BeneTrends, Inc.®
Business Funding & Retirement Solutions

# Funding a Business with Your Own Retirement Funds

If you're an entrepreneur looking for small business capital, you should take note of a type of self-reliant funding. This has become ever more prevalent in today's economic environment, as bank loans and other sources of capital have become more difficult to obtain. This self-reliant funding allows you to invest your retirement funds in your own business – tax-deferred and penalty-free – and can help get you off to a good start by building equity and reducing the need for debt and cash flow – important factors for the long-term success of your business. An equally important benefit of this type of funding is the establishment of a qualified retirement plan for your business, that can help you and your employees save for the future.

Self-reliant funding is available to just about anyone who has an existing retirement plan, and who has terminated employment with the employer where the funds were accumulated or who has an IRA. The money invested through a properly designed retirement plan can be used to fund the start-up of a new business, purchase a franchise, purchase an existing business, and in some instances, raise capital for an existing business. The process calls for the assets in your existing retirement plan to be rolled over – tax-deferred and penalty-free – into a newly established qualified retirement plan for you and your new company's employees. The new retirement plan is designed, in accordance with Internal Revenue Code (IRC) regulations, to allow plan participants to invest in stock of the sponsoring company. Based on a long-standing provision in the IRC, this process is modeled around many of the same IRC and ERISA provisions that support and govern large corporate retirement plans. While self-reliant funding is available to most, it's extremely important to consult with a firm that specializes in – and has extensive experience in – retirement plan design and administration.

## Consider Your Ratio of Debt to Equity

Funding a small business using debt can put a strain on cash flow, with debt service becoming a major fixed cost. This is especially true for businesses that are just starting. Investing a portion of your retirement funds in your own company helps build equity in the firm. Used alone or in combination with debt financing, the use of equity may minimize the potential risk to personal assets that may have to be pledged as collateral for a loan.

## Get a Fresh Start

In today's economy, self-reliant business funding with retirement funds has become attractive for individuals who have suffered from corporate downsizing, closures or lay-offs. Thousands of new business owners each year utilize their retirement funds to get a fresh start.

## Put Your Qualifying Plan to Work

Most types of retirement funds can be rolled-over into your business' new retirement plan. If your funds are held in an employer's retirement plan, generally you must have terminated your employment with that employer.
In addition, your former employer's plan must permit you to rollover the funds. You can generally use funds from any of the following types of plans:

*IRAs*
*401 (k) Plans*
*403 (b) Plans*
*457 Plans (for governmental agencies)*
*SEPs*
*SIMPLE Plans*
*Annuity Plans*
*Defined Benefit Plans*
*Profit-Sharing Plans*
*Cash Balance Plans*
*Money Purchase Plans*
*Rollover Plans*
*Employee Stock Ownership Plans*

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## Continue to Save for Retirement

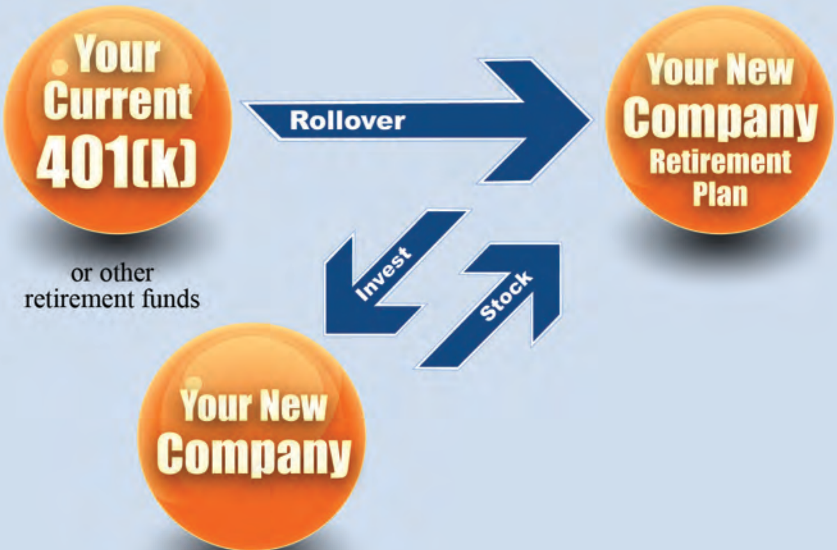
At the core of the self-reliant funding process is a qualified retirement plan. The plan is designed to help you and your new company's employees save for their retirement. Plan designs can vary depending on business, retirement and other personal objectives. As with any qualified plan, compliance with rules and regulations is critical.

