SelfInformed

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Retirement Plans & Strategies

By Matthew T. King

FOR SMALL BUSINESS OWNERS & SELF-EMPLOYED ENTREPRENEURS

Gene Perret once said of retirement, “It’s nice to get out of the rat race, but you have to get along with less cheese.” One of the greatest fears as a business owner or a self-employed entrepreneur is the inevitable time at which they will have to step away from everything they have created. As the owner of a consulting business and a financial planner for the last 6 years, I often meet with business owners to help design their retirement packages. The truth is, there are quite a number of options for retirement plans, and most of my clients are not even aware of most of the types of retirement accounts available. In this article, we will discuss the various types of retirement plans and offer insights into a few strategies that are commonly used by small business owners and self-employed entrepreneurs. For the sake of brevity and clarity, this article will only cover retirement plans and strategies available to for-profit businesses.

The first question I always ask my clients is, "why?" What are the goals and objectives of this retirement account? It may seem like a dumb question at first, but there are many ways to craft your retirement plan, and before you begin, you should ensure that it is the best one for accomplishing what you want it to do. You need to decide why you are choosing to put money aside for retirement. Are you trying to stash away money because you had a very successful year and want to reduce your tax burden? Do you want to set up retirement planning as a benefit for you and your employees? Are you just generally trying to build a solid income for yourself in retirement? Is it another reason altogether? Often, it is a combination of reasons. As a business owner, you have the ability to use multiple strategies discussed below. Let's get started.

A WORD ON TAXES & RETIREMENT ACCOUNTS

There are multiple types of taxes that we pay, and they carry different tax rates. The type that most people are often familiar with is Ordinary Income Tax. This is because every time you earn a paycheck, part of that is going to the government in the form of taxes. But if you have investment accounts, chances are you are familiar with the Capital Gains Tax as well. Capital gains are generated when an investment is sold at a price higher than purchased. This could be stocks, bonds, mutual funds, and yes, even your business! The good thing about retirement accounts, is that you do not have to pay capital gains taxes. If you hold the same investment for 40 years or 40 days, there are no capital gains taxes owed on the profit from such investments. However, depending on the type of account, you may owe taxes upon distribution in retirement.

The US government allows for two types of retirement accounts, pre-tax and post-tax. Post-tax plans allow you to pay the income taxes in the year they are earned and then designate them as retirement funds. These funds are invested and grow tax free until you are able to use them at age 59 ½, barring some exceptions. Once you have paid the taxes on these funds you will never have to pay them again. Pre-tax plans, also known as tax deferred, work a little differently. They allow one to defer the income taxes until they are used in retirement. The invested funds will grow without incidence of capital gains taxes, but they will taxed as ordinary income once distributed in retirement. The same rules apply for taking withdrawals from these accounts, the individual must have attained the age of 59 ½. These plans also carry certain restrictions, such as a Required Minimum Distribution which forces individuals to begin taking retirement funds from tax deferred accounts once they attain the age of 70 ½. Uncle Sam will allow us to defer the taxes, but not forever.

Non-Elective Contributions

Non-elective contributions are at the sole discretion of the business, and the employee does not have to contribute anything. In this event, the amount contributed does not count against the elective annual contribution limits, but the total between the two cannot exceed the cumulative limits. Non-elective contributions can also be used by those who only work in their own business. An individual can use one or multiple retirement plans to reach the cumulative contribution limit. This strategy can be utilized to maximize contributions to the owner's, partners' or key employees' accounts. Non-elective contributions can be made at the discretion of the employer, so it allows the business owner to discriminately contribute to accounts.

TAX DEFERRED RETIREMENT PLANS

In this section, we will discuss the various types of tax deferred retirement plans, their benefits as well as their limitations and any restrictions that may come with them.

401(k)

This is the most common plan used by employers. Odds are, if you have ever worked for a large corporation, you have had the option to contribute to a 401(k) plan. These plans allow the employee to contribute a portion of their pay into the plan on a tax deferred basis. Employers are also give the option to contribute on behalf of their employees. This is known as a match. The match is most commonly found in the form of a percentage, such as 50%, and is most often capped at a certain percentage of income. For instance, an employee contributes 8% of his pay with an employer matching 50% up to 3% of income. The employee would contribute 8% of earnings each pay period, and the employer would match that amount, up to 3%. In this circumstance, the employee effectively stashes away 11% of his/her earnings before tax.

