



Employee Share Ownership: Legislative Reform Measures

Employee ownership is the way to bring to maturity within the workplace a cultural change favouring greater co-operation and higher productivity.

The foundations for this change have already been laid by years of reform in industrial relations law and practice. But IR reforms only go so far. They cannot turn an employee into a joint-owner. It takes an Employee Share Ownership Plan (an ESOP) to do that. When employees become owners companies can harness a new and potent source of productive energy. To achieve their potential, however, ESOPs need to be freed from the legislative straitjacket in which they presently operate.

To ensure that ESOPs become both *widespread* throughout the workforce, and run *deep* into the ownership structures of business, a series of reforms need to be made.

a. Merge the current Exempt and Deferred plans into a single structure.

Exempt share plans allow for up to \$1,000 p.a. worth of tax exempt shares per employee and benefit from concessional Capital Gains Tax (CGT) treatment. Deferred plans allow for greater amounts on a tax deferred basis but are denied the advantage of CGT. This means that greater tax concessions go to the plan under which employees acquire the lesser number of shares.

To break down the current bias in favour of the Exempt Plan, and to encourage employees to take up greater equity, we propose that Division 13A of the Income Tax Assessment Act be amended so that

(i) The first \$1,000 worth of shares (or some higher amount to be set) is tax exempt (with CGT on any growth) and,

(ii) Amounts over \$1,000 are tax deferred until sold (i.e. no '10 year' rule) at which time the discount given at grant is taxed at marginal Income Tax rates and any growth at the concessional CGT rate.

b. Exempt ESOPs from existing prospectus requirements.

ESOPs should be exempted from the prospectus provisions of Corporations Law. The necessary investor protection can be achieved by developing a minimum prescribed disclosure regime proper to ESOPs.

c. Provide Tax Integrity

Introduce a TFN-based reporting system to ensure that all tax obligations arising from participation in an employee share plan are fully reported.

d. Widen the definition of equity given in Division 13A.

Division 13A should enable a listed-company employer to offer an employee any instrument, or form of equity, or right thereto, in the employer's company, that offered the employee:

1. Voting rights,
2. Dividends, and
3. An entitlement to capital.

An unlisted company employer should be able to offer an employee any instrument, or form of employer company equity, or right thereto, that offered the employee at least 2 and 3 (above).

e. Increase the 5 per cent Rule to 10 per cent

The proposed new limit, by approaching nearer to international practice, would help owners - especially those of SMEs - to retain and reward key employees, and would pave the way for owners to use ESOPs to sell down businesses to employees as part of a "succession planning" strategy.

The EOG and its polices are supported by the following founding-member corporations:

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Employee Ownership Group

The EOG is a network of corporations committed to promoting Employee Share Ownership Plans for all employees. The EOG envisages an Australia in which employee ownership will be widespread in the workplace and deep within businesses.

The EOG's affairs are managed by:

Aequum Pty Ltd
ACN 068 639 912
GPO Box 2021, CANBERRA ACT 2601

Contact

Gary Scarrabelotti
Group Secretary, Employee Ownership Group
Managing Director, Aequum Pty Ltd
Tel: 61 2 6241 5917
Fax: 61 2 6255 0222
Email: gary.scarrabelotti@aequum.com.au