## Obtain the Services of a Professional

While the concept may seem complicated, an experienced retirement plan design and administration firm can easily guide you through the process. Once established, the same firm can help you keep your plan in compliance with the rules and regulations that govern all qualified retirement plans.

## The process involves the following major steps:

- *Incorporation of a new business*
- *Adoption by the new business of a company retirement plan*
- *Roll-over of assets from a current retirement plan to the new retirement plan*
- *Investment of rolled-over assets in the stock of the new company*




At the completion of the process, your new company now has cash from the sale of stock to the retirement plan. The retirement plan now holds company stock as a plan asset. The cash can be used for legitimate investments in the business or to pay legitimate business expenses.

Since the process involves the establishment and use of a qualified retirement plan, you should work with a firm that specializes in plan design and administration as well as a firm that has experience in this particular type of transaction. Failure to properly design and operate the plan can have significant tax consequences. Take time, do your homework, and find a reputable firm that understands both IRS and ERISA provisions as well as having extensive experience in setting up and administering these types of plans.

## Calculate the Risks

Business financing of any kind comes with risks – the risks inherently associated with opening a new business or purchasing an existing one. Before you decide to use your retirement funds – or any other type of funding – you should ensure that you have a viable business idea, a comprehensive business and marketing plan, adequate capital, and the consultation of small business professionals – like those at SCORE – who can provide advice and guidance for your new venture.*

**As in any transaction of this nature, you should consult your tax or financial advisor*

# Q&A with Leonard Fischer, Esquire

**Q: Is this type of financing really ok with the IRS?**

**A:** The use of 401 (k) and other retirement plans to help individuals invest in franchises and business start-ups has become very popular. While this may not have been commonly done seven or eight years ago, today it's an integral part of many small business financing strategies. The process is based on Internal Revenue Code and ERISA regulations that have been in use by large corporations for years. As recently as October 2008, the IRS, in a memorandum to Employee Plan field auditors, stated that these plans are in compliance as long as they are properly designed and operated.

**Q: What advice would you give a small business owner considering this program?**

**A:** It's vitally important to hire an administration firm with extensive experience in tax and retirement regulations. These plans are specialized, and regulations from the IRS have been clearly established. A reputable, experienced firm will understand how to follow these regulations to keep the plan in compliance. Avoid firms that are simply promoting the funding transaction and not the underlying retirement plan. Remember, at the core of this process is a qualified retirement plan that must be designed and operated as such. Look for firms that have experience and expertise in design and operation of qualified retirement plans. A reputable firm should also give you a guarantee that they are there to support you in the event of an IRS audit or Department of Labor review, both of which are routine when dealing with qualified retirement plans. This will give you peace of mind and assurance that the firm fully understands the procedure and will be there if you need them.

**Q: How is this retirement plan different from other retirement plans?**

**A:** The plan is a qualified retirement plan similar to other qualified plans. Many firms who offer this type of plan design utilize a plan prototype that is pre-approved by the IRS. The plan design allows for plan participants to direct certain types of plan contributions to be invested in company stock as well as other investment options such as mutual funds, individual stocks and other types of investments. As in many plans, individual plan participants must assess what investments are right for them before directing their contributions.

**Q: What about when compared to utilizing business or home equity loans?**

**A:** In today's credit market, business loans may be hard to come by. Lenders are usually looking for collateral to secure their loans. Often, this means pledging both business and personal assets, such as a home, to collateralize a loan. Using SBA guaranteed financing may be an option when there is little collateral. It should be noted that home equity loans can no longer be used to provide equity investment for an SBA loan, unless the loan is going to be repaid by someone other than the prospective new business owner. The proper capital structure (equity and debt) for a business depends on many factors including the ability of the business to generate sufficient cash to service debt or pay a sufficient rate of return on the invested equity.

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