

# **SOCIAL SECURITY CONSIDERATIONS**

**FOR SMALL BUSINESS OWNERS WITH  
DISABILITIES – 2<sup>ND</sup> EDITION 2002**

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## INTRODUCTION

Social Security Disability Insurance (SSDI) beneficiaries and Supplemental Security Income (SSI) recipients with disabilities are beginning to expand individual employment horizons to include self-employment as an employment choice. A myriad of programs are formally emerging around the United States that support and promote self-employment as a choice for anyone with a disability seeking employment.

This booklet is intended to introduce basic self-employment and Social Security considerations while developing a small business with someone with a disability receiving SSI and/or SSDI. We expect that it will also serve as a general guide for individuals with disabilities, family members, educators, advocates, rehabilitation professionals, small business administration counselors, small business accountants, and small business attorneys, in understanding how disability benefits interact with self employment planning and ongoing self-employment development and expansion.

Every attempt has been made to keep this booklet brief and in plain language as much as possible considering the technical Social Security and Small Business subject matter. Throughout this booklet you will find hyperlink (underlined) text. The best anticipated use of this booklet is to view it directly on a computer connected to the Internet, (preferably using Microsoft Word). When hyperlink text is encountered, click on the text and it will connect your web browser to the related web based policy and technical information.

This booklet adheres to the following policy, which is similar to, and quoted from, official Social Security Publications, “***This booklet is a general description of (Social Security’s) policies. You cannot rely on it to make conclusive determinations about eligibility or benefits in individual cases.***” (From Social Security’s Redbook 2001).

It’s important to note that during the next few years a variety of significant changes will be occurring at the Social Security Administration. This booklet will be updated yearly. Beginning in February of 2002 updates will be available in MS Word format at: <http://www.griffinhammis.com>.

## **OVERVIEW OF RECOMMENDED COMPANION PUBLICATIONS**

The Social Security Administration (SSA) has a significant number of publications that describe how income and health care benefits are affected by work activities and earnings. The more common SSA publications focus on wage earnings with limited information about self-employment earnings. This booklet is designed to be used concurrently with existing SSA published information in an effort to keep this booklet brief and yet useful and effective.

Two sources of Social Security published information are considered to be necessary “companions” to this booklet and enhance this booklet by covering general and specific self-employment SSA policies and guides.

### [2002 REDBOOK ON EMPLOYMENT SUPPORT](#)

Social Security’s 2002 Redbook on Employment Support is a general and very useful “plain language” guide. It is strongly recommended that the Redbook be used as a companion with this booklet. It can be accessed on the web by simply clicking on the hypertext above, or at the following exact web address: <http://www.ssa.gov/work/ResourcesToolkit/redbook.html>. It is also often available at local Social Security Field Offices in limited quantities.

### [PROGRAM OPERATIONS MANUAL SYSTEM](#)

Social Security’s Program Operations Manual System (POMS) contains the day-to-day operating policies that Social Security Field Office Staff use. Again it is highly recommended for anyone involved in self-employment, or using this booklet, to find some way to either purchase SSA’s POMS CD or access it for free using the hyperlink text above or the exact web address at: <http://policy.ssa.gov/poms.nsf/poms?OpenView> If you would like to purchase the CD ROM version of SSA’s POMS it can be found for sale by SSA for \$30 for a single month or \$226 for a year’s subscription at: <http://www.ssa.gov/sspcd.htm> Since the POMS are on-line for free, purchasing the CD ROM version is not needed if you have internet access.

**FREQUENTLY USED SOCIAL SECURITY ACRONYMS (NOTE: ONLY SOME OF THE ITEMS BELOW ARE ACRONYMS)**

Social Security has a “Glossary” on-line that lists some of their most frequently used acronyms related to employment and people with disabilities. The glossary can also be found at the following exact web address:

<http://www.ssa.gov/work/ResourcesToolkit/glossary.html>

Here are some of SSA’s acronyms concerning SSA’s two Disability Programs, SSDI (Social Security Disability Insurance) and SSI (Supplemental Security Income), SSA’s work incentive provisions, and brief descriptions from SSA’s web site:

**BWE - Blind Work Expenses (SSI)**                      If you are blind, when we determine your SSI eligibility and payment amount we do not count any earned income that you use to meet expenses in earning the income.

**EPE - Extended Period of Eligibility (SSDI)**                      During the 36 consecutive months following the trial work period, if you qualify, we may reinstate your SSDI benefits without a new application, disability determination, or waiting period.

**IRWE - Impairment-Related Work Expenses (SSDI and SSI)**                      We deduct the cost of items and services that you need to work because of your impairment (e.g., attendant care services, medical devices, etc.) when we decide if you are engaging in SGA. It does not matter if you also need the items for normal daily activities. We can usually deduct the cost of these same items from earned income to figure your SSI payment.

**Medicaid (Medi-Cal in California, AHCCS in Arizona) (SSI)**                      Medical coverage provided to a person by the State title XIX program.

**Medicare (SSDI)**                      Two-part health insurance program for eligible disabled and people age 65 or older:

**Medicare (SSDI) continued...**

- Hospital Insurance under Medicare (HI, Part A); and

- Supplementary Medical Insurance under Medicare (SMI, Part B).

Plan for Achieving Self-Support (PASS)(SSI)	Under an approved PASS, you may set aside income and/or resources over a reasonable time which will enable you to reach a work goal to become financially self-supporting. You then can use the income and resources that you set aside to obtain occupational training or education, purchase occupational equipment, establish a business, etc. We do not count the income and resources that you set aside under a PASS when we decide SSI eligibility and payment amount.
PASS Cadre	Groups of PASS experts located across the country, with at least 1 cadre in each of the 10 SSA regions.
Property Essential To Self-Support (SSI)	We do not count some or all of certain property necessary for self-support when we apply the SSI resources test.
SSDI	Social Security Disability Insurance authorized under Title II of the Social Security Act.
SSI	Supplemental Security Income program authorized under Title XVI of the Social Security Act.
Subsidies and Special Conditions (SSDI and SSI)	Supports you receive on the job that could result in more pay than the actual value of the services you perform. We only count the actual value of the work that you perform when we make an SGA decision <a href="#">Clarification</a>
SGA - Substantial Gainful Activity (SSDI and SSI)	We evaluate the work activity of persons claiming or receiving disability benefits under SSDI, and/or claiming benefits because of a disability (other than blindness) under SSI. Under both programs, we use earnings guidelines to evaluate your work activity to decide whether the work activity is substantial gainful activity and whether we may consider you disabled under the law. While this is only one of the tests used to decide if you are disabled, it is a critical threshold in disability evaluation. For SGA amounts, visit <a href="#">SGA Page.</a> )
Trial Work Period (SSDI)	The trial work period is an incentive for the personal rehabilitation efforts of SSDI beneficiaries who work. The trial work period lets you test your ability to

work or run a business for at least 9 months and receive full SSDI benefits no matter how high your earnings are if your impairment does not improve.

Unincurred Business Expenses

Self-employment business support given to you by someone else without cost. If you are self-employed, we deduct unincurred business expenses from earnings when we determine SGA.

