The ESOP Association

Advocacy Kit

Winter 2013

REALLY WANT TO HELP?
INVITE YOUR MEMBER OF CONGRESS
TO VISIT YOUR ESOP COMPANY!!

Remember: <u>YOU</u> <u>ARE</u> <u>THE</u> <u>ANSWER</u>

"Since its inception in 1978, The ESOP Association has represented the interests of all corporations that sponsor employee stock ownership plans, or ESOPs. The ESOP Association provides advocacy and educational services on behalf of its members. Corporate membership in The ESOP Association is open to all ESOP companies; our members range from closely held businesses to large public companies, and include both C and S corporations, across all industries. The ESOP Association welcomes all corporate members and pledges that our advocacy and educational initiatives will continue to serve the entire ESOP community."

Table of Contents

INTRODUCTION
Salient Facts About the New 113th Congress

The 113th Congress is, by any analysis, the same as the 112th Congress. Republicans control the House, and Democrats control the Senate, with a few more Democrats in both bodies.

So, big picture, look for more gridlock, "except" …..

It is the except that requires ESOP advocates to convey the message to their Representatives and Senators a pro-ESOP message about the benefits of your ESOP to your fellow employees, your ESOP company, your community, and yes, for America. Share your story, and share national data about why ESOPs are wonderful job sustainers for Americas, and very good retirement savings plans.

Following are tips for your advocacy work, in the early days of the 113th Congress.

DOCUMENT 1

Your Government Relations Challenges: DOL Campaign Against ESOPs: Tax Legislation, Good and/or Bad Possibilities

The ESOP Association has for over 35 years vigorously promoted laws and agency regulations to encourage the creation of employee ownership through ESOPs and to facilitate the operation of the ESOP to benefit corporations sponsoring ESOPs and ESOP participants. Similarly, over the past 34 years, the Association has vigorously urged Congress to defeat legislative and regulatory proposals that would impact ESOP companies and their employees negatively.

This Advocacy Kit for the Association's members primarily urges members of the House and Senate to protest regulatory proposals, and enforcement actions by DOL that have the potential to stop ESOP creation, and to motivate existing ESOPs to no longer be ESOPs. In the Senate ESOP advocates should request their Senators to co-sponsor S. 273, [Senator Ayotte (R-NH), et al] to make sure one angle of attack by DOL against ESOPs is stopped.

And, ESOP advocates must be ready if the 113th Congress actually, seriously, begins to re-write the Federal income tax code, in a process referred to as tax reform. If, and better said, when, Congress develops a tax reform bill, it will examine all ESOP tax laws. The Chair of the House Ways and Means Committee Dave Camp (R-MI) has pledged to have the House of Representatives pass a tax reform bill in 2013. The tax reform process has begun, as Chair Camp has assigned sub groups to develop the frame work for re-writing the Federal tax law to cover tax rates by eliminating so-called tax loopholes, expenditure and preferences. Some will try to reduce or eliminate tax benefits for ESOP sponsors and ESOP participants.

The Senate Tax Committee, the Committee on finance, has begun informal meetings to develop a tax reform bill.

Using our Employee Ownership Foundation's resources, the ESOP community has macro data proving ESOPs are good national policy.

But, as has been proven over the past 20 plus years, the best defense for ESOPs is a good ESOP offense. Pro ESOP tax proposals will be introduced sometime in the first half of 2013. When they are introduced, look for information, and suggested communications to members of Congress to stand up for ESOPs.

And, always, tell <u>your</u> ESOP story.

Again, be ready to have voice as a citizen, and as an advocate for ESOPs!

Following are background documents on the Association's agenda, and suggested documents to send/leave or give Members of Congress and their staff, whether mailing a letter, visiting a DC Congressional Office, or even better, after hosting a member of Congress at your ESOP company.

DOCUMENT 2

Building a Foundation of Support for ESOPs and ESOP Benefits in the U.S. Senate: Advocate for Pro-ESOP Bills

On February 12, 2013, four members of the U.S. Senate introduced S. 273, to make sure ERISA law excludes appraisers of private company ESOP stock from the definition of "fiduciary".

They were: Senators Kelly Ayotte (R-NH), the primary sponsor, joined by Mary Landrieu (D-LA), Mitch McConnell (R-KY), and Roy Blunt (R-MO). Senator Amy Klobuchar signed on March 5.

The bill would modify the definition of fiduciary under the Employee Retirement Income Security Act of 1974 to exclude appraisers of employee stock ownership plans of private companies.