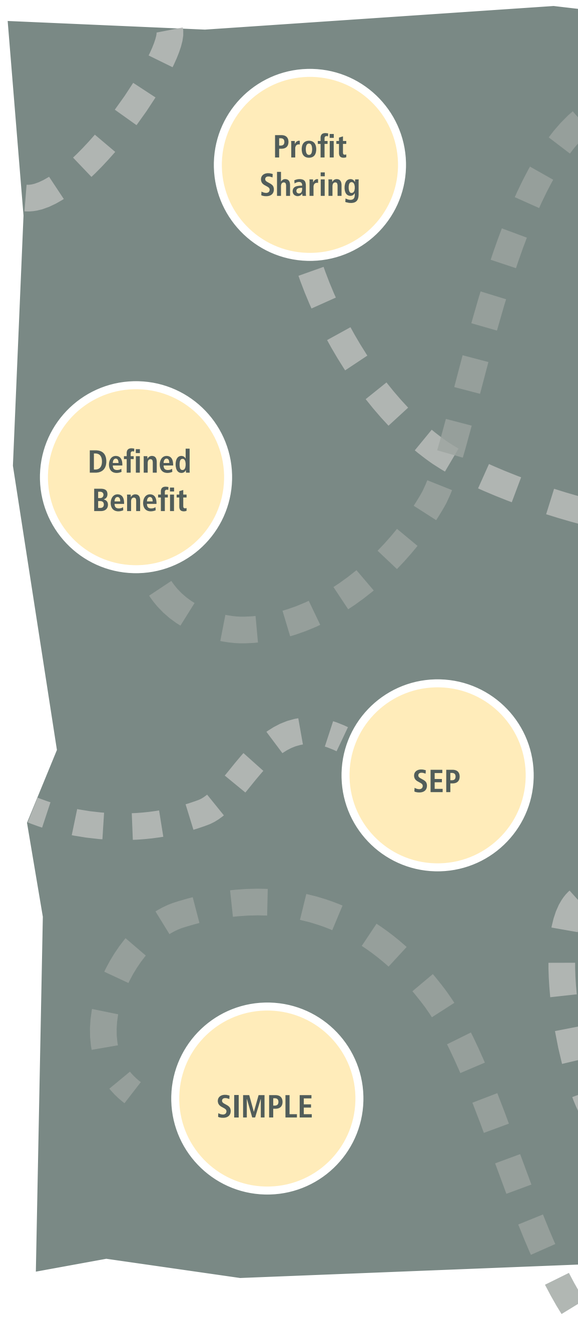
For 2015, contribution limits for the 401(k) plan are $18,000 for elective deferrals. If the employee has attained the age of 50 and the plan permits, a $6,000 catch-up contribution can be made in addition to the $18,000. It is important to note that the contribution limits are for the employee's contribution, so if a company matches funds, the matched amount is in addition to the $18,000 ($24,000 with catch-up contribution) limit.

An offshoot of this plan is the solo 401(k), which is essentially a 401(k) plan for self-employed individuals. The contribution limits and reporting requirements are the same. This is a very efficient way for a self-employed individual to stash away funds and still remain prepared should the business grow to require multiple employees.

Savings Incentive Match Plan for Employees

A Savings Incentive Match Plan for Employees (SIMPLE) is a plan that allows employees and/or employers to contribute a smaller amount to a traditional IRA that is owned by the employee. Contributions are limited to $12,500 with an additional catch-up contribution of $3,000 for 2015. SIMPLEs are often favorites of small business owners because they are there are few eligibility requirements and they are easily set up and operated (hence the name).

