

III. Entity Planning With Respect to Benefit Choices

Choice of entity makes a difference (as touched on earlier in outline). See the chart below.

Interaction of Benefit Choices and Entity Choice

	Sole Proprietor	Partnership/LLP/ LLC	C Corporation	S Corporation
Qualified Plans	Yes. Contribution limits identical for all entity choices (see below). No ESOPs. IRS § 4975	Contributions based on self-employment income. Deduction for owner taken on individual return.	Participant Loans (within limits) allowed for owners.	Contributions based solely on wages – <u>not</u> S corp dividends.
SEPs and SIMPLE	Same for all			
Nonqualified Deferred Compensation (NQDC)	Not applicable for owners.	Normally not applicable (see NQDC discussion).	An option, esp. if 15% tax rate applies.	Normally not applicable for owners.
Split Dollar Insurance Plan	Not applicable.	Normally not a factor (but is an option).	An option, esp. if 15% tax rate applies.	Normally not applicable for owners, but is possible.
Group Health Insurance Plan	100% deduction for s.p.	100% deduction limit applies to self-employed.	100% deduction for owner benefits if not based solely on share ownership	100% deduction limit applies to 2% plus owners.
Medical Diagnostic Reimbursement Plan	Not applicable (available for employees).	Not applicable for partners (available for employees).	Available (see discussion).	Available for employees, but not 2% plus owners.
Medical Expense Reimbursement Plan	Not applicable (available for employees).	Not applicable for partners (available for employees).	Available (see discussion).	Available for employees, but not 2% plus owners.
Cafeteria (Flexible Benefit Plan)	Not applicable (available for employees).	Not applicable for partners (except perhaps for stand-alone child care flex plans (see IRC § 129(e)(3)); available for employees.	Available (see discussion).	Available for employees, but 2% plus owners tax free benefit limited to what partners could get.
Dependent Care Assistance Plan	Available (subject to limits – see discussion).	Available (subject to limits).	Available (subject to limits).	Available (subject to limits).
Group Term Life Insurance	Not applicable for owners.	Not applicable for owners.	Available.	Available for employees other than 2% plus owners.
Stock Options	Not applicable.	Not applicable.	Available.	Generally not

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				available.
Wage Continuation (Disability Insurance)	Not applicable.	Not applicable.	Available (see discussion).	Available for employees other than 2% plus owners.
VEBAs	Generally not applicable for owners.	Generally not applicable for owners.	Available (subject to limits).	Available (subject to taxation on benefits [under rules applying to the underlying benefits] for 2% plus owners).
Phantom Stock Plan	Not applicable.	Not applicable.	Available.	Available.

Comment: Revenue Ruling 91-26 describes the tax treatment of accident and health insurance premiums paid by a partnership or S corporation on behalf of a partner or 2% shareholder-employee. The deduction of 100% is taken at the individual level.