1619(b) Continued Medicaid Eligibility

**SSI**-- Your Medicaid coverage can continue even if your earnings along with your other income become too high for an SSI cash payment. In addition to the qualification requirements for Section 1619(a) below, you must need Medicaid in order to work and meet certain income restrictions.

1619(a) Continued SSI Eligibility

**SSI**-- Section 1619(a) of the Supplemental Security law permits people to continue to receive an SSI payment while they work at SGA level.

Social Security has many more acronyms than are listed above or on SSA's Glossary web site. In certain sections of this document new acronyms will be introduced as needed and each will be explained in the related section.

## **OVERVIEW OF SELF-EMPLOYMENT & SOCIAL SECURITY CONCERNS**

**Importance of Preparing a Benefits Analysis:** When developing a business or working with an ongoing small business, there are a series of critical factors that need to be accounted for by small business owners with disabilities who receive SSI and/or SSDI benefits from Social Security. SSI and SSDI have different policies and laws for self-employment than are used for regular wage employment. Medicaid, Medicare, Section 8 housing, food stamps, and other support programs are generally impacted by self-employment income and in some cases significant new gains occur as a result of small business earnings and resource exclusions and in other cases substantial losses can occur if not planned for. Preparing a small business benefits analysis, or in simpler terms, putting together a plan for how a small business will impact a small business owner's benefits, is a very important initial step in the process of developing a small business and also an ongoing support for long term business success.



Certainly not all, but a large number of individuals with disabilities depend on some form of SSI and/or SSDI benefits including Medicare and Medicaid reliance for daily living supports and work supports. The interdependent nature of benefits and supports requires that careful attention be paid to how a small business interacts with each person's benefits. Unfortunately, there is no single solution as each person is different and each business and SSI/SSDI benefits recipient is unique. The rest of this booklet is designed to provide relevant information on how to prepare a useful and accurate benefits analysis for a small business owner with a disability.

**Coordinating with Business Planning Activities:** Ideally, a disability benefits analysis will be one of the first steps in business planning activities. Often the opposite is true. A business idea is developed, a business plan written, Small Business Administration (SBA) counseling is provided, and finally the impacts on benefits are considered - if considered at all. Part of this reluctance to be concerned about self employment income and benefits impacts appears to be the mistaken notion that wages and self-employment income are the same thing and operate under the same policies and laws. The next premise seems to be that such information is too complicated to understand and that it will all work out when SSA, Medicaid, Section 8 housing, and other systems are informed of the small business and its activities. Hopefully this booklet will show that benefits information for self-employment is accessible, understandable, required and very useful.

**Cash Flow Analysis Impacts:** One of the potential strengths of a small business owner with a disability receiving SSI while starting a business, is that if the individual was living on her small \$545 (2002 Federal SSI rate) SSI monthly check, and starts a small business, there's a potential cushion of income in the continued receipt of SSI each month that someone without SSI would not have in starting a small business. However, once SSI is notified her business exists, SSI requests a prediction of self-employment income for each year of operations. If she predicted \$685 per month in net self-employment income, her SSI check would be reduced evenly for 12 months by \$300 (less SSI each month), or \$3,600 less SSI. If the business was cyclical and had uneven cash flow and sales, which is fairly common, and insufficient start up funds, there could be months where the business could not recover from the added cash flow deficit of the missing \$300 each month in SSI income.

Cash flow analyses need to take SSI and/or SSDI effects into consideration, and generally Small Business Administration counselors do not know how or why such income is affected and, therefore, do not include benefits information when assisting with developing cash flow projections for a small business owner receiving SSI or SSDI. SSDI is an “all or nothing” check each month. If someone was receiving for instance \$900 SSDI and lost that check unexpectedly due to not taking into consideration SSDI policies and laws, it could be very difficult to recover from a sudden loss of \$900 per month and develop a successful small business. Some people receive both SSI and SSDI checks each month. The complications are at a minimum doubled, more so if there was no benefits planning completed. The good news is that these issues are relatively easy to anticipate if someone takes the time up front to develop a sound benefits analysis.

**Break Even Point Impacts:** From comparison to the last section, it is important to note that a small business’s break-even point, or the amount in sales that will yield enough income to cover expenses, also is significantly altered when SSI and/or SSDI check impacts are considered **if the owner’s salary or draw are taken into consideration in the break even analysis. Incorporating the owners salary or draw is not a common practice in some break even analyses, but is recommended for SSI and/or SSDI beneficiaries to highlight the potential impacts on benefits while “breaking even” on operating costs. As an example, the number-of-hours worked in order to break even are very important to SSDI beneficiaries, due to monthly hour restrictions on SSDI check receipt.** Often small business plans do not anticipate benefits impacts and the stability of a business is overestimated by traditional small business advice and analyses. These are simple matters to plan for but complicated when they are not considered. Solving these issues after the impact of SSI/SSDI begins to occur can result in overpayments to the Social Security Administration and at times the loss of complete SSDI or SSI checks and threats to daily living needs and supports.

**Business Start-up Funding Impacts:** SSI and SSDI hold potentials for additional business start-up funding through a work incentive from the Social Security Administration called [Plans for Achieving Self Support \(PASS\)](#). PASS does not work for every small business but it does hold the potential for substantial start-up funds for a small business with a minimum

recommendation in SSA policy for at least 18 months, and potentially longer support through PASS funds. Again, a benefits analysis in the early stages of business planning would provide critical information on the applicability of using a PASS and substantially alter the approach for securing start-up funding for a small business.

**Medicare and/or Medicaid Impacts:** Both Medicare and Medicaid can hold substantial opportunities for small business owners with disabilities in health care coverage and long-term living supports though Medicaid, or can be critical issues if SSI and/or SSDI are lost unexpectedly without associated planning. Self-employment holds a unique wealth accumulation possibility in the Social Security and Medicaid systems through a work incentive, (PESS) [Property Essential to Self Support](#) (also see: [Property Essential to Self Support – Current Use Criterion](#)). This policy allows a small business owner with SSI and/or Medicaid to have unlimited liquid cash funds in a small business account and unlimited small business resources and property. Such opportunities do not exist in regular wage employment. A single person receiving SSI must have less than \$2,000 in liquid cash resources if employed in a wage job.

**Other Support Program Impacts:** Small Business owners with disabilities are often involved in a wide array of support programs beyond SSI, SSDI, Medicare, and Medicaid. Programs such as Section 8 housing, home and community based Medicaid waiver funding, food stamps, Supported Living funding, and a unique set of other programs that relate to parents who were veterans, annuities from insurance accident funds, and some welfare assistance at times. Each program in each state tends to view self-employment roughly the same as Social Security and Medicaid, but vary based on past policies and internal operating approaches. For instance, food stamps in some states insists on monthly accounting of gross sales and net income per month, versus SSI which by policy and law has to apply an even number for the entire year for both gross sales and net earnings. Not planning in the beginning and not taking into account the impact of self-employment income on other support programs can again cause significant problems and surprises if not anticipated.