This bill is a response to the Department of Labor's (DOL) proposed anti-ESOP regulation mandating all private ESOP company appraisers be ERISA fiduciaries. If the proposed regulation were to be finalized as is, there would be extreme confusion over whether the appraiser or the trustee[s] and other current fiduciaries make the decisions about acquisition of shares, and most troubling, would leave private ESOP companies open to aggressive trial attorney lawsuits.

S 273 IS

113th CONGRESS
1st Session
S. 273

To modify the definition of fiduciary under the Employee Retirement Income Security Act of 1974 to exclude appraisers of employee stock ownership plans.

IN THE SENATE OF THE UNITED STATES
February 12, 2013

Ms. AYOTTE (for herself, Ms. LANDRIEU, Mr. MCCONNELL, and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

A BILL

To modify the definition of fiduciary under the Employee Retirement Income Security Act of 1974 to exclude appraisers of employee stock ownership plans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIDUCIARY EXCLUSION.

Section 3(21)(A) of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1002(21)(A)) is amended by inserting `and except to the extent a person is providing an appraisal or fairness opinion with respect to qualifying employer securities (as defined in section 407(d)(5)) included in an employee stock ownership plan (as defined in section 407(d)(6)),' after `subparagraph (B),'.

DOCUMENT 2b

S. 273 Co-Sponsors

As of 3-5-13

Cosponsors (4)

Sponsor

Senator Kelly Ayotte, R-NH

Cosponsors

Senator Roy Blunt, R-MO
Senator Amy Klobuchar, D-MN
Senator Mary L. Landrieu, D-LA
Senator Mitch McConnell, R-KY

DOCUMENT 2c
Sample Letter To U.S. Senators **IF NOT A**
Co-Sponsor of S. 273

The Honorable [Name of Senator]
U.S. Senate
Washington, DC 20510

Dear Senator [Name]:

[Name of Company] sponsors an employee stock ownership plan, or ESOP. Our ESOP makes employees of [Name of Company] beneficial owners of our stock. This letter [communication] respectfully request you join Senators Ayott, Landrieu, McConnell and Blunt in sponsoring S. 273, which would stop a negative ESOP proposal by the Department of Labor.

To explain: Federal law requires that every year, as a privately-held company, not traded on a public stock exchange, that [Name of Company] pays to have a qualified, independent valuation establish the value of the employees' shares in the ESOP.

On October 22, 2010, the Department of Labor issued a proposed regulation to reverse a 35 year old policy, honored by both Republican and Democratic Administrations prior to October 22, that would automatically make any appraiser of ESOP shares a fiduciary to our ESOP. (Current law clearly makes the trustee a fiduciary, and company personnel with powers over the ESOP can be fiduciaries as well.)

We understand DOL, after a hearing protests about the proposed reg, by both Republicans and Democrats, withdrew the proposal; <u>but</u> DOL has promised to issue a similar rule in 2013. We are still fearful DOL has not heard how this proposal will harm private company ESOPs.

If the valuation provider is a fiduciary, she/he will have to purchase fiduciary insurance, many will withdraw from providing valuation services to an ESOP company like [Name of Company], and be subject to aggressive, needless lawsuits.

But we do not write to protect the valuation profession; <u>we write to protect our ESOP, and our employee owners, because:</u>

If the DOL proposal becomes effective, the cost of having our ESOP will increase, diminishing our profit, which means lower share value, and thus less retirement savings for employees.

The biggest concern is the way the proposal is written, its impact may make all private ESOP companies, both our trustees and company fiduciaries sitting ducks for lawsuits.

Candidly, the proposal will cause a reassessment of whether successful ESOP programs should continue.

The DOL proposal is contra to the law, which says Federal agencies are not to hinder the creation and operation of ESOPs. (See Enclosure)

The Ayotte et al bill would amend the statue known as ERISA by clearly proving that appraisers of private company ESOP stock are not to be mandated ERISA fiduciaries.

Again, we respectfully ask that you consider expressing opposition and/or doubts about the DOL attack on private company ESOPs by co-sponsoring S. 1232.

Sincerely,
Name of Executive
Name of Employee Owners

Attachment: 90 Stat.1520, P.L. 94-455

This Is The Law!

