs.”



APPLY FOR A \$4,000 NASE SUCCEED SCHOLARSHIP®

The NASE created the *Succeed Scholarship* program to help those considering self-employment gain knowledge and skills they need.

With the *Succeed Scholarship* program, NASE Members can apply for a scholarship of up to \$4,000 to help pay for continuing education through university or college courses, attend training courses for business licensing and certification, or attend conferences and seminars that will help you grow your business.

You could be the recipient of a *Succeed Scholarship*. To be eligible for an NASE Succeed Scholarship, you must:

- Be an NASE Member in good standing
- Document the potential of the scholarship to satisfy a business need
- Demonstrate the potential impact of the course on overall business growth and success
- Offer supporting documentation such as a résumé and business plan

Succeed Scholarships are awarded at the sole discretion of the NASE. Unfortunately, not everyone who applies will receive a scholarship. The NASE has the discretion to make no awards or present a higher or lower amount than requested. Decisions of the selection committees are final and are not subject to appeal. No application feedback will be given.



Reichardt is using the scholarship to complete his MBA program and allow his company more growth potential.

“Being independent, I am competing with hundreds of other individuals and other companies when looking for clients to work with. These MBA-oriented classes will give me a better understanding of business functions which, in the end make me a better project manager and more attractive to prospective clients. When companies are looking for a consultant, they are looking for experienced individuals who can not only manage projects, but understand the business functions of their companies,” he says.

These NASE Members were also awarded Succeed Scholarships in 2012:

Shelley Booth
Suspension Experts, Inc.
Asheville, N.C.

Susan Fortner
Bowers PR
New Albany, Ohio

Ryan Harrison
Be Whole. Be Well.
La Verne, Calif.

Pearlie Holliday
Holliday Business Services
Moreno Valley, Calif.

Tracey Ingram
Safety First Health Team
Chicago, Ill.

Laura Maw
Rocky Mountain CNA
Lehi, Utah

Camisha Scott
It's His Business
DeSoto, Texas

Tracey Sinclair
Lyles and Sinclair, PLLC
Jackson, Miss.

Christopher Timberlake
Christopher Taylor Timberlake
Carbondale, Ill. ■

Molly Nelson is the NASE's Member Communications Manager. She thinks one of the best parts of her job is speaking with members like Succeed Scholarship recipients.



Ask The Experts

Q: *I purchased a business in 2000 and am currently in negotiations to sell it to a corporation. At the time, I took depreciation for goodwill, equipment, restrictive covenant, etc. I will be selling this business at a loss. Am I permitted to deduct the loss on my taxes?*

A: I'm sorry to hear that you'll recognize a loss on the sale of your business, but the good news is that the loss will be deductible.

It will be a little more complicated than just putting a single loss number on a specific line on your tax return. But if you indeed had a loss on the investment in the business, that loss will be deductible in some form.

The sale will most likely be treated as a sale of the specific assets of the business and therefore, the overall character of the loss will be based on those specific assets. Some assets may be capital in nature and therefore, any gain or loss will be a capital gain or loss. Other items will give rise to an ordinary gain or loss.

The first step is to actually identify the specific assets being sold. Then you'll allocate the purchase price to each of these assets, generally based on fair market value. That will determine the gain or loss related to each asset or class of assets.

Any real property or depreciable property (including intangibles like franchise fees, copyrights, etc.) will be considered what is called [Section 1231](#) property.

The treatment of any gains or losses on Section 1231 property is even a bit more complicated. All Section 1231 gains and losses are combined and then first are used to offset any other 1231 gains or losses from previous years. The resulting net loss would be treated as an ordinary loss, but if the net was a gain, it would be ordinary gain to the extent of any previous 1231 losses, but then any excess would be a capital gain.

GET MORE ANSWERS

The NASE's small-business experts are here to help you understand the ins and outs of operating a successful small business. And access to these professionals is free with your NASE Membership!

Just go online to the [NASE's Business Learning Center](#) where you can ask the experts questions about:

- Taxes
- Health care expenses
- Financial issues
- Employee relations
- Accounting rules
- And much more

The experts are available 24/7 and ready to help!

I know this is a complicated topic. The best advice that I can give you is to sit down with a tax professional in your area to make sure that your specific facts and circumstances are adequately reviewed.

Again, the key point is that any loss you incur will be deductible, but the calculation and character of the loss will be complicated and will depend on the specific assets that are being sold. You can also check out [IRS Publication 544, Sales and Other Dispositions of Assets](#) for more detail. ■

Member Spotlight

Renewable Ideas

David Seidel has been an NASE Member since 2003. He owns Seidel Research and Development Company (SRADCO) in Columbia, Mo.