The concerns entrepreneurs and small business owners should have about SIMPLEs are two-fold. First, the small business owner is required to either match employee contributions up to 3% of compensation or contribute 2% of employee compensation as a non-elective contribution. The problem I have with this plan is that the employer is required to make a contribution to each employee's account. Furthermore, many firms who have this type of retirement account are young businesses with employees who make below minimum wage. I have personally seen a large portion of employees with SIMPLEs fail to contribute, take the 2% contribution, and then take a disbursement immediately. In an employer sponsored account, the funds are not



eligible to be withdrawn until the employee leaves the business (although they may take a loan against the balance), but SIMPLEs are classified as an IRA, and thus owned by the employee. They can take the early distribution, pay the 10% penalty to the IRS and pocket funds that were contributed by the employer. For each of these employees, the employer is essentially paying 10% to the IRS to give their employee a 1.8% bonus. The second problem with the SIMPLE plan is that the employer is required to contribute, even if the employees do not. If the business does not earn any money in the year, and the employees do not elect to contribute any of their own money, the employer is still required to contribute money to the employee's IRA. A SIMPLE is not always a poor way to go with your business, but it is certainly worth considering the pros and cons before establishing such a plan.

Simplified Employee Pension

Simplified Employee Pension (SEP) plans are similar to SIMPLEs. These plans are a way for business owners to contribute to employee owned traditional IRAs. All business sizes, including self-employed entrepreneurs can establish a SEP. There are several points that make SEPs favorable to business owners. SEPs are easily established, requiring no filing or startup costs. This simplicity is often attractive to small business owners, especially self-employed individuals. Employers are the only contributor to the SEP-IRA, and they must contribute to every eligible employee's account. In this sense, a SEP is very similar to a SIMPLE. The same concerns for a SIMPLE plan apply to a SEP plan.

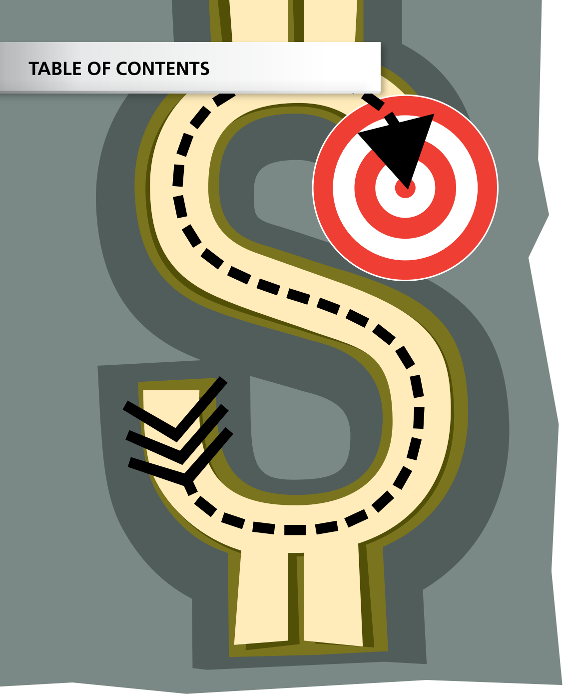
The benefits of a SEP plan lend themselves more towards self-employed individuals or small, closely held businesses. These businesses benefit from SEPs for several reasons. Self-employed or small, closely held businesses avoid the issues raised with SIMPLEs. Contributions are not mandatory. Although accounts are established as IRAs and funds are automatically 100% vested, the owner or owners are the majority or entirety of the payroll, and so they are more careful with cash and they will not waste it as some employees tend to do. Furthermore, the contribution is capped at 25% of compensation, allowing high salaried individuals (owners) to reap the majority of the benefits. It is also worth noting that if a SEP is adopted, no other retirement plan can be sponsored by the company. Although this may not be the best plan for all businesses, especially those with multiple employees, it is well worth consideration of those with varying cash flows and those with very few or zero employees.

Profit Sharing

A Profit Sharing Plan is great because it allows for discretionary employer contributions. There is no set amount that the law requires you to contribute. For companies that have variable cash flows, this can present as a viable option, since there is no requirement to contribute in a given year. Also, your business does not need profits to make contributions to a profit-sharing plan.

If you do make contributions, you will need to have a set formula for determining how the contributions are divided. This money goes into a separate account for each employee. The most common method for determining each employee's allocation of profits is the "comp-to-comp" method. Under this method, the employer determines the amount to contribute to the plan and then divides that amount amongst all employees. The amount contributed to each employee is` proportionate to his/her salary as a percentage of the total payroll.

When establishing these plans, there are a few items that one should consider. First, the costs



associated with establishing and managing these plans are greater than certain other plans, such as a SIMPLE or a SEP. Also, the plan must be tested to assure that it does not overly favor those who are highly compensated.