For years Section 8 housing programs have historically not allowed a small business to be operated out of a Section 8 residence even for minor computer and bookkeeping tasks. There are currently new exceptions in Section 8

small business policies such as parent(s) on welfare can now operate day care businesses out of Section 8 housing in some situations. Also, section 8, rental policies currently allow small business activities to be operated out of section 8 rentals through HUD's: **Resident opportunities and self sufficiency program (ross)**

*"helping public housing residents move toward self-sufficiency"*

**<http://www.hud.gov/pih/programs/ph/ross/about.html>**

**Also, the associated Tenancy Addendum for Section 8 Tenant Based Assistance can be found at:**

**[http://www.hudclips.org/sub\\_nonhud/html/pdfforms/52641-a.pdf](http://www.hudclips.org/sub_nonhud/html/pdfforms/52641-a.pdf)**

**A partial quote from that addendum states:**

3. Use of contract unit

c. The contract unit may only be used for residence by the PHA – approved household members. The unit must be the family's only residence. Members of the household may engage in legal profit-making activities incidental to primary use of the unit for residency by the members of the family.

Please note that some Section 8 rental contracts may still use older section 8 restrictions and will require the prospective new small business owner to inform her or his local section 8 housing staff of the new changes.

## **BASICS OF SOCIAL SECURITY'S DEFINITIONS OF RESOURCES**

**Resource Limits, Inclusions and Exclusions:** Resource considerations apply to people receiving SSI and/or Medicaid (some people receive SSDI, Medicare and Medicaid, so are concerned with resources due to their Medicaid, not due to SSDI nor Medicare). Individuals only receiving SSDI have no resource concerns, as SSDI does not apply any resource limits. Sometimes SSDI beneficiaries with disabilities also receive Medicaid due to various provisions in Medicaid and SSA policies that provide for Medicaid while on SSDI in certain situations. In such situations Medicaid does apply resource limits and exclusions.

Someone on SSI does need to be conscious of SSI's \$2000 resource limits in cash resources as a single person and \$3,000 as a married couple. SSI does allow a recipient to own one home if he or she lives in the home, home furnishings, own one vehicle, and applies limits to burial plots, burial funds, etc... The non-self-employment related resource inclusions and exclusions are somewhat complex but worth understanding. The related SSA POMS policies on SSI and resources can be found at:  
<http://policy.ssa.gov/poms.nsf/poms?OpenView&Start=1&Count=50&Expand=5.4#5.4>

**Resource Exclusions & Self-Employment:** Self-employment provides powerful resource exclusions to liquid property used in a small business (cash), and resources used in the small business such as equipment, land, etc... with no upper limit on the value of the small business operating account nor any of the business resources. This unlimited resource exclusion is explained in the next section.

**Property Essential to Self Support (PESS)** PESS is a very powerful advantage for someone who is self-employed and receiving SSI and/or Medicaid. As noted above, PESS allows for the accumulation of unlimited funds in a small business operating account. There is no similar exclusion in regular wage employment for liquid funds.

The hyperlink above will connect you to one of the PESS policies on-line, but there are multiple SSA PESS policy sections in SSA's POMS. PESS is such a critical factor in self-employment that some excerpts from SSA's policies are included in this section (note: the quoted excerpts below have been selected as clear and relevant to this booklet but only represent small sections of larger policies, it is highly recommended that you access the entire PESS policy sections in SSA's POMS for the full text related to these policies when working with a small business owner involved in accessing these exclusions):

**SI 01130.501 Essential Property Excluded Regardless of Value or Rate of Return**

## **A. POLICY PRINCIPLES**

### **2. Trade Or Business Property**

Property essential to self-support used in a trade or business is excluded from resources regardless of value or rate of return effective May 1, 1990.

## **C. DEVELOPMENT AND DOCUMENTATION - PROPERTY USED IN A TRADE OR BUSINESS**

### **5. Liquid Resources Used In A Trade Or Business**

Effective May 1, 1990, all liquid resources used in the operation of a trade or business are excluded as property essential to self-support. Obtain an individual's signed allegation that liquid resources are used in the trade or business.

### **[SI 01130.504 Essential Property - Current Use Criterion](#)**

## **A. POLICY PRINCIPLE**

Property, including property used by an individual as an employee, must be in current use in the type of activity that qualifies it as essential to be excluded as essential to self-support. Current use is evaluated on a monthly basis. Property not in current use can be excluded as essential to self-support only if:

- it has been in use; and
- there is a reasonable expectation that the use will resume.

## **B. POLICY — TIME LIMIT FOR RESUMPTION OF USE**

### **1. 12-Month Rule**

Resumption of use must be expected within 12 months of last use. For example, if property was last used in October, resumption of use must reasonably be expected to occur before the end of the following October.

### **2. 12-Month Extension**

The 12-month period can be extended for an additional 12 months if nonuse is due to a disabling condition.

## **C. PROCEDURE - GENERAL**

### **3. No Intent To Resume Activity**

If the individual does not intend to resume the self-support activity, the property is a countable resource for the month after the month of last use.

## **UNDERSTANDING SELF-EMPLOYMENT INCOME & SOCIAL SECURITY**

**Gross versus Net Self-Employment Income:** A common error in self-employment situations involving business owners with disabilities is reporting gross sales, or gross earnings, from self-employment as if they were gross wages to SSA, Medicaid, Food Stamps, and Section 8 housing. Often traditional employment support staff are so familiar with reporting all income as gross wage earnings (which have to be reported to SSA based on gross, not net, monthly amounts), that when a small business is developed, support staff automatically report gross self-employment income to SSA as if it were gross wages.

SSA understands small business and self-employment and treats self-employment basically the same way the Internal Revenue Service (IRS) does. Gross sales are not the measurable and taxable self-employment income to the IRS or to SSA. For instance if a business in one year sells \$10,000 in products or services, and has \$7,000 in business expenses that are allowed by the IRS, then the net income from self-employment (prior to the owner's draw or owner's income) is \$3,000. SSA and the IRS consider the net earnings from self-employment of \$3,000 as the owner's income for the year.

As an example of benefits impacts based on the above amounts of gross and net self-employment income, SSI (Supplemental Security Income) recipients are then subject to the standard \$1.00 reduction in SSI each month for every \$2.00 earned each month, after the first \$85 of net self-employment earnings in a month. (Note: The \$85 exclusion is actually a bit more complicated based on a \$65 and \$20 set of income exclusions but for the purposes of this booklet at this point, it is a fair approach to use the entire \$85 per month income exclusion as an example and often \$85 will apply exactly). Therefore the SSI check reduction would be based on \$250 per month (which equals \$3,000 per year in net self employment earnings) and SSI would apply the formula  $(\$250 - \$85)/2 = \$82.50$  SSI check reduction each month or \$990 less SSI for the entire year based on \$3,000 in net self employment earnings. Had \$10,000 yearly gross sales, or \$833 per month, been reported as net self-employment earnings, or mistakenly reported as gross wages, the owner's SSI check would have been reduced by (\$833 -

$\$85/2 = \$374$  each month for a total SSI check reduction of \$4,488 (versus the correct reduction of only \$990 for the year).

An important factor in working with SSI and net self-employment income is SSA's policy to not apply their SSI check reduction formulas on an actual monthly basis but on the total yearly net self-employment income reported, or predicted, and therefore some important gains occur over wage reporting where wages, by policy, are adjusted on an exact monthly basis. Leveling of SSI check income and amounts can be a substantial bonus in self-employment compared to the monthly highs and lows of wage income impacts on wage income reporting. Such leveling can also cause problems with SSI check amounts if it is not reported nor understood properly.

