

GERMANY

mit-unternehmer.com business survey

What do you think of the German employee share ownership law?

History

For a long time the German Income Tax Act §19 was the central point of the employee share ownership legislation. To promote employee share ownership, companies were allowed to support the acquisition of equity shares by the employee up to a maximum of € 135 per year, free of income tax and social contributions.

This scheme has been considered and therefore it has been often criticized because this amount was too low (mocked said "pocket money") for any effective asset accumulation. In addition, many practical problems occurred.

New legislation

On March 7, 2009 a new legislation on tax incentives for employee share ownership entered in force. Income Tax Act §19a had served its purpose; in its place came §3/39 (Einkommensteuergesetz). The new provision provides for a tax and duty-free promotion of a list of employee share ownership schemes (see Vermögensbildungsgesetz 5), up to a maximum of € 360. In addition, the implementation rules were changed, which can be seen in some respects as a simplification.

An amendment to the new approach came quickly. On March 26, 2010 the Federal Council adopted the "European law for implementing tax law requirements and other EU fiscal rules." Employees can now participate in content conversion over the maximum amount of the Income Tax Act §3/39, if that amount is not already exhausted by corporate grants.

The new rules, however, have some disadvantages. While corporate grants for employee share ownership are free of income tax and social security contributions, content conversion is only free of income tax.

mit-unternehmer.com wanted to know how companies evaluate the new legislation...

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Results

Although the new law is not seen by many experts as fully positive, surveyed companies drew positive conclusions. Overall, the law was given good grades (mark of 2.48 on a scale from one to six). This is a perfectly acceptable value for a tax law.

In particular, it is argued that the increase in the funding framework allows a much more attractive model design. The simplified application procedures are consistently welcomed. In particular it was mentioned that the duty exemption of corporate grants doesn't require employee deposits any more.

Apparently a significant number of companies handling the new legal framework used it for employee share ownership for the first time and so made their first experiences in participating schemes. Of course, this is not the case for all companies. However, it is of interest that companies declare that employees identify now better with the company. Another sound: "Our one year-grants are already covered thanks to our profit growth."

Some voices expressed also the view that the material aspect of employee ownership regards participation as one step on the way to minimize the conflict between capital and labor. Similarly, there were voices emphasizing that employee ownership is based on tangible and intangible components (e.g. leadership, corporate culture) and success can only occur when both components are put together.

The results of the survey didn't only include positive responses. Many critical voices are also asking for further improvements. In particular the inductance of social security in context of deferred compensation was criticized, as well as difficulties from fiscal administration in the implementation of schemes and impractical administrative requirements.

Conclusion

In summary, surveyed companies came to the conclusion that the new legislation is a step in the right direction to encourage employee share ownership. No more, no less. Further developments in legislation are awaited in coming years.

One answer, which mit-unternehmer.com warmly supports is:

"The implementing regulation or the application letter of the BMF should be written in a way that can be understood by entrepreneurs, works council and staff."

Bamberg, January 14th 2011

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