

NATIONAL WEALTH ADVISORS Inc.
Business & Personal Financial Planning

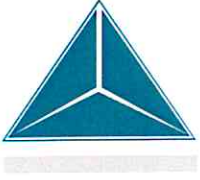
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SUMMIT FINANCIAL RESOURCES, INC.

Planning Alert: Beware of ROBS

National Wealth Advisors Inc. President. Michael A. Caputo. MSFS. AEP® offers securities and investment advisory services through Summit Equities, Inc. Member FINRA/SIPC, and financial planning services through Summit Equities, Inc.'s affiliate Summit Financial Resources, Inc. 4 Campus Drive, Parsippany, NJ 07054. Tel.973-285-3600 Fax.973-285-3666.

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Planning Alert

Beware of ROBS

Clients who decide to start their own business may have difficulty obtaining financing due to limited liquidity or collateral, lack of business track record and stringent lending requirements. Existing IRA and 401(k) accounts are sometimes promoted as sources of seed money through the ROBS strategy: *Rollovers as Business Start-ups*. **While technically viable, ROBS pose significant risks that could disqualify the retirement account and trigger immediate taxes and penalties.**

ROBS promoters encourage business owners to create a C corporation that adopts a new 401(k) retirement plan to which the business owner rolls over an *existing* 401(k) or IRA account. The new 401(k) plan then purchases the stock of the C corporation, which essentially allows the entrepreneur to own the company through the retirement plan. A variation of this approach involves investing an existing I.R.A. account in a newly created LLC, which is then used to invest in business opportunities, real estate, etc. Under either structure, the new entity has capital to conduct operations and make investments, while the retirement account owns all of the company stock or LLC units. If the business owner engages in any prohibited transactions while the retirement plan is in existence, the entire account will become taxable and subject to the 10% penalty if the client is younger than age 59½. Examples of prohibited transactions applicable to 401(k) or I.R.A. accounts include personal guarantees by the owner for the corporation's loans, any compensation paid to the owner even if reasonable in amount, or personal expenses paid with plan assets. Additional technical problems arise with the valuation of the C corporation or LLC interest, paying promoter fees from the retirement account, failing to offer company stock to employees and failing to file proper tax returns.

Despite satisfying the technical retirement plan rules, ROBS structures have drawn intense I.R.S. scrutiny. The government has already provided literature outlining the technical issues that lead to retirement plan disqualification. Clients should consult with their tax advisor to ensure strict compliance with the retirement plan rules before using such accounts to provide financing for business ventures.

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