For instance SSI also retroactively makes adjustments to SSI checks for an entire year based on the noted policy. If a business is started in October and earned the \$3,000 net self-employment income used as an example above from October through the end of December, SSI would not only adjust those three start-up months but also all the prior months of SSI receipt during that year retroactively due to having to divide the entire year evenly by SSI policy. If not anticipated and accounted for the business owner could end up owing SSI an overpayment for the prior months that year before the business was started. SSA's policy on NESE (Net Earnings from Self-Employment) is briefly quoted below (many more SSA policies exist beyond the brief quote below) and can be found at:

<http://policy.ssa.gov/poms.nsf/36f3b2ee954f0075852568c100630558/6bde8ae4ef87147e85256a5f000b3908?OpenDocument>

## **“SI 00820.210 How to Determine Net Earnings from Self-Employment (NESE)**

### **B. PROCEDURE**

#### **1. Determining Monthly NESE**

Divide the entire taxable year's NESE equally among the number of months in the taxable year, even if the business:

- is seasonal;
- starts during the year;



- ceases operation before the end of the taxable year; or
- ceases operation prior to initial application for SSI.

A period of less than 12 months may be a taxable year if:

- the basis for computing and reporting income changes (e.g., fiscal to calendar year); or
- the taxpayer dies (the taxable year ends on the date of death, and net earnings are computed as of the date of death.); or
- the taxable year is closed by the Commissioner of IRS.

**NOTE:** An individual's taxable year is not ended when he/she goes out of business" (**END OF SSA POLICY QUOTES**)

SSDI applies an entirely different set of policies for determining self-employment income and SSDI check impacts. SSDI is an all-or-nothing check (not reduced incrementally like SSI checks are). SSDI still works to net self-employment income and then compares that income to gross sales, number of hours worked per month, and monthly (not yearly) income and hours worked, plus a series of other factors such as unpaid assistance in business operations and un-incurred business expenses. SSDI is considerably more complicated when dealing with self-employment income, and requires careful and thoughtful planning based on a working knowledge of the SSDI self-employment policies. Overall, SSDI still reviews net earnings from self-employment as one of its critical measures of check continuance or termination, but SSDI also weighs in a host of other factors too, and does not divide income evenly by 12 months like SSI does.

**Wages versus Net Earnings from Self-Employment:** It is not uncommon for people with disabilities to elect to form a corporation, association or corporate entity. For instance a corporate entity could be a Limited Liability Company (LLC) that elects to be treated by the IRS as a "corporate entity" for tax purposes, and remains an LLC for state and operating purposes. As a corporate entity, an LLC could pay the owner(s) wages depending on how the business is structured. See the following web site for a short discussion of this approach for corporate entity election by an LLC:

**ENTITIES: SOLE PROPRIETOR, PARTNERSHIP, LIMITED LIABILITY COMPANY/PARTNERSHIP (LLC/LLP),**

## **CORPORATION, SUBCHAPTER S CORPORATION**

[http://www.irs.gov/prod/tax\\_edu/faq/faq12-1.html](http://www.irs.gov/prod/tax_edu/faq/faq12-1.html)

Social Security interprets the income of a corporate director to be the only self-employed individual, or position, in a corporation. Therefore an individual with a disability could be involved in a corporation in several roles and receive both wages and net-earnings from self-employment. SSA's policy is briefly quoted below and can be found at:

<http://policy.ssa.gov/poms.nsf/36f3b2ee954f0075852568c100630558/627146922b4a708085256a5c004e621d?OpenDocument>

### **“RS 01802.032 Corporation Directors**

#### **A. POLICY**

Corporation directors are self-employed. In rare situations an individual may be self-employed as a director and also perform services as an employee.

#### **B. REFERENCE**

Corporation director is defined in [RS 02101.018](#) and [RS 02101.505](#) ff.

#### **RS 02101.018 Director of a Corporation**

The board of directors is the governing body of the corporation and therefore is not subject to control by the corporation. Thus, a director with respect to directorial services, for example, attending and participating in board meetings, is not an employee. Such services are deemed to be in self-employment. (See [RS01802.032](#).) A director who does work for the corporation, other than attending and participating in the meetings of the board of directors, may be an employee with respect to such work if it is nondirectorial in nature.

Attendance at, and participation in, the meetings of subordinate committees seldom creates an employment relationship because most of these committees are directorial in nature. Committees formed pursuant to Federal or State statute, corporate by-laws, or authority vested in the board of directors, are directorial in nature and it may be assumed in the absence of evidence to the contrary that the directors serving on such committees are not employees with respect to such service. This assumption applies whether the committee is composed entirely of directors or composed in part of directors and in part of nondirectors.

Where a director is a member of a committee engaged in nondirectorial services, for example, doing appraisal work for the corporation, and the services are subject to actual control by the board of directors, the director is an employee with respect to services on the committee.” **(END OF SSA POLICY QUOTES)**

As the business form is chosen (ie. Sole proprietorship, partnership, S-Corporation, LLC, etc...) or altered during the businesses life and future expansion, it is critical to evaluate the choices of what form of business to take, based not only on the general business and liability merits of different forms of businesses and tax advantages, but to also provide a benefits analysis of the impacts of such choices on the owners receipt of SSI/SSDI, Medicaid, Medicare, and other social system impacts such as Section 8 housing. It's important to understand that wages can be paid in corporate forms of business to the business owner(s), and often wages are paid in corporate small businesses. Wages combined with self-employment earnings do alter the impacts on benefits significantly.

## **SOLE PROPRIETORSHIPS & PARTNERSHIPS**

Generally, the owner(s) of sole proprietorships and partnerships receive net earnings from self-employment, often referred to as owner's draws or guaranteed payments to a partner. It is possible for a sole proprietorship or a partnership form of business, such as the Limited Liability Company (LLC) example noted in the previous section, to elect to be treated as a corporate entity for IRS tax purposes. For purposes of this section the assumption will be made that the sole proprietorships or partnerships addressed here do not refer to businesses that have elected to be treated by the IRS as corporate entities even though they are also formed as sole proprietorships or partnerships (such as LLC's) under state laws.

One brief section of SSA's policies on sole proprietors and partners receiving NESE (Net Earnings from Self-Employment) are quoted below and can be found at:

<http://policy.ssa.gov/poms.nsf/36f3b2ee954f0075852568c100630558/b0c9975bb18a6d1e85256a5c004e6a30?OpenDocument>

### **“RS 01803.101 When NESE are Derived**

## **POLICY**

### **1. General**

NESE include gains, profits and compensation credited to or set apart for the owner's or partner's use during the taxable year. The two most commonly used methods of accounting are the "cash method" and the "accrual method." The individual must use the method which most accurately reflects his income and expenses.

### **2. Cash Method**

- a. The cash method involves offsetting actual or "constructive" cash receipts against actual cash disbursements for deductible expenses in the same taxable year. Constructive receipt means the income becomes unqualifiedly subject to the demand of the taxpayer.
- b. If a person's business is one in which inventories are necessary, cash basis accounting is not permitted with respect to purchases, sales, and inventories.