Tell us about SRADCO.

I founded SRADCO in 1991 as a part-time, home-based engineering software development company, because there was a need for computer software for basic engineering applications. I was a design engineer that saw a need in the engineering field for software that would benefit fellow engineers and clients. A short while later, I was doing energy efficiency studies for clients because of the energy expertise I achieved a decade earlier.

In 2003, I left being a director of a large mid-west environmental engineering company after 14 years to expand my work in the renewable energy field. My dream was to be a part of developing the technologies that provided sustainable, renewable resources for future generations. SRADCO is now a company that provides both energy and environment design and consulting.



What challenges have you faced in running your business?

The obstacles that I have faced in running my own business are not much different than those faced at the three other firms in which I was an employee, except that I am alone in the challenge with my company. Before, my bosses and I would brainstorm together to overcome the obstacles such as project budgets, deadlines, cash flow, and salaries and meeting payroll. The project work is the easy part. Managing the company alone, that is the hard part. With the experience that I've gained over time and through finding great resources such as the NASE, I'm overcoming these challenges to the best of my ability.

How has the NASE helped your business?

The NASE has helped my business by providing access to benefits such as medical and dental insurance, and legal business advice. I appreciate the NASE for representing me, the self-employed businessman, on Capitol Hill.

Tell us about your favorite project that you've worked on.

My favorite SRADCO project is the development of the renewable energy three-stage gasification process which I received a U.S. patent for. The patent was the result of the knowledge I gained over two decades of working with the forestry products industries. The patented process has many applications in the waste-to-energy and waste-to-value added products arenas. I'm excited about implementing this new patented technology in the near future.

What advice would you offer to your fellow NASE Members?

Follow your dreams. Too many times, great dreams are not followed because a person is not encouraged to do so. People are afraid that they may fail, so they do not even try. They do not realize that success comes after many attempts that fail. ■

GET PUBLICITY FOR YOUR BUSINESS!

Your business could be featured in SelfInformed's Member Spotlight or in another NASE publication. Let us know you'd like to be featured and tell us more about your business on our [Publicity Form](#).

PRESIDENTIAL RACE Isn't The Only Race To Watch



By Kristie L. Arslan

On Nov. 6, 2012, voters will head to the polls not just to elect the President, but also cast their votes in crucial down ballot elections including gubernatorial, senate, congressional and other state-related races. While control of the White House is the prime objective for both Democrats and Republicans, the majorities in the Senate and House are equally important in order for legislative priorities to move forward.

U.S. SENATE

The 100-person deliberative body of the U. S. Senate is unique for several reasons. Members seek re-election every six years, and unless one party holds a super-majority with 60 or more of that chamber's seats, it is designed to be the locus of bi-partisan efforts and legislative compromise.

This election cycle, there are 33 Senate races, with 10 seats open due to retirement or primary loss and 23 incumbents seeking re-election. Democrats are defending more incumbent seats than Republicans; however, it would be nearly impossible for the Republicans or Democrats to reach a super-majority or for the Senate to switch from the current Democratic majority.

The six toss-up races—Arizona, Connecticut, Indiana, North Dakota, Nevada and Wisconsin—could swing the majority one way or the other, but right now those contests are too close to call. There is a small chance (less than 1 percent) that the Senate could end up being split evenly among Democrats and Republicans with 50 seats each—an interesting possibility to consider. In the event of an even split between the parties, the Vice President would be the tie-breaker for any votes.

*This election cycle, there are
33 Senate races, with 10 seats open.*

HOUSE OF REPRESENTATIVES

Unlike the U.S. Senate, most analysts have maintained it would be highly unlikely for the Republicans to lose the majority in the House. Democrats would have to pick up more than 30 seats to overtake the Republican majority, nearly impossible given the number of safe Republican seats (192) and the low number of pure toss-up races (16).

The Democrats are expected to eat away at the Republican majority, however, by about nine seats. Control by one party of the White House, Senate and House remains unlikely. However, having control of two out of the three is nothing to scoff at, as that party will be able to exert significant influence over the legislative process. ■

Kristie L. Arslan is president and CEO of the NASE and provides critical insight to policymakers on issues affecting our nation's self-employed. You can contact her at advocacy@NASE.org.

*For up-to-the minute election analysis
specifically for mico-business owners,
visit us online at [NASE Election Watch](#).*



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