



# ROBS 401K Franchise Funding

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## Agenda

- **Housekeeping**
- **ROBS 401K Franchise Funding**
  - **ROBS 401K Basics**
  - **Compliance Rules & Considerations**
  - **Top FAQs**
- **Any Questions?**

# ROBS 401K Business Financing: Use Your 401k/IRA Tax-Penalty Free

*A rollover as business startup (ROBS) transaction allows you to use your retirement money to start or buy a business without paying taxes or penalties.*

## Key ROBS requirements

- Use retirement funds in a former employer plan and/or non-Roth IRA
- Use the funds to start or buy an active business (i.e. operating company providing goods and/or services)
- C-corporation
- Bona fide employee (e.g. 1000 hours per year)

## ROBS 401k Process

- **Step 1:** Incorporate C-corporation
- **Step 2:** C-corporation sponsors 401k plan
- **Step 3:** Rollover funds to 401k
- **Step 4:** Invest 401k funds in the stock of the C-corporation
- **Step 5:** C-corporation may use the funds for legitimate business purposes including to buy or start a business

# ROBS 401K Franchise Funding

**The ROBS 401K-funded business must be operated as a C-corporation**

**No exceptions – S-corporation/partnership is not allowed.**

**The C-corporation must be an active operating company.**

**The C-corporation may have subsidiaries.**

# ROBS 401K Franchise Funding

**Roth IRA Funds are not eligible**

**Neither nondeductible (after-tax) IRAs nor Roth IRA funds can be transferred to the Business Financing 401k (ROBS 401k).**

# ROBS 401K Franchise Funding

**Roth 401k Funds must be held in a separate sub-account**

**If Roth 401k, Roth 457 and Roth 403b are transferred to the “Roth Designated Account” sub-account of the Business Financing 401k (ROBS 401k), these funds must be held in a separate sub-account of your ROBS 401k.**

# ROBS 401K Franchise Funding

**Generally, can only use funds in a former employer plan**

**While some exceptions apply, you typically can only rollover funds from an employer plan once you are no longer employed (separated from service) or 59 ½ or older.**

# ROBS 401K Franchise Funding

**The ROBS 401K fee can't be paid with retirement funds**

**The ROBS C-corporation can't reimburse you and can't payoff credit card used to pay the fee.**

**You may receive stock personally in exchange for incurring this expense & in that case coordinate with your tax advisor to report as a business expense.**

# ROBS 401K

## Franchise Funding

**You must be a W-2 employee**

**A 401k plan is for w-2 employees (not 1099-MISC independent contractors).**

**Any reasonable compensation that you receive for work performed is reported as w-2 wages.**

# ROBS 401K Franchise Funding

**Income and expenses must flow through ROBS C-corporation**

**The C-corporation must file a C-corporation tax return (e.g. 1120 at the federal level).**

**Reasonable compensation may be paid to you as w-2 wages and any profits distributed to the owners in accordance with the ownership percentages (e.g. 401k for your benefit & you personally).**

# ROBS 401K

## Franchise Funding

**Your compensation must be reasonable**

**You must wait to receive compensation until the C-corporation generating income to justify.**

**Your compensation must be reported as w-2 wages – coordinate with business tax advisor.**

**Your compensation must be reasonable (i.e. no more than what the company would have to pay someone else to do all of the things that you do).**

# ROBS 401K Franchise Funding

**The ROBS 401K can't guarantee a loan to the ROBS  
C-corporation**

**A loan to the business must be a commercial loan in  
the name of the C-corporation.**

**You may personally guarantee the loan.**

# ROBS 401K Franchise Funding

**Your ROBS 401k funded business cannot do business with any other business that you or disqualified persons own.**

**ROBS C-corporation can't interact directly or indirectly with another business that you own.**

# ROBS 401K

## Franchise Funding

### More Items to Know

- Funds from Inherited IRAs are NOT eligible to be rolled over to a ROBS 401k (unless inherited from spouse)
- No personal loans to the ROBS C-corporation
- ROBS C-corporation can't own an S-corporation (consider if buying the stock of a business taxed as an S-corporation)
- Confirm the franchisor naming requirements (e.g. the franchisor may not allow you to register the corporation under a name that is similar to the name of the franchise but instead may require that you use a DBA or simply license the use of the name).