90 Stat.1520, P.L. 94-455 Section 803

(h) Intent of Congress Concerning Employee Stock Ownership Plans. – The Congress, in a series of laws (the Regional Rail Reorganization Act of 1973, the Employee Retirement Income Security Act of 1974, and the Tax Reduction act of 1975) and this Act has made clear its interest in encouraging employee stock ownership plans as a bold and innovative method of strengthening the free private enterprise system which will solve the dual problems of securing capital funds for necessary capital growth and of bringing about stock ownership by all corporate employees. The Congress is deeply concerned that the objectives sought by this series of laws will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of the employee trust and employers to take the necessary steps to implement the plans, and which otherwise block the establishment and success of these plans. (Pub. L. 94-455, 90 Stat. 1520)

DOCUMENT 3

What About Tax Reform and Positive ESOP Law?

Tax reform is intended to eliminate what some call tax loopholes, some tax expenditures, and some tax preferences, in order to lower tax rates, and to make the tax code more "simple".

Unfortunately some people who work for Congress consider ESOP tax benefits as wasteful tax loopholes, or expenditures.

As always, certain people say "Congress will not enact tax reform, so why worry?"

The ESOP advocate should say, "What difference does it make?" ESOP advocates need to be pushing, pushing the pro-ESOP message as often as possible.

The easiest way to push ESOPs is to tell your ESOP story, and to share positive national data on what ESOPs do for employees and our economy. Enclosed is very impressive data for ESOPs.

And the easiest way to obtain an elected official's commitment is to have her, or him, agree to support a pro-ESOP proposal.

At this time, no pro-ESOP tax bill has been introduced in the 113th Congress.

Such a bill, House and Senate, is expected to be proposed, similar to S. 1512 from the 112th Congress.

Watch for bulletins, blog posts, YouTube postings, with suggested communications as soon as pro-ESOP bills are introduced.

Meanwhile, use the following fact sheets, along with your company story to show a member of Congress that protecting ESOP tax benefits is good national policy.

DOCUMENT 4

Building a Foundation of Support for ESOPs and
ESOP Benefits in the U.S. House of Representatives:
Advocate for Pro-ESOP Positions

While no pro-ESOP bill has been introduced “yet” in the 113th Congress by members of the House Representatives, do not wait to tell your Representative Know your ESOP is good for your company’s employee owners, your company, and your community.

For example, tax reform, which is intended to eliminate certain tax “loopholes”, “expenditures”, and “preferences”, has begun. The following members of the House Ways and Means Committee are right now reviewing retirement savings laws, including tax benefits for ESOPs, which some cynics label as tax loopholes. These members are:

Representatives:

Xavier Beccera (D-34th-CA)
Lloyd Doggett (D-30th –TX)
Sam Johnson (R-3rd-TX)
Ron Kind (D-3rd –WI)
Sander Levin (D-9th-MI)
Richard E. Neal (D-1st –MA)
Erik Paulsen (R-3rd –MN)
Jim Renacci (R-16th –OH)
Pat Tiberi (R-12th –OH)

ESOP advocates reside in these new congressional districts should write/e-mail/telephone these members of the House Ways and Means Committee task Force on Retirement Savings, a suggested communication is below. (See Document 6 for thoughts on effective communication to members of Congress)

“Honorable [Name of House Member]
U.S. House of Representatives
Washington, DC 20515

Dear Representative [Name]:

[Name of Company] sponsors an employee stock ownership plan, or ESOP. Our ESOP makes employees of [Name of Company] beneficial owners of our stock.

We have learned you are serving on the Ways and Means Committee’s Task Force on Pensions Retirement Savings. We understand the Task Force is gathering data on whether a revision of the Federal tax income laws impacting retirement savings plans sponsored by employers should be charged. We further understand you and your colleagues will specifically review tax laws enacted by Congress to encourage the creation and operation of ESOPs, such as [Name of Company]’s ESOP.

First and foremost, [Name of Company]’s ESOP has been good for our employees, our company, and our community. We welcome you or your staff contacting the undersigned to learn more about [Name of Company] and how our ESOP operates to benefit all of us.

We enclose a summary of just a few of the overwhelming data indicating ESOPs in the vast majority of instances, are more productive, more profitable, and more sustainable, providing locally controlled jobs.

We respectfully ask that as you judge the value of employee ownership to our nation, you not accept proposals to weaken which is an excellent retirement savings policy that creates sustainable jobs and provides excellent retirement savings for average pay employees.