### **3. Accrual Method**

Under the accrual method, net income is measured by the excess of income earned over expenses incurred. Cash, property, or services earned during the taxable year have accrued to the taxpayer and is classified as income, even though not then received.

**NOTE:** Do not question the method used if the taxpayer has reported consistently using the same method." (**END OF SSA POLICY QUOTES**)

**It's important to note that the above SSA policy on cash versus accrual business accounting methods does not reflect the current 2001 IRS policy that allows qualifying small businesses, under \$1,000,000 in average annual gross receipts, to potentially use the Cash method.** This applies to businesses even if inventory is involved. IRS 2001 Publication No. 538, Cash Method of Accounting for Qualifying Taxpayers, can be found on the web at [World Wide Web Tax](http://www.worldwidewebtax.com/irs/irs_publications_list.htm) by scrolling down the page to IRS Form 538. Note, currently the IRS web site small business section posts an older version of this form (1998) which is not current in the IRS general Small Business section. The address on the web for the current IRS Form 538 is:

[http://www.worldwidewebtax.com/irs/irs\\_publications\\_list.htm](http://www.worldwidewebtax.com/irs/irs_publications_list.htm)

Also, the IRS does post Revenue Procedure 2000-22, which details this IRS regulation for businesses under \$1,000,000 average annual gross receipts at:

[http://www.irs.gov/prod/bus\\_info/sm\\_bus/cdupdates.html](http://www.irs.gov/prod/bus_info/sm_bus/cdupdates.html)

A brief quote from the associated IRS web site is listed below:

**1. Starting Your Business / Keeping Records**

[Revenue Procedure 2000-22](#), Changes in accounting periods and in methods of accounting.

Provides methods by which a qualifying taxpayer with average annual gross receipts of \$1,000,000 or less may be excepted from the requirements to account for inventories and to use an accrual method of accounting for purchases and sale of merchandise. **(End of IRS**

**Quote)**

Sole Proprietorships and Partnerships are perhaps the simplest, most straight forward, form of business in both SSI and SSDI benefits systems.

Essentially, all net income from the business is considered net earnings from self-employment. Partners split the income either evenly or in specified percentages based on the partnership basis and partnership agreements.

Guaranteed payments to partners are also considered net earnings from self-employment and are a useful approach for income distribution in a partnership for benefits purposes and also hold some advantages for the partners in IRS and other business matters. SSA's policy on guaranteed payments to partners is quoted below and can be found at:

<http://policy.ssa.gov/poms.nsf/36f3b2ee954f0075852568c100630558/dd2bb0007140485a85256a5c004e6795?OpenDocument>

**“RS 01802.375 Computing NE When Partners Receive Salaries**

**A. BACKGROUND**

Partners ordinarily contribute services, as well as capital, for the purpose of producing partnership profits. The partnership agreement may provide that one or more of the partners will receive payments for a salary, payments for use of capital, or interest on capital contributions, irrespective of whether the partnership has ordinary net income or loss. Such payments are called guaranteed payments.

**B. OPERATING POLICY**

- a. The guaranteed salary of a partner is allowed as a business deduction in computing partnership income.
- b. The receiving partner is not considered an employee of the partnership.

- c. Guaranteed salary payments are not "wages" but NESE." (**END OF SSA POLICY QUOTES**)

## **CORPORATIONS, ASSOCIATIONS & CORPORATE ENTITIES**

Corporations, Associations & Corporate Entities, can roughly be lumped together in the same category for benefits purposes. This booklet is not designed to address the varied complexities of forming corporations, other than to direct the reader to critical information in SSA policy that needs to be considered when such business forms are used. In prior sections of this booklet the basics of partnership options for electing to be treated as a corporate entity for IRS purposes were noted, as well as how corporate directors are considered to be self employed by SSA.

S-Corporations also have SSA dedicated policies on how income is treated by SSA. A brief and partial quote from SSA's policy on S-Corporations is included below and can be found at:

<http://policy.ssa.gov/poms.nsf/36f3b2ee954f0075852568c100630558/e5402a3f2c330a9985256a5c004e61e7?OpenDocument>

### **“RS 01802.015 S Corporation**

#### **A. DEFINITION**

Like any other corporation, an S corporation is separate and distinct from its shareholders. See [RS 02101.555](#). The basic difference from other corporations is it does not pay Federal corporate income tax. Income is passed directly to the shareholders for Federal income tax purposes. The corporation is carrying on any trade or business. The shareholders are not self-employed nor is their income NESE.

#### **B. POLICY-COVERAGE**

The income from an S corporation may take three forms:

- Wages, received by shareholders as employees of the corporation,
- SEI, for fees paid to a corporate director,
- Dividends, paid to shareholders." (**END OF SSA POLICY QUOTES**)

Corporations can take a variety of forms and SSA has related policies for each form. A short list of possible forms of Corporations includes: C-corporations; S- corporations; closely held corporations; associations,

professional corporations; Massachusetts Trusts; corporate Entity classifications.

Some useful links for Corporations and benefits considerations are partially listed below (the entire SSA policy index just for this area is roughly 16 pages in length, just for the index, only a portion of Part IV is shown below), the entire applicable section in SSA policy can be located by clicking on the hypertext below, or by entering the following exact web address:

<http://policy.ssa.gov/poms.nsf/36f3b2ee954f0075852568c100630558/67648c2c4e7b61a285256a5c004e8dad?OpenDocument>

**RS 02101 Employer-employee Relationship – Policies and Procedures**

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[RS 02101.500](#) Business Structures—General

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[RS 02101.555](#) Small Business Corporations

- [RS 02101.560](#) Associations Classifiable as Corporation
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### **Trusts**

- [RS 02101.600](#) Trust—Defined
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- [RS 02101.609](#) Business Trusts
- [RS 02101.610](#) Trustee With Dual Coverage Status
- [RS 02101.611](#) Family Estate Trust

As with any small business development, the structure or form a business takes should be carefully considered. It is highly recommended a Certified Public Accountant (CPA) and Attorney be consulted if corporate or trust forms of business are chosen. However, CPA's generally do not understand SSI and/or SSDI benefits impacts. Attorneys vary widely on experience and understanding of SSA's policies for SSI and SSDI impacts. This booklet can be given to an attorney or CPA and can provide insights and at a minimum



some direction to locating critical SSA policies on how different forms of businesses interact with net earnings from self-employment, SSI and Medicaid resource exclusions, and important considerations for general interactions of SSI and SSDI checks with small business income.

## **SUPPLEMENTAL SECURITY INCOME (SSI) & SELF-EMPLOYMENT**

**Advantages & Disadvantages:** SSI has very favorable policies for operating a small business. As noted in earlier sections of the booklet, a small business owner can have unlimited funds (under SSA's PESS policies) in a small business account and not lose SSI or Medicaid eligibility due to exceeding resource limits. SSI has higher earnings limits for SSI eligibility and associated Medicaid eligibility, therefore allowing a small business owner on SSI to generate substantial income, in the ranges of roughly \$14,100 to \$39,228 net income from self-employment while still retaining SSI and Medicaid eligibility. Gross income from a small business for someone receiving SSI has no upper limits and could be any amount, such as \$500,000 or \$5,000,000. After \$5,000,000 in gross revenues the business would, in general, be classified as a large business (versus a small business), but again if the owner was on SSI and net income was in the ranges noted above, there still would be no upper limit to gross sales. This is true from the simplest sole proprietorship to the most complex corporate structure.