This type of plan is a way to offer employees incentive to increase the profitability of the business. This plan especially works when there are multiple managers. For instance, a construction company may have employees who are careless with the tools and materials, but the foremen will be especially concerned with ensuring they are protecting the profits of the company, because they have a larger percentage of the profit sharing plan than the workers. Additionally, owners are able to supplement the plan with other plans. Profit Sharing Plans are often combined with plans that are heavily geared towards benefitting the management team, providing incentive and a sense of ownership for employees while still allocating a large amount to the management team.

Defined Benefit

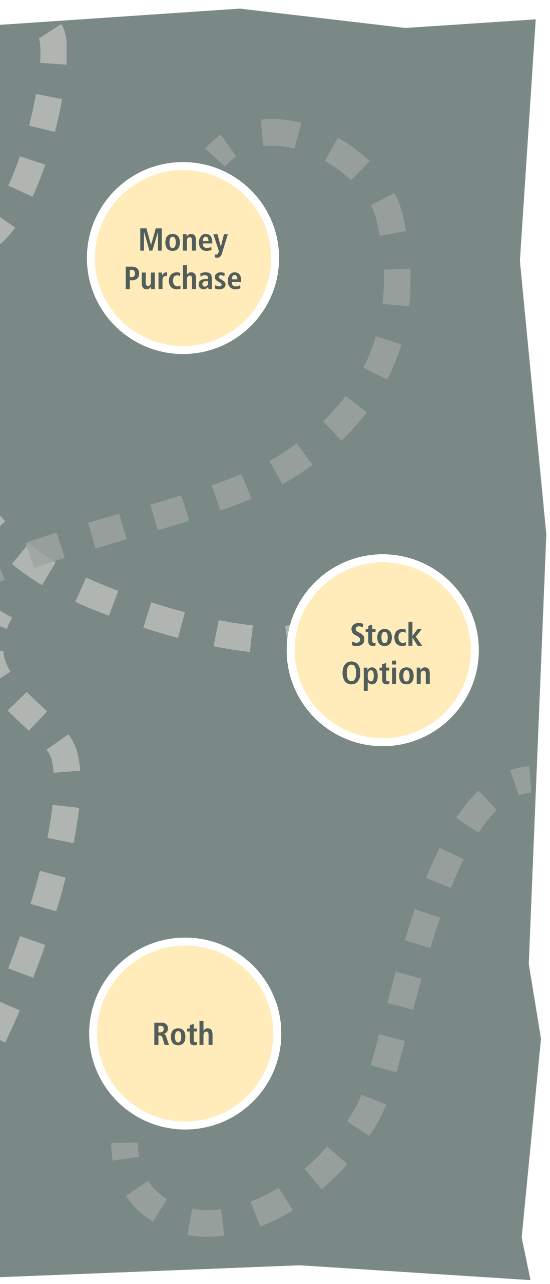
Defined Benefit Plans are less common, but offer an incredible amount of worth to a business owner when planning his/her own retirement. The plan is designed to provide a predetermined benefit to the employee, based on variables such as salary history and tenure at the company. This plan promises the employee a guaranteed pension or lump sum payment when they retire. These plans are rare, but for a business owner they offer unique options for retirement planning. These plans can be funded quickly over a few years or progressively over time.

There are a few concerns for business owners over implementing a Defined Benefit Plan. First, the benefit is guaranteed in retirement. It is a pension, and if the underlying investments perform worse than expected or the business doesn't generate enough cash flows to fund the pension fund, then the business could default on the plan payments. It is best to regularly fund these contributions. Many business owners avoid these plans because they are time and cost intensive. An actuary must determine the amount to be contributed each year and sign off on the Schedule B form each year. Also, it is impossible to retroactively decrease the benefits, so it can be a very restrictive plan.