Sincerely,

Name[s] of
Company Executive and/or Employees”

Enclosure

Employee Ownership &
Corporate Performance

- Employees in the U.S. who worked in companies with employee stock ownership were four times less likely to be laid off during the Great Recession than employees without employee stock ownership. 3% of employees with employee stock ownership, which include the ESOP model and other forms of employee ownership, were laid off in 2009-2010 compared to a 12% rate for employees without employee stock ownership. *(Information from the 2010 General Social Survey conducted by the National Opinion Research Center at the University of Chicago and analyzed by Rutgers University professors, Dr. Joseph Blasi and Dr. Douglas Kruse, well-known researchers of employee ownership.)*

- 11 million American worked in companies with employee stock ownership plans, or ESOPs, in 2010. Savings from the low layoff rate of ESOP participants was $13.7 billion in 2010, or almost 14 times more than the estimated $1 billion a year tax expenditure attributed to the special laws promoting ESOP creation and operation. *(The Impact of Employee Ownership and ESOPs on Layoffs and the Costs of Unemployment to the Federal Government, by Corey Rosen, Senior Staff Member and Founder, the National Center for Employee Ownership, released February 5, 2013 and funded by the Employee Ownership Foundation, the affiliated 501(c) 3 foundation of The ESOP Association.)*

- The most recent survey conducted among The ESOP Association's 1,400 corporate members showed an increase in age of the ESOP and account balances. In 2010, the average age of the ESOP was reported to be 15 years, demonstrating ESOP companies are sustainable. The average account balance rose dramatically to $195,222.65. And approximately 90% of members reported having retirement savings plans in addition to the ESOP including the use of 401(k) plans, pension plans, stock purchase plans, and stock options. In terms of motivation and productivity, 84% of respondents agree that the ESOP improved motivation and productivity. *(The ESOP Company Survey is conducted every five years by The ESOP Association and Employee Ownership Foundation among the members of The ESOP Association. The ESOP Company Survey was also completed in 2005 and 2000.)*

- A study, which reviewed data from the Department of Labor Form 5500s on defined contribution retirement plans, found: ESOP companies have at least one plan, the ESOP, but more than half (56%) have a second retirement savings/defined contribution plan, likely a 401(k) plan. In comparison, the Bureau of Labor statistics reports that less than half of companies have any kind of retirement savings plan which shows that an ESOP company is more than likely to have two retirement savings plans in comparison to over half of non-ESOP companies which have no plan at all. *(This research project was conducted by the National Center for Employee Ownership (NCEO) and funded by the Employee Ownership Foundation, the affiliated 501(c) 3 foundation of The ESOP Association.)*

- There is "…strong evidence that majority employee-owned businesses have a significant advantage over comparable traditionally-owned businesses in sales per employee." The average advantage, $44,500, means that a typical 200 person ESOP firm could be expected to have an almost $9 million annual sales advantage over its non-ESOP counterpart. *(In June 2008, Brent Kramer, a doctoral candidate at the City University of New York, now Ph.D., submitted a study, Employee Ownership and Participation Effects on Firm Outcomes, stating the above research. The Employee Ownership Foundation providing funding for the research and The ESOP Association contributed membership information to the study. A total of 328 ESOP firms and over 2,000 matching non-ESOP firms were included in the study.)*

- A study, which paired *1,100 ESOP companies* with *1,100 comparable non-ESOP companies* and followed the businesses for *over a decade*, reported overwhelmingly positive and remarkable results indicating that ESOPs appear to increase sales, employment, and sales/employee by about 2.3% to

2.4% over what would have been anticipated, absent an ESOP. In addition, when examined whether ESOP companies stayed in business longer than non-ESOP companies, the study found that 77.9% of the ESOP companies followed as part of the survey survived as compared to 62.3% of the comparable non-ESOP companies. ESOP companies are also more likely to continue operating as independent companies over the course of several years. Also, it is substantially more probable that ESOP companies have other retirement-oriented benefit plans than comparable non-ESOP companies, such as defined benefit plans, 401(k) plans, and profit sharing plans. *(This most comprehensive and significant study to date of ESOP performance in closely held companies was conducted by Dr. Joseph R. Blasi and Dr. Douglas L. Kruse, professors at the School of Management and Labor Relations at Rutgers University, and funded in part by the Employee Ownership Foundation, the affiliated 501(c)3 foundation of the Association.)*