The disadvantages for someone on SSI are mainly the issues of earnings over the ranges noted above (\$14,100 – \$39,228) net self-employment income. It is also possible under SSI policies to earn higher than each state's threshold in some situations though an individualized Threshold calculation. Once a small business owner exceeds those limits the choice to lose SSI eligibility needs to be considered or individualized threshold calculations may also apply. Significant financial success seems to be limited to policy restrictions leading to leaving the SSI roles above personal income thresholds that vary by state. SSI has its own inherent disadvantages in its intrusive nature as a system. SSI will monitor income and resources at least yearly and sometimes even monthly based on changes reported to SSI by an SSI recipient. Small Business does tend to "level" that set of interactions to a yearly review but again could involve additional reviews based on changes reported by an SSI recipient.

**Long Term Opportunities & Concerns:** Over the long term, someone receiving SSI needs to accurately predict net self-employment income to SSI and to monitor that income. Excess earnings over yearly predictions can cause SSI overpayments, and SSI could ask for some of the SSI checks sent back a year or more after the checks were sent to the small business owner. This is fairly easy to predict and/or correct during a business year. Since SSI only uses net earnings from self-employment, it's possible in a profitable small business to make net earnings almost anything desired by simply spending more on the business to lower the net earnings, hiring employees, or any number of choices. The best advice for the long term is to clearly pay attention to SSI predictions for net earnings and to actual net earnings and either adjust as needed during the year, **(quarterly adjustments are often recommended if net income is varying from predictions to SSI,)** or save for the overpayment expected due to additional income (which means the owner has more income personally) and be prepared to pay SSI back for anticipated overpayments versus being surprised by overpayments not anticipated.

**Net Self-Employment Income Averaging & SSI:** SSI is again a wonderful system for self-employment due to the way net self-employment income is treated by SSI. SSI averages every month equally by policy and therefore levels the SSI amount for each month for net self-employment income, versus the up-and-down-month-to-month, exact SSI check adjustments resulting from wage income. Careful attention needs to be paid to SSI's yearly averaging of self-employment income, but with some attention it's a much better system for SSI check payments than wage employment.

**Comparison to Wage Employment:** Wage employment pales in comparison to self-employment opportunities and flexibility. Self-employment offers much more flexibility and choice through a number of ways to adjust income as needed during an accounting year **(note: late adjustments to net and gross income predictions may not be possible, so it's important to track net income projections to SSA from the beginning of a tax year at least every 3 to 6 months, and more often if possible)** and also self-employment opportunities for unlimited cash resources in a small business account, and unlimited physical business resources, land, buildings, and equipment.

**Income Thresholds for Medicaid:** Perhaps one of the most powerful opportunities for someone on SSI and Medicaid while operating small

business is a work incentive titled 1619(b) Medicaid. This work incentive allows individuals receiving SSI and Medicaid to earn past the point that an SSI check is reduced to \$0.00 (due to the \$1.00 reduction in SSI for every \$2.00 of gross wages or net self-employment earnings) but still be SSI eligible and still be Medicaid eligible up to a state threshold of earnings that varies by state. The State 1619(b) Medicaid threshold can be found at:

<http://www.ssa.gov/work/ResourcesToolkit/Health/1619b.html>

**2002 1619(b) THRESHOLD AMOUNTS FOR DISABLED SSI BENEFICIARIES**

State	Threshold
ALABAMA	17,267.00
ALASKA	35,856.00
ARIZONA	15,049.00
ARKANSAS	20,447.00
CALIFORNIA	25,701.00
COLORADO	28,765.00
CONNECTICUT	38,809.00
DELAWARE	24,287.00
DISTRICT OF COLUMBIA	32,061.00
FLORIDA	20,137.00
GEORGIA	19,403.00
HAWAII	17,972.60
IDAHO	24,619.00
ILLINOIS	25,302.00
INDIANA	27,596.00
IOWA	21,051.00

KANSAS	24,526.00
KENTUCKY	20,819.00
LOUISIANA	20,369.00
MAINE	23,761.00
MARYLAND	24,785.00
MASSACHUSETTS	27,887.36
MICHIGAN	21,886.00
MINNESOTA	31,011.00
MISSISSIPPI	19,172.00
MISSOURI	24,626.00
MONTANA	20,537.00
NEBRASKA	23,191.00
NEVADA	26,961.00
NEW HAMPSHIRE	39,228.00
NEW JERSEY	26,590.00
NEW MEXICO	22,433.00
NEW YORK	33,294.00
NORTH CAROLINA	24,800.00
NORTH DAKOTA	27,609.00
OHIO	25,622.00
OKLAHOMA	20,632.00
OREGON	24,988.80
PENNSYLVANIA	21,478.60
RHODE ISLAND	30,068.40
SOUTH CAROLINA	21,140.00

SOUTH DAKOTA	24,134.00
TENNESSEE	17,778.00
TEXAS	22,046.00
UTAH	19,728.00
VERMONT	23,878.96
VIRGINIA	21,319.00
WASHINGTON	20,070.60
WEST VIRGINIA	20,496.00
WISCONSIN	22,795.72
WYOMING	19,078.60
NORTHERN MARIANA IS.	14,100.00

**2002 1619(b) THRESHOLD AMOUNTS FOR BLIND SSI BENEFICIARIES**

State	Threshold
CALIFORNIA	27,117.00
IOWA	21,579.00
MASSACHUSETTS	28,735.76
NEVADA	29,584.20
OREGON	25,588.80

As an example, if you are single, receive SSI, live on your own, perhaps in an apartment, and pay for your own room and board, in Massachusetts you could earn up to \$27,887.36 in yearly net self-employment income and still be considered SSI and Medicaid eligible. Also in this example, if in addition to the above scenario you were also legally blind, by SSA's

definition of blindness, you could earn up to \$28,735.76 in net self-employment earnings (or gross wages). Massachusetts is one of only 5 states that provides an additional state supplement to the Medicaid threshold amount for individuals who are considered legally blind by SSA.

## **SOCIAL SECURITY DISABILITY INSURANCE (SSDI) & SELF-EMPLOYMENT**

**Advantages & Disadvantages:** Self-employed people who receive SSDI benefit checks each month face a very complex set of policies concerning the only option available to someone on SSDI, which is to either keep receiving an entire SSDI check or to lose it completely. As noted before in this booklet, SSDI is an all-or-nothing check. The policies for self-employment (and quite a few for wage employment and SSDI) are very limiting and quite complex. Earnings thresholds are fixed nationally and do not vary by state, and are considerably lower than those posted a few pages back for SSI recipients. In 2002, the threshold or SGA amount (Substantial Gainful Activity) for net self-employment earnings (or gross wages) is \$780 per month for non-blind individuals and \$1,300 for blind individuals. For non-blind individuals receiving SSDI that equals only \$9,360 per year in net self-employment income. For blind individuals the limit is \$15,600 in net self-employment income.