On the other hand, these plans have many points to take advantage of. For retirement planning, it is much easier to plan when you have a precise idea of how much income you will taking each year. It is also a great way to increase deductions, as more money can be funneled away as compared to other plans. The plan limits are calculated differently as well. The plan limits payouts, instead of contributions. For 2015, plan payouts cannot exceed the lesser of 100% of the average compensation for the participant's highest 3 consecutive years or $210,000. These amounts are also adjusted for inflation. For a business owner who is trying to plan their own retirement, this takes a lot of the assumptions out of the process. We usually recommend using these types of plans for multi-generational family businesses or for those business owners who want to reward loyal, tenured employees. Business owners can also use additional retirement packages to compliment the Defined Benefit Plan. These are also commonly used for self-employed individuals, particularly those who have taken large salaries in the past or have a great deal of excess cash flow.

Money Purchase

Money Purchase Plans have a stated percentage of compensation that is required of the employer to contribute on the behalf of all employees. The percentage is determined in the plan documents. The contributions are only made by the employer and none by the plan participant. Contribution limits are $53,000 ($59,000 for catch-up) or 25% of total compensation. It is important to note that an excise tax is levied should the minimum contribution not be met. It is for this reason that only businesses with stable cash flows adopt such a plan. When established properly, this is a great plan for accumulating retirement assets for those with higher compensation levels. Money Purchase Plans can be implemented by businesses of any size and can also be used in conjunction with other retirement plans. The cost of maintaining such plans are moderate and thus are appropriate for businesses with steady cash flows of all sizes. These plans are most similar in nature to a Profit Sharing Plan, acting similarly, but with a more rigid contribution requirement.



Employee Stock Option Plan

An Employee Stock Option Plan (ESOP) is a stock bonus plan/money purchase plan where the securities are that of the employer. Under this plan the employer sets up a method for contributing stock in the company into a retirement account on behalf of the participant. These are very complicated accounts and so maintaining them can increase cost, but they also prove their worth when used in conjunction with a business succession plan or as a method of rewarding essential employees.

Roth 401(k) & Roth IRA

Roth accounts are similar to other retirement accounts, except for the tax treatment. Roth accounts are funded by dollars that have already been taxed. As a result, there are no capital gains taxes or income taxes. Funds invested in Roth accounts cannot be accessed without penalty until after the participant has attained the age of 59 ½, but when disbursed, the funds incur no taxes.

Establishing a Roth account can be done via an employer, a Roth 401(k), or as an individually owned account, a Roth IRA. Roth contributions do count against the total contribution allowance, and also carry their own limitations. For 2015, an individual can make a Roth contribution in the amount of $5,500 plus allowance for an additional catch-up contribution of $1,000 if the participant has attained the age of 50. Additionally, Roth contributions are phased out at higher income levels. It is important to ascertain whether or not you are capable of making a contribution, which will depend on tax filing status and income.

LIMITATIONS & RESTRICTIONS

Because each individual business and entrepreneur's situation is unique, it is important to consult with a financial professional and/or an accountant. In this article, we are simply providing a bird's eye view with some elements of strategy.

Contribution Limitations

Remember that annual contributions to all of your accounts, regardless of whether they are employee or employer funds, may not exceed the lesser of 100% of your compensation or $53,000 ($59,000 with catch-up) for 2015. In addition, the amount of your compensation that can be taken into account when determining employer and employee contributions is limited to $265,000 in 2015.

Each plan discussed in this article carries its own restrictions for contributions; however, regardless of whether you are using one retirement plan or multiple strategies, the IRS puts a limit on the total amount of contributions one can make each year. For 2015, the total allowable contribution is $53,000, or $59,000 with catch-up contributions. Take the situation of the entrepreneur who is working for a company while running their own business on the side. The individual may maximize their contribution in their employer's retirement package, but also in their own business, given that neither business' retirement contribution exceeds individual plan limits or the cumulative limit. For example, Jeff has a 401(k) plan at his job, but works also at his own consulting business. His 401(k) contribution limits are $18,000 per year ($24,000 if age 50+), but he can also use a retirement plan through his own business to contribute up to a cumulative amount of $53,000 ($59,000 if age 50+) in the amount of a non-elective contribution.

MAXIMIZING CONTRIBUTIONS

Non-Elective Contributions

Non-elective contributions are at the sole discretion of the business, and the employee does not have to contribute anything. In this event, the amount contributed does not count against the elective annual contribution limits, but the total between the two cannot exceed the cumulative limits. Non-elective contributions can also be used by those who only work in their own business. An individual can use one or multiple retirement plans to reach the cumulative contribution limit. This strategy can be utilized to maximize contributions to the owner's, partners' or key employees' accounts. Non-elective contributions can be made at the discretion of the employer, so it allows the business owner to discriminately contribute to accounts.