- 13% of the employees with employee stock ownership intended to leave their companies in the coming months whereas the rate was 24% for employees without employee stock ownership. This indicates significantly lower expected turnover for workers with employee stock ownership. *(Information from the 2010 General Social Survey conducted by the National Opinion Research Center at the University of Chicago and analyzed by Rutgers University professors, Dr. Joseph Blasi and Dr. Douglas Kruse, well-known researchers of employee ownership.)*

- The Employee Ownership Foundation's 21st Annual Economic Performance Survey (EPS), that evidenced a very high percentage of companies, 93.3% of survey respondents, reported that creating employee ownership through an ESOP was "a good business decision that has helped the company." In addition, 76% of respondents indicated the ESOP positively affected the overall productivity of the employees. In terms of profitability and revenue, both were up from previous years --- 70.5% of respondents reported profitability increased and 76.2% of respondents noted revenue increased. In terms of stock value, the majority of respondents, 80%, stated the company's stock value increased as determined by outside independent valuations; 17.4% of the respondents reported a decline in share value, and 2.6% reported no change. Asked for the first time was the question --- in what year was your ESOP established? Among those responding to this survey, the average age of the ESOP was 16 years with the average year for establishment being 1996. *(The Economic Performance Survey is conducted annually by the Employee Ownership Foundation among the members of The ESOP Association. The Survey has been conducted annually for 21 years.)*

- ESOP companies paid better benefits, had twice the retirement income for employees, and paid higher wages than their non-ESOP counterparts. *(Wealth and Income Consequences of Employee Ownership: A Comparative Study from Washington State, Kardas, Peter A., Scharf, Adria L., Keogh, Jim, November, 1998.)*

- In 1995, an analysis found that "positive and significant coefficients [are found] much more often than would be expected if there were no true relation between ESOPs and productivity." It was concluded that "the average estimated productivity difference between ESOP and non-ESOP firms is 5.3%, while the average estimated pre/post-adoption difference is 4.4% and the post-adoption growth rate is 0.6% higher in ESOP firms. *(Dr. Douglas Kruse of Rutgers University examined several different studies between ESOPs and productivity growth. Dr. Kruse cites two studies as part of his research: Kumbhakar and Dunbar's 1993 study of 123 public firms and Mitchell's 1990 study of 495 U.S. business units in public firms. Both reports found significant positive effects of greater productivity and profitability in the first few years after a company adopted an ESOP.)*

For additional information about ESOP or The ESOP Association, visit the website at www.esopassociation.org, call 1-866-366-3832, or email esop@esopassociation.org.

And other members of Ways and Means will eventually consider ideas and data developed by the members on the Pensions/Retirement Task force. These men and women should hear from ESOP advocates now before any negative ESOP proposals are seriously reviewed.

Here is the list:

Rep. Dave Camp (R-MI-4th), Chairman
Rep. Diane Lynn Black (R-TN-6th)
Rep. Earl Blumenauer (D-OR-3rd)
Rep. Charles W. Boustany, Jr.
Rep. Kevin Brady (R-TX-8th)
Rep. Vern Buchanan (R-FL-13th)
Rep. Joseph Crowley (D-NY-7th)
Rep. Danny K. Davis (D-IL-7th)
Rep. Jim Gerlach (R-PA-6th)
Rep. Timothy “Tim” Griffin (R-AR-2nd)
Rep. Lynn Jenkins (R-KS-2nd)
Rep. George J. “Mike” Kelly, Jr. (R-PA-3rd)
Rep. Ron Kind (D-WI-3rd)
Rep. John B. Larson (D-CT-1st)
Rep. John Lewis (D-GA-5th)
Rep. Kenny Marchant (R-TX-24th)
Rep. Jim McDermott (D-WA-7th)
Rep. Devin Nunes
Rep. Bill Pascrell, Jr. (D-NJ-8th)
Rep. Tom Price (R-GA-6th)
Rep. Charles B. Rangel (D-NY-15th)
Rep. Tom Reed (R-NY-29th)
Rep. Dave G. Reichert (R-WA-8th)
Rep. Peter J. Roskam (R-IL-6th)
Rep. Paul D. Ryan (R-WI-1st)
Rep. Linda T. Sanchez (D-CA-38th)
Rep. Aaron Schock (R-IL-18th)
Rep. Allyson Schwartz (D-PA-13th)
Rep. Adrian Smith (R-NE-3rd)
Rep. Mike Thompson (D-CA-1st)
Rep. Todd Christopher Young (R-IN-9th)

Here is a suggested communication to these men and women if one is your Representative in Congress.