**Net Self-Employment Income & Substantial Gainful Activity (SGA):** To further complicate matters, besides looking at SGA limits in 2002 of \$780 per month and \$1,300 for blind individuals - per month in net self-employment earnings, SSDI also reviews monthly work effort and monthly gross and net self-employment earnings, on a month-by-month basis. Self-employment SGA also is measured by 40 hours of work per month in a small business, and could be interpreted by SSA as exceeding SGA if the person for instance worked 120 hours but only had net earnings of \$400. **(Note: Trial Work Period (TWP) service month hours were changed to 80 hours in 2001 from 40 hours – but it appears that SGA hours were not changed from 40 to 80 hours and could be interpreted by SSA as SGA at only 40 hours of self employment work effort per month)** Exceeding SGA means sooner or later the entire loss of a self-employed SSDI beneficiary's SSDI check.

It is important to note that SGA has changed over the years. From 2001 forward, SGA dollar amounts will be indexed each year by consumer wage

index increases (probably around 2% - 3% per year). However the 80 hours per month only changed once since it's policy was established, and prior to 2001 was only 40 hours per month for TWP and SGA work effort limits. It does not appear that the 80 hours per month will be indexed in future years although SSA policy on this amount is not clear at this time. Note: the 80-hour gauge for self-employment effort does not apply to SSDI beneficiaries who are blind. It does seem logical that SS will need to change the SGA of 40 hours to 80 hours due to the corresponding change in TWP service months for self-employment to 80 hours, but at the time of this writing SGA hours for self-employment apparently are still measured at 40 hours per month.

Earlier it was noted that if someone is earning over \$780 or 40-80 hours of work that "sooner or later" the individual could lose his or her SSDI check. The reason that "sooner or later" was used to qualify that statement is that SSDI also uses an involved secondary set of policies about when a person earns over \$780 per month. In those policies there are gauges based on 9 months called a Trial Work Period (TWP) where no amount of income can cause someone to lose an SSDI check, and a subsequent period of 36 months titled an Extended Period of Eligibility (EPE) where earning over that amount can cause loss of an SSDI check and earning under \$780 can cause an SSDI check to be reinstated during the 36 month EPE time frame.

There are work incentives that will be covered in a later section of this booklet that can allow a person to earn over the \$780/\$1,300 and 40-80 hour limits that are again quite complex in nature and application. It is possible to earn above SGA and continue to receive SSDI checks.

**Comparisons to Wage Employment:** Wages and SSDI are about as complicated as net earnings from self-employment, except wages do not measure the number of hours worked, which is a definite bonus for wage employment (the bonus is not having to consider the number of hours worked in a wage job, just the actual gross wages). The remaining policies do apply the same, however, and are as complicated.

This information (for both gross wages and net earnings from self-employment) is presented about as well as it can be in Social Security's Redbook on Employment Supports and can be found on line at:

[2002 REDBOOK ON EMPLOYMENT SUPPORT](#)

<http://www.ssa.gov/work/ResourcesToolkit/redbook.html>

Overall, SSDI has very complicated policies that affect small business operations and income. Small Business owners with disabilities that receive SSDI need to carefully plan for the impacts of self-employment earnings and work efforts on benefits. There are several approaches and work incentives in the next sections of this booklet that are directed towards benefits analysis and planning for someone receiving SSDI while operating a small business. SSDI clearly has a much more complex set of policies and restrictions compared to the ease of running a small business while receiving SSI.

## **SOCIAL SECURITY WORK INCENTIVES & SELF-EMPLOYMENT**

**Plans for Achieving Self Support (PASS):** Plans for Achieving Self Support (PASS) are powerful and useful tools for small business funding and planning. They are technically an SSI work incentive and tool. Often someone on SSDI can also access a PASS by setting her or his SSDI check aside in a PASS checking account and then becoming SSI eligible due to a PASS. (Especially someone with SSDI and significant Medicaid usage qualifying for SSDI and Medicaid through State Medicaid Waivers, Medicaid Spend Down Options and a few other Medicaid receipt options while receiving SSDI)

PASS policies need to be read on-line. There are about 90 pages that relate to PASS and certainly more information than this small booklet is intended to provide. PASS policies can be found at:

[\*SI 00870.000 Plans for Achieving Self-Support for Blind or Disabled People\*](#)

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<b>Section</b>		<b>Latest Transmittal</b>
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<a href="#"><u>SI 00870.002</u></a>	Terms Pertinent to PASS	TN 9 07-00
<a href="#"><u>SI 00870.003</u></a>	Applicability of PASS	TN 9 07-00
<a href="#"><u>SI 00870.004</u></a>	Helping Set Up A PASS	TN 9 07-00



[SI 00870.005](#) Referrals To Other Agencies TN 9 07-00

**PASS: THE PLAN AND THE EXCLUSIONS**

[SI 00870.006](#) Elements Of A PASS TN 9 07-00

[SI 00870.007](#) When To Start A PASS TN 9 07-00

[SI 00870.008](#) Exclusions Under A PASS TN 9 07-00

[SI 00870.010](#) Related Work Incentive Policies TN 9 07-00

**IMPLEMENTING AND MAINTAINING A PASS**

[SI 00870.020](#) PASS Procedure—Field Offices TN 9 07-00

[SI 00870.023](#) Completion Of PASS Application Form SSA-545-BK TN 9 07-00

[SI 00870.025](#) Documenting And Reviewing A PASS—PASS Expert TN 9 07-00

[SI 00870.026](#) Business Plans TN 9 07-00

[SI 00870.030](#) Modification Of A PASS TN 9 07-00

[SI 00870.040](#) Initial PASS Notices TN 9 07-00

[SI 00870.045](#) Processing PASS Reconsiderations TN 9 07-00

[SI 00870.050](#) PASS Amendments TN 9 07-00

**PROGRESS REVIEW**

[SI 00870.055](#) Monitoring PASS Progress TN 9 07-00

[SI 00870.060](#) Progress Review Notice TN 9 07-00

**CLOSING OUT A PASS**

[SI 00870.070](#) Suspension Or Termination Of A PASS TN 9 07-00

[SI 00870.080](#) Resumption Of A PASS TN 9 07-00

[SI 00870.100](#) Exhibits TN 9 07-00

A PASS analyses is highly recommended for any individual on SSI and/or SSDI. PASS will not apply to every small business owner, but certainly can apply in a high percentage of situations.

**Impairment Related Work Expenses (IRWE):** IRWE's can be found adequately described in the Social Security's [Redbook on Employment Support](#) for wage employment applications. However, IRWE's do not apply very well to small business operations, as IRWE expenses generally would be the same as business expenses that are allowed to reduce gross sales to net self-employment income both by the IRS and SSA. There could be some applications where IRWE's make sense in a small business, but often this work incentive is not very applicable to small businesses.

**Blind Work Expenses (BWE):** Blind Work Expenses are powerful tools for someone who is blind by SSA definitions of Blindness, and also receives SSI (BWE's do not apply to SSDI.) BWE's are covered well in Social Security's [Redbook on Employment Supports](#). Unlike IRWE's, Blind Work Expenses do apply very well to self-employment, and are very liberal about what can be excluded from countable income as a BWE. Income taxes are even considered an excludable work expense.