ALTERNATIVE RETIREMENT FUNDING METHODS

Utilizing Life Insurance

Life insurance is often an overlooked asset for retirement planning, but is a common component in partnerships and businesses with key employees. Life insurance is a crucial component, specifically with partners who would require a Buy-Sell Agreement. Such an agreement outlines the purchase of stock by the surviving partner in the event of the death of the other partner. The insurance policy can be owned by the individual and paid for by the company. Funding the Buy-Sell Agreement with cash value life insurance will allow for an accumulation of cash inside the policy. When this cash is taken in the form of a loan, it is tax free as long as the policy is still active. If enough cash value is contributed to the policy, there is no need to continue to pay premiums, so if the individual does not use the policy, he/she can retire with the cash value in the policy and no premiums to pay. This can lead to a significant income source in retirement.

Using the Business to Fund Retirement

Using the equity from the business to fund retirement is an additional option. The owner of a business, especially a small business, is usually funded by one of two methods (or a combination thereof). The first is through a loan to purchase the business outright. This usually is contingent upon the business having sufficient cash flows to sustain repayment of principle and interest. If not, the new owner will have to negotiate some form of owner financing. This is to be paid from the cash flows of the business as well. As a result, the owner will usually receive some combination of the two, so having a portion in the form of a lump sum and the other in the form of an income stream. This can present itself in a favorable fashion, as the prolonged payment period reduces the tax incidence when compared to that of a single, large lump sum.

Combining Retirement Plans to Achieve a Purpose

The best types of plans to combine are those that complement each other well and fit with the goals and objectives of the company. The following are a few scenarios that are common and the plans that best fit them.

Maximizing Retirement Income for the Owner(s)

This combination is greatest for maximizing the retirement income for the owner(s) and key employees. Both plans lend towards higher salaried employees and diversify the risk of the investments. The Defined

Benefit plan is designed predominantly for owners and key employees, while the profit sharing plan is designed to align all employees with management's concerns. The Defined Benefit Plan can be properly managed with conservative investments, assumptions and/or instruments such as annuities.

Similarly, a Money Purchase Plan can be substituted for the Profit Sharing Plan. Both operate in similar fashions and serve the purpose of putting away large sums for higher salaried employees, but the Profit Sharing Plan is less restrictive.

Transferring the Business to Employees

Three plan types come together for this strategy: an ESOP, a Defined Benefit Plan and a 401(k). This plan is used under circumstances of transfer of ownership, specifically to key employees. This allows the current owner to transfer his shares to those capable of continuing the business from within it. At the same time this plan provides the owner with income from the inevitable sale of the business to the employees. This purchase can be funded in multiple fashions: debt, owner financing, or savings. Either way, it is a payment due to the owner. The stock option plan gives a head start in the transition to those new owners by rewarding them with sweat equity in the business. The Defined Benefit Plan provides an additional stream of income to the business owner in retirement, and is protected by the new owners' vested interest in proper management of the pension fund. Finally, the 401(k) gives the owner a third source of funds to be drawn from during retirement.

Using an ESOP to Shelter Taxes

It is possible to utilize an ESOP to roll over the proceeds from the sale of a business. This allows the stock that is within the ESOP to avoid taxation upon the sale. The owner will have to pay taxes when the funds are accessed and must wait until attaining the age of 59 ½ or incur a penalty; however, it may prove beneficial if the tax savings are significant enough.

CONCLUSION

There has been a lot of information covered in this article. Each business and business owner is different. Always consult with a financial professional and a tax advisor before making any decisions about what is best for your company. This article is merely intended to provide a foundation for business owners as they begin the process of implementing a retirement strategy.

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Get Emergency Help!

Ask the Expert

Q: ***I am finishing up my tax return and want to make sure I am not missing any deductions. What deductions are most commonly missed?***

A: As you probably know, most business deductions come right out of your business checkbook. Any expense that is incurred in the course of your business activity that is ordinary and necessary will be deductible in some form. Therefore, the first step is to make sure you have captured all the data from your business checkbook and any other expenses that were incurred even if you paid some of those from another account. Try to avoid paying business expenses with cash simply to make sure documentation is adequate. However, if valid business expenses were indeed paid with cash, the amounts are still deductible; just make sure you maintain adequate support for the expenditures.