# ROBS 401k FAQ

## Stock for SBA Loan

I am using ROBS 401k Business Financing in order to put \$200k of my retirement funds as a down-payment on a \$400K SBA loan to start a franchise. I understand that stock will be issued to my ROBS 401K in exchange for the 401k funds invested in the business. Will I personally receive stock in exchange for personally guaranteeing the SBA loan?

**No - shares will be not issued to you on account of the SBA loan since the loan is debt (not equity).**

# ROBS 401k FAQ

## Home Office

**I am funding a new restaurant franchise via ROBS 401K Business Financing. The restaurant won't be constructed for six months so I will be working out of my home during that time. Can the C-corporation pay me rent for using my home office?**

**No – the C-corporation that is funded with your retirement funds can't pay you rent to use part of your home as a home office.**

# ROBS 401k FAQ

## Different Lines of Business

**I am using a ROBS 401K Business Financing plan to fund the purchase of multiple locations of a franchise. Can I operate each location via a separate LLC?**

**Yes – each LLC (i) would be a 100% subsidiary of the ROBS C-corporation and (ii) may not be taxed as an S-corporation (since an S-corporation can't be owned by a C-corporation).**

# ROBS 401k FAQ

Business  
Loan in the  
Name of the  
ROBS C-  
corporation

**I am using a ROBS 401K plan in order to start a fitness franchise with funds in my Rollover IRA. The business will obtain a mortgage to acquire real estate. I have already been pre-approved by my bank – will the loan be in my name or the name of the C-corporation?**

**While you may personally guarantee the loan, the loan needs to be in the name of the C-Corporation**

# ROBS 401k FAQ

Ownership  
based on  
funds  
invested

**I am starting an eyelash extension franchise with my sister. We always discussed that we would own the business "50/50" but most of the funds invested will come from my retirement account – how will the ownership work?**

**The ownership of the company must be based on the funds invested – so an equal amount of funds would need to be invested by your sister in order for her to receive an equal amount of shares in the company.**

# ROBS 401k FAQ

## Home Equity Line of Credit

I will use a ROBS 401K to invest \$250,000 from my former employer plan to start a medical spa franchise. I need another \$100,000 and would like to use funds from a HELOC – can I do that?

You can certainly take a personal loan such as HELOC and then invest the proceeds in the C-corporation – in that case, the additional personal funds that you will invest will count as your personal investment for which you will receive stock personally in the C-corporation.

# ROBS 401k FAQ

I already  
formed an  
LLC – Can I  
use that?

I have been researching starting a tree care/lawn service franchise for over 1 year and I just discovered that I can use a ROBS 401k to invest my retirement funds without paying taxes/penalties. I already set up an LLC with a name that is perfect for my business – can I still use that LLC?

Yes – the LLC would either need to be converted to a C-corporation or contributed to a new C-corporation. Please note that if the LLC elected to be taxed as an S-corporation the S-corp election would need to be revoked.

# ROBS 401k FAQ

Hire my  
consulting  
business

**I have an existing senior care consulting business. I am looking to use funds in Rollover IRA at Vanguard to fund a new senior care franchise. Can the new ROBS-funded C-corporation hire my existing business to provide consulting services?**

**No – the ROBS-funded business is prohibited from hiring another business that you own personally to provide services to the C-corporation that was funded with your retirement funds.**

# ROBS 401k FAQ

Can my  
family  
members  
also invest?

**I will use a ROBS 401K to invest \$150k from my former employer plan to buy a bread/cookie route franchise. I need another \$100,000 and my father would like to invest these funds from his personal savings. Can my father also invest?**

**Your father can certainly invest funds in the C-corporation that is funded with your retirement funds. Please note that such investment will be structured as a stock purchase where shares are issued to your father personally in proportion to the cash invested.**

Learn More!

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