



PeopleKeep

# Business Owner Eligibility Under a QSEHRA or ICHRA

How owners and their family members can benefit from a qualified small employer health reimbursement arrangement (QSEHRA) or an individual coverage health reimbursement arrangement (ICHRA)

A business owner must be considered an employee in order to be eligible. An owner may or may not be considered an employee, depending on the corporate entity of the business.



## S corporation owners

An owner with >2% of the company's shares, their spouse, parents, children, and grandchildren cannot receive reimbursements.



Shareholder + spouse  
Not eligible



Shareholder + W-2 spouse  
Not eligible

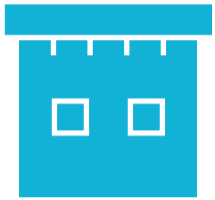


Shareholder + shareholder spouse  
Not eligible



Shareholder + no spouse  
Not eligible

An S corporation is not subject to corporate income tax. Instead, shareholders are taxed individually. Therefore, S corporation owners are not employees, and are not eligible. Due to attribution rules, even if family members are W-2 employees or are on the same insurance policy as the owner, they and the owner are not eligible. Shareholders can take insurance-related deductions on their 1040.



## C corporation owners

Owner and dependents can use the HRA.



Owner + spouse  
Eligible



Owner + W-2 spouse  
Eligible



Owner + owner spouse  
Eligible



Owner + no spouse  
Eligible

A C corporation is a legal entity separate from the owners. Therefore, owners of a C corporation qualify as employees.



## Partners

Partners can use the HRA only if their spouse is a W-2 employee, not a business partner. The owner can access their spouse's allowance as a dependent.



Partner + spouse  
Not eligible



Partner + W-2 spouse  
Eligible

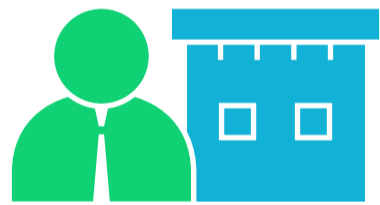


Partner + partner spouse  
Not eligible



Partner + no spouse  
Not eligible

A partnership is not subject to income tax. Instead, the partners are directly taxed. Therefore, the partner is self-employed, not an employee, and is not eligible unless the partner's spouse is a bona fide, common-law employee.



## Sole proprietors

Sole proprietors can use the HRA only if their spouse is a W-2 employee. The owner can access their spouse's allowance as a dependent.



Proprietor + spouse  
Not eligible



Proprietor + W-2 spouse  
Eligible



Proprietor + no spouse  
Not eligible

A sole proprietorship is an unincorporated business owned and run by one individual with no distinction between the business and the owner. Therefore, the owner is not an employee and is not eligible unless the owner's spouse is a bona fide, common-law employee.

### Resources

- S corporation
- IRS Notice 2008-1: Reporting reimbursements as income
- 162(l)(1)(A): Deduction for self-employed
- 401(c): Definition of shareholder employee
- 1372: Partnership rules for fringe benefit purposes
- 707(c): Transactions between partner and partnership

- 105(g): For purposes of this section, the term "employee" does not include an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).
- IRC 318: Attribution rules for S corp
- Sole proprietorship
- Rev. Ruling 71-588

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