There are certainly deductible expenses that don't show up as a specific cash disbursement and therefore are easy to miss. Perhaps the most common is the deductible expense related to the business use of your **vehicle**. Whether you use the standard mileage rate method or the actual expense rate method to calculate the deduction, the tax savings can be substantial. The IRS has a very good publication to help with the detail called Publication 463, *Travel, Entertainment, Gift, and Car Expenses*. You can download the publication for free at IRS.gov.

Another powerful deduction that does not appear in your business checkbook that is often overlooked is the **Home Office** Deduction. If you operate your business from your home and use a space in that home regularly and exclusively for business then a portion of the costs incurred to maintain your home are deductible. Those expenses would include your mortgage interest, real estate taxes, rent expense, utilities, repairs, etc. A portion of all of those amounts consistent with the amount of space you have dedicated to business use will reduce your taxable income and save some tax dollars. The best news is that this is money that you are already spending anyway but without the home office deduction, the amounts do not help your tax liability. The IRS has another good publication for assistance called Publication 587, *Business Use of Your Home.*

Perhaps the most commonly missed deduction is that which is available for investing in your own future. Congress allows us to deduct amounts that we invest in qualified retirement accounts via traditional IRAs, Simplified Employee **Pension Plans** (SEPs), 401(k) plans, and others. Best of all, the contributions that you make today can still be deducted on last year's tax return. Contributions made up until April 15th, and in the case of SEPs, as late as October 15th can still reduce the amount of tax that you owe and help you keep more of your hard earned money. Most taxpayers can contribute up to $5,500 to a traditional IRA while small business owners can contribute up to 20% of the net earnings from their business to an SEP plan. Regardless of which fits your specific situation, make sure you consider options for a qualified retirement plan contribution before your file your tax return. The deductible contribution will help secure your future and will reduce the taxes you have to pay today.

As always, don't forget that you are not alone. Bookmark our website at NASE.org as well as the IRS website at IRS.gov you will always be able to find the help you need.

Member Spotlight

Retiring To Self-Employment

***Alan DeValerio** is the Founder of White House Memories located in Frederick, Md. Alan joined the NASE in 2005. He first joined for the discounted dental insurance and has continued to enjoy the various benefits the NASE offers. Alan worked as a contract butler at the White House in Washington D.C from 1980 to 1989 and began giving presentations about his experiences in 2012.*

What inspired you to enter the field you are in?

When President Obama was elected in 2008, there was an article in the Washington Post about former Head Butler and Maitre d' Eugene Allen and his 34 years of service at the White House. Gene was my boss and his story really caught on. You might recall the movie The Butler; it was made about Gene's life. As I began to enter my retirement years, I was thinking of how I wanted to continue to work and I thought that people might be interested in my story as well.

When and why did you start your business?

I started my business in 2012. Because I had previous experience as a public speaker and performer (I did a one man show as legendary entertainer George Burns), I knew that I could tell my story in a compelling and interesting way that audiences would enjoy.

What challenges have you faced in your business? Have you overcome them?

My biggest challenge right now is trying to reach a wider audience. I would like to do some corporate and/or association events, but the competition is fierce. I haven't reached that stage yet, but I try to explore every possibility to get the word out.

How do you market your business?

Right now I've been marketing to senior centers and retirement homes. It's a ready-made market that's easy to reach through mailings. It's works out great because the audiences are eager for the presentations and the facilities talk to each other and share my information.

How often are you giving presentations and how far do you travel for them?