“Honorable [Name of House Member]
U.S. House of Representatives
Washington, DC 20515

Dear Representative [Name]:

[Name of Company] sponsors an employee stock ownership plan, or ESOP. Our ESOP makes employees of [Name of Company] beneficial owners of our stock.

We are aware the Ways and Means Committee intends to develop a tax reform bill this year, and to present that proposal to the full House.

First and foremost, [Name of Company]’s ESOP has been good for our employees, our company, and our community. We welcome you or your staff contacting the undersigned to learn more about [Name of Company] and how our ESOP operates to benefit all of us.

We enclose a summary of the overwhelming data indicating ESOPs in the vast majority of instances are more productive, more profitable, and more sustainable, providing locally controlled jobs.

We respectfully ask that as you judge the value of employee ownership to our nation, you not accept proposals to weaken an excellent retirement savings policy that creates sustainable jobs and provides excellent retirement savings for average pay employees.

Sincerely,

Name[s] of
Company Executive and/or Employees”

Enclosure

Employee Ownership & Corporate Performance

- Employees in the U.S. who worked in companies with employee stock ownership were four times less likely to be laid off during the Great Recession than employees without employee stock ownership. 3% of employees with employee stock ownership, which include the ESOP model and other forms of employee ownership, were laid off in 2009-2010 compared to a 12% rate for employees without employee stock ownership. *(Information from the 2010 General Social Survey conducted by the National Opinion Research Center at the University of Chicago and analyzed by Rutgers University professors, Dr. Joseph Blasi and Dr. Douglas Kruse, well-known researchers of employee ownership.)*

- 11 million American worked in companies with employee stock ownership plans, or ESOPs, in 2010. Savings from the low layoff rate of ESOP participants was $13.7 billion in 2010, or almost 14 times more than the estimated $1 billion a year tax expenditure attributed to the special laws promoting ESOP creation and operation. *(The Impact of Employee Ownership and ESOPs on Layoffs and the Costs of Unemployment to the Federal Government, by Corey Rosen, Senior Staff Member and Founder, the National Center for Employee Ownership, released February 5, 2013 and funded by the Employee Ownership Foundation, the affiliated 501(c) 3 foundation of The ESOP Association.)*

- The most recent survey conducted among The ESOP Association's 1,400 corporate members showed an increase in age of the ESOP and account balances. In 2010, the average age of the ESOP was reported to be 15 years, demonstrating ESOP companies are sustainable. The average account balance rose dramatically to $195,222.65. And approximately 90% of members reported having retirement savings plans in addition to the ESOP including the use of 401(k) plans, pension plans, stock purchase plans, and stock options. In terms of motivation and productivity, 84% of respondents agree that the ESOP improved motivation and productivity. *(The ESOP Company Survey is conducted every five years by The ESOP Association and Employee Ownership Foundation among the members of The ESOP Association. The ESOP Company Survey was also completed in 2005 and 2000.)*

- A study, which reviewed data from the Department of Labor Form 5500s on defined contribution retirement plans, found: ESOP companies have at least one plan, the ESOP, but more than half (56%) have a second retirement savings/defined contribution plan, likely a 401(k) plan. In comparison, the Bureau of Labor statistics reports that less than half of companies have any kind of retirement savings plan which shows that an ESOP company is more than likely to have two retirement savings plans in comparison to over half of non-ESOP companies which have no plan at all. *(This research project was conducted by the National Center for Employee Ownership (NCEO) and funded by the Employee Ownership Foundation, the affiliated 501(c) 3 foundation of The ESOP Association.)*

- There is "…strong evidence that majority employee-owned businesses have a significant advantage over comparable traditionally-owned businesses in sales per employee." The average advantage, $44,500, means that a typical 200 person ESOP firm could be expected to have an almost $9 million annual sales advantage over its non-ESOP counterpart. *(In June 2008, Brent Kramer, a doctoral candidate at the City University of New York, now Ph.D., submitted a study, Employee Ownership and Participation Effects on Firm Outcomes, stating the above research. The Employee Ownership Foundation providing funding for the research and The ESOP Association contributed membership information to the study. A total of 328 ESOP firms and over 2,000 matching non-ESOP firms were included in the study.)*

- A study, which paired *1,100 ESOP companies* with *1,100 comparable non-ESOP companies* and followed the businesses for *over a decade*, reported overwhelmingly positive and remarkable results indicating that ESOPs appear to increase sales, employment, and sales/employee by about 2.3% to