**Self-Employment Subsidy:** Self-Employment Subsidy encompasses several tools including un-incurred business expenses and unpaid help, among several other comparisons to someone without a disability operating a similar business. Subsidy is a powerful tool in the Social Security work incentives world for self-employed individuals that receive SSDI (it's not an SSI tool except at time of 1<sup>st</sup> application for SSI, but for this booklet's purposes for self-employment it's not an SSI tool). It's complex but requires reading and understanding. It's pretty much a, "you must have knowledge about self-employment subsidy when working with someone on SSDI and self employment." SSA's Redbook does not have a complete enough description of self-employment subsidy. To understand this work incentive you will need to go to:

[DI 10510.000 Evaluation and Development of Self-Employment](#)

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Section		Latest Transmittal
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<a href="#">DI 10510.010</a>	SGA Criteria in Self-Employment	TN 5 08-94

- [DI 10510.015](#) Test One: Significant Services and Substantial Income TN 5 08-94
- [DI 10510.020](#) Tests Two and Three: Comparability of Work and Worth of Work Test
- [DI 10510.025](#) Documenting Self-Employment Cases
- [DI 10510.030](#) Completion of SSA-820-F4 (Work Activity Report — Self-Employed Person)
- [DI 10510.035](#) SSA-820-F4 Identification Items
- [DI 10510.040](#) SSA-820-F4 — Work Activity Report — Self-Employed Person

## **PUTTING IT ALL TOGETHER**

**Basic Self-Employment & SSA Approaches for Success:** As complex as the combination of Social Security policies with self-employment and IRS policies seems, there becomes a point when even the most complex system can be understood to operate in fairly simple and useful patterns. Some useful thinking tools and approaches for success when dealing with SSA and self-employment considerations are:

- 1<sup>st</sup> Document each person's SSI and/or SSDI benefits.
- 2<sup>nd</sup> Document other living and benefits arrangements and supports, such as Section 8 housing, supported living, food stamps, Medicare, Medicaid, employment supports, single or married, total household income, etc...
- 3<sup>rd</sup> Someone on SSI has two of the brightest potential self-employment systems to work with – both SSI and Medicaid. Even someone who has both SSI and SSDI has all the opportunities afforded to someone on SSI considering a small business.
- 4<sup>th</sup> Someone, only receiving SSDI, needs to very carefully plan for how small business income will interact with SSDI's all-or-nothing check receipt. Often a useful approach could be to develop a PASS, if possible, to set aside the SSDI check and become qualified for SSI. Using a PASS in this situation is the only known way to get such a person on SSI, and it needs to be carefully planned with the expectation of intentionally losing the SSDI check due to earning over SGA while the PASS is still active, and then

keeping the SSI check that the PASS caused, to become a benefit for the self-employed individual.

5<sup>th</sup> If a PASS is not possible for someone on SSDI, then careful considerations should be spent on potential self-employment subsidy, unpaid help, un-incurred business expenses and comparability of worth issues for self-employment hours and earnings potentially over the \$780 net self-employment income per month and/or 40 - 80 hours of monthly self-employment Substantial Gainful Activity (SGA) limits. The concern here again is if a person earns over SGA in either number of hours worked or in net self-employment earnings, he or she could lose his/her entire SSDI check, and this issue needs to be addressed thoroughly for someone on SSDI.

### **ADDITIONAL RESOURCES**

**GRIFFIN-HAMMIS ASSOCIATES, LLC**

[HTTP://WWW.GRIFFINHAMMIS.COM](http://www.griffinhammis.com)

**PEOPLE WITH DISABILITIES & SELF-EMPLOYMENT LIST-SERVE**

[HTTP://GROUPS.YAHOO.COM/GROUP/PWD\\_SELF-EMPLOYMENT](http://groups.yahoo.com/group/pwd_self-employment)

**SELF-EMPLOYMENT STRATEGIES FOR PEOPLE WITH DISABILITIES**

[HTTP://WWW.TRNINC.COM/NOMOREINTERVIEWS.HTM](http://www.trninc.com/nomoreinterviews.htm)

**SMALL BUSINESS AND SELF-EMPLOYMENT SERVICE FOR PEOPLE WITH DISABILITIES THROUGH THE DEPARTMENT OF LABOR'S OFFICE OF DISABILITY POLICY**

[HTTP://WWW.JAN.WVU.EDU/SBSES/INDEX.HTM](http://www.jan.wvu.edu/sbSES/index.htm)

**SMALL BUSINESS ADMINISTRATION**

[HTTP://WWW.SBA.GOV](http://www.sba.gov)

**BOLD CONSULTING GROUP, LLC**

[HTTP://WWW.BOLD-OWNERS.COM/HOME.HTML](http://www.bold-owners.com/home.html)

**SOCIAL SECURITY ADMINISTRATION OFFICE OF EMPLOYMENT SUPPORT**

[HTTP://WWW.SSA.GOV/WORK/SERVICEPROVIDERS/CONTRACTSBPAO.HTML](http://www.ssa.gov/work/serviceproviders/contractsBPAO.html)

**DISABLED BUSINESS PERSONS ASSOCIATION**

[HTTP://WWW.DISABLEDBUSINESS.COM/](http://www.disabledbusiness.com/)

**REHABILITATION SERVICES ADMINISTRATION TECHNICAL ASSISTANCE  
CIRCULAR ON SELF-EMPLOYMENT – TAC-00-02**

[HTTP://WWW.ED.GOV/OFFICES/OSERS/RSA/SUBREG.HTML#TECHNICAL%20ASSISTANCE%20CIRCULARS](http://www.ed.gov/offices/osers/rsa/subreg.html#TECHNICAL%20ASSISTANCE%20CIRCULARS)

**RURAL INSTITUTE ON DISABILITIES**

[HTTP://RURALINSTITUTE.UMT.EDU](http://ruralinstitute.umd.edu)

**THE SERVICE CORPS OF RETIRED EXECUTIVES (SCORE)**

[HTTP://WWW.SCORE.ORG/](http://www.score.org/)

**THE ABILITIES FUND**

[HTTP://WWW.ABILITIESFUND.ORG](http://www.abilitiesfund.org)

**PASS WRITING TOOL AT CORNELL UNIVERSITY**

[HTTP://WWW.PASSONLINE.ORG](http://www.passonline.org)

**THE REGIONAL RCEP7 / SSA TRAINING AND TECHNICAL ASSISTANCE  
CENTER WEBSITE**

[HTTP://WWW.RCEP7.ORG/SSA/](http://www.rcep7.org/ssa/)

**VIRGINIA COMMONWEALTH UNIVERSITY – WORKSUPPORT.COM**

[HTTP://WWW.WORKSUPPORT.COM/](http://www.worksupport.com/)

**SSA BENEFITS PLANNING MANUAL – CORNELL UNIVERSITY**

[HTTP://WWW.ILR.CORNELL.EDU/PED/SSA\\_CURRICULUM/](http://www.ilr.cornell.edu/ped/ssa_curriculum/)