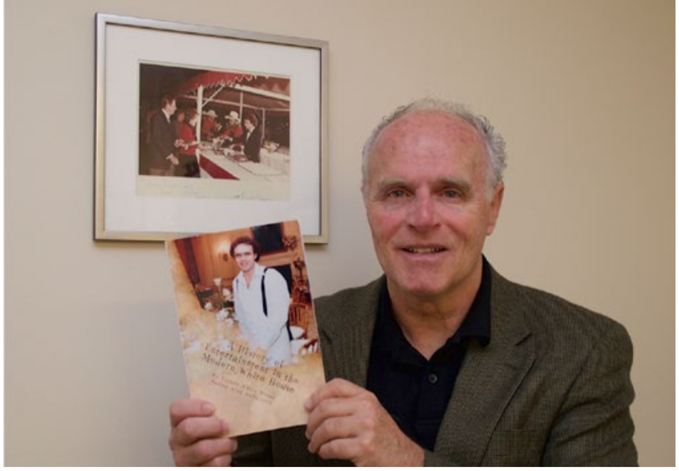
I average around 6 to 8 presentations a month. I have traveled as far south as Florida and as far north as Massachusetts. I will be doing a presentation in May in Pittsburgh (farthest I've been west).

How many hours per week are devoted to your business, how do you spend your time?

I'm semi-retired, so if I'm not doing some kind of marketing for my White House presentations, I'm out hiking or I'm reading. I also work part-time as a substitute teacher (maybe 1 or 2 days a week). I try to do some marketing at least 2 to 3 hours a day. That may involve looking for potential new clients, sending out postcards to new clients, and contacting old clients for repeat business.

What role does technology play in your business? What roles does it play in your presentations?

Technology plays a HUGE role. I don't think that I could market effectively without the Internet. Almost everything I do marketing-wise is technology related. I search for clients, order business cards, advertising and keep track of upcoming presentations online. And, of course, I use GPS to get me where I'm going! If a client has the capacity, I will do a slide show along with my talk. That adds a lot to the overall presentation.



What's the best compliment you've ever received from a client?

The best compliment is when a client asks you to come back. I've had several clients who have requested me to return for repeat performances. It is gratifying knowing that the audience and facilities are enjoying my work.

What is the best thing about being self-employed?

The best part about being self-employed is the independence and the ability to call all your own shots. As a semi-retired individual, the flexibility in my schedule is almost priceless.

What's the most important piece of advice you would give to someone starting their own business?

Make sure that there is a market for what you intend to do before investing too heavily in your time and money. Understand what the start-up costs will be first before moving forward. Take advantage of any tax breaks meant to help the self-employed.

Learn More in the NASE Small Business Locator

Learn more about Alan DeValerio, White House Memories, and other Self Employed businesses in the **NASE Small Business Locator directory**. You can add your own company to the NASE Small Business Locator in up to three categories at no charge – it is a free benefit to NASE members.

NASE CONTINUES TO LEAD EFFORT TO

PROTECT HEALTH REIMBURSEMENT ARRANGEMENTS (HRAs)

In September 2013, the Departments of Treasury, Health and Human Services, and Labor, released Technical Release No. 2013-03, "Application of Market Reform and other Provisions of the Affordable Care Act to HRAs, Health FSAs, and Certain other Employer Healthcare Arrangements."

The guidance stipulates that an employer that offers an HRA to two or more employees, but does not offer a group health care plan, is not compliant with annual limit regulations and the business would be subject to penalty. However, a single employee business can still offer an HRA plan and would not run afoul of compliance issues under the ACA.

FOR THE PAST YEAR, THE NASE along with several other organizations have been aggressively pushing Congress to address the action by the Departments of Treasury, Health and Human Services, and Labor, that grossly restricted the use of Health Reimbursement Arrangements (HRAs) by the self-employed and micro-business community.

Before the 113th Congress adjourned on December 31, 2014, Representatives Boustany (R-LA) and Thompson (D-CA) introduced legislation that would allow for standalone health reimbursement arrangements (HRAs) for small employers (with 49 employees or less). The legislation will be re-introduced in the new 114th Congress in both the Senate and House.

Due to the NASE's efforts to bring awareness to this issue, specifically in two meetings with U.S. Treasury Secretary Jack Lew and U.S. Health and Human Services Secretary Sylvia Burwell, the Department of Treasury announced that they would hold off enforcing the penalty against those small businesses that are currently not incompliance with the technical guidance issued in 2013.

The NASE is working with our partners along with House and Senate members to move our supported legislation forward so that no small business is burdened with a penalty assessment by the IRS and we can ensure the self-employed and small business community can continue to use a valuable tool that helps cover the costs health insurance for their employees.

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