2.4% over what would have been anticipated, absent an ESOP. In addition, when examined whether ESOP companies stayed in business longer than non-ESOP companies, the study found that 77.9% of the ESOP companies followed as part of the survey survived as compared to 62.3% of the comparable non-ESOP companies. ESOP companies are also more likely to continue operating as independent companies over the course of several years. Also, it is substantially more probable that ESOP companies have other retirement-oriented benefit plans than comparable non-ESOP companies, such as defined benefit plans, 401(k) plans, and profit sharing plans. *(This most comprehensive and significant study to date of ESOP performance in closely held companies was conducted by Dr. Joseph R. Blasi and Dr. Douglas L. Kruse, professors at the School of Management and Labor Relations at Rutgers University, and funded in part by the Employee Ownership Foundation, the affiliated 501(c)3 foundation of the Association.)*

- 13% of the employees with employee stock ownership intended to leave their companies in the coming months whereas the rate was 24% for employees without employee stock ownership. This indicates significantly lower expected turnover for workers with employee stock ownership. *(Information from the 2010 General Social Survey conducted by the National Opinion Research Center at the University of Chicago and analyzed by Rutgers University professors, Dr. Joseph Blasi and Dr. Douglas Kruse, well-known researchers of employee ownership.)*

- The Employee Ownership Foundation's 21st Annual Economic Performance Survey (EPS), that evidenced a very high percentage of companies, 93.3% of survey respondents, reported that creating employee ownership through an ESOP was "a good business decision that has helped the company." In addition, 76% of respondents indicated the ESOP positively affected the overall productivity of the employees. In terms of profitability and revenue, both were up from previous years --- 70.5% of respondents reported profitability increased and 76.2% of respondents noted revenue increased. In terms of stock value, the majority of respondents, 80%, stated the company's stock value increased as determined by outside independent valuations; 17.4% of the respondents reported a decline in share value, and 2.6% reported no change. Asked for the first time was the question --- in what year was your ESOP established? Among those responding to this survey, the average age of the ESOP was 16 years with the average year for establishment being 1996. *(The Economic Performance Survey is conducted annually by the Employee Ownership Foundation among the members of The ESOP Association. The Survey has been conducted annually for 21 years.)*

- ESOP companies paid better benefits, had twice the retirement income for employees, and paid higher wages than their non-ESOP counterparts. *(Wealth and Income Consequences of Employee Ownership: A Comparative Study from Washington State, Kardas, Peter A., Scharf, Adria L., Keogh, Jim, November, 1998.)*

- In 1995, an analysis found that "positive and significant coefficients [are found] much more often than would be expected if there were no true relation between ESOPs and productivity." It was concluded that "the average estimated productivity difference between ESOP and non-ESOP firms is 5.3%, while the average estimated pre/post-adoption difference is 4.4% and the post-adoption growth rate is 0.6% higher in ESOP firms. *(Dr. Douglas Kruse of Rutgers University examined several different studies between ESOPs and productivity growth. Dr. Kruse cites two studies as part of his research: Kumbhakar and Dunbar's 1993 study of 123 public firms and Mitchell's 1990 study of 495 U.S. business units in public firms. Both reports found significant positive effects of greater productivity and profitability in the first few years after a company adopted an ESOP.)*

For additional information about ESOP or The ESOP Association, visit the website at www.esopassociation.org, call 1-866-366-3832, or email esop@esopassociation.org.

If your member of Congress is <u>not</u> on the Taskforce on Ways and Means Committee, here is a suggested letter to write, as members of Congress will consider views of colleagues who are not on their committees.

“Honorable [Name of House Member]
U.S. House of Representatives
Washington, DC 20515

Dear Representative [Name]:

[Name of Company] sponsors an employee stock ownership plan, or ESOP. Our ESOP makes employees of [Name of Company] beneficial owners of our stock.

We are aware the Ways and Means Committee intends to develop a tax reform bill this year, and to present that proposal to the full House.

First and foremost, [Name of Company]’s ESOP has been good for our employees, our company, and our community. We welcome you or your staff contacting the undersigned to learn more about [Name of Company] and how our ESOP operates to benefit all of us.

We enclose a summary of the overwhelming data indicating ESOPs in the vast majority of instances are more productive, more profitable, and more sustainable, providing locally controlled jobs.

We respectfully ask that as you judge the value of employee ownership to our nation, you not accept proposals to weaken an excellent retirement savings policy that creates sustainable jobs and provides excellent retirement savings for average pay employees.

Sincerely,

Name[s] of
Company Executive and/or Employees”

Enclosure

Employee Ownership & Corporate Performance

- Employees in the U.S. who worked in companies with employee stock ownership were four times less likely to be laid off during the Great Recession than employees without employee stock ownership. 3% of employees with employee stock ownership, which include the ESOP model and other forms of employee ownership, were laid off in 2009-2010 compared to a 12% rate for employees without employee stock ownership. *(Information from the 2010 General Social Survey conducted by the National Opinion Research Center at the University of Chicago and analyzed by Rutgers University professors, Dr. Joseph Blasi and Dr. Douglas Kruse, well-known researchers of employee ownership.)*

- 11 million American worked in companies with employee stock ownership plans, or ESOPs, in 2010. Savings from the low layoff rate of ESOP participants was $13.7 billion in 2010, or almost 14 times more than the estimated $1 billion a year tax expenditure attributed to the special laws promoting ESOP creation and operation. *(The Impact of Employee Ownership and ESOPs on Layoffs and the Costs of Unemployment to the Federal Government, by Corey Rosen, Senior Staff Member and Founder, the National Center for Employee Ownership, released February 5, 2013 and funded by the Employee Ownership Foundation, the affiliated 501(c) 3 foundation of The ESOP Association.)*

- The most recent survey conducted among The ESOP Association's 1,400 corporate members showed an increase in age of the ESOP and account balances. In 2010, the average age of the ESOP was reported to be 15 years, demonstrating ESOP companies are sustainable. The average account balance rose dramatically to $195,222.65. And approximately 90% of members reported having retirement savings plans in addition to the ESOP including the use of 401(k) plans, pension plans, stock purchase plans, and stock options. In terms of motivation and productivity, 84% of respondents agree that the ESOP improved motivation and productivity. *(The ESOP Company Survey is conducted every five years by The ESOP Association and Employee Ownership Foundation among the members of The ESOP Association. The ESOP Company Survey was also completed in 2005 and 2000.)*

- A study, which reviewed data from the Department of Labor Form 5500s on defined contribution retirement plans, found: ESOP companies have at least one plan, the ESOP, but more than half (56%) have a second retirement savings/defined contribution plan, likely a 401(k) plan. In comparison, the Bureau of Labor statistics reports that less than half of companies have any kind of retirement savings plan which shows that an ESOP company is more than likely to have two retirement savings plans in comparison to over half of non-ESOP companies which have no plan at all. *(This research project was conducted by the National Center for Employee Ownership (NCEO) and funded by the Employee Ownership Foundation, the affiliated 501(c) 3 foundation of The ESOP Association.)*

- There is "…strong evidence that majority employee-owned businesses have a significant advantage over comparable traditionally-owned businesses in sales per employee." The average advantage, $44,500, means that a typical 200 person ESOP firm could be expected to have an almost $9 million annual sales advantage over its non-ESOP counterpart. *(In June 2008, Brent Kramer, a doctoral candidate at the City University of New York, now Ph.D., submitted a study, Employee Ownership and Participation Effects on Firm Outcomes, stating the above research. The Employee Ownership Foundation providing funding for the research and The ESOP Association contributed membership information to the study. A total of 328 ESOP firms and over 2,000 matching non-ESOP firms were included in the study.)*

- A study, which paired *1,100 ESOP companies* with *1,100 comparable non-ESOP companies* and followed the businesses for *over a decade*, reported overwhelmingly positive and remarkable results indicating that ESOPs appear to increase sales, employment, and sales/employee by about 2.3% to

2.4% over what would have been anticipated, absent an ESOP. In addition, when examined whether ESOP companies stayed in business longer than non-ESOP companies, the study found that 77.9% of the ESOP companies followed as part of the survey survived as compared to 62.3% of the comparable non-ESOP companies. ESOP companies are also more likely to continue operating as independent companies over the course of several years. Also, it is substantially more probable that ESOP companies have other retirement-oriented benefit plans than comparable non-ESOP companies, such as defined benefit plans, 401(k) plans, and profit sharing plans. *(This most comprehensive and significant study to date of ESOP performance in closely held companies was conducted by Dr. Joseph R. Blasi and Dr. Douglas L. Kruse, professors at the School of Management and Labor Relations at Rutgers University, and funded in part by the Employee Ownership Foundation, the affiliated 501(c)3 foundation of the Association.)*

- 13% of the employees with employee stock ownership intended to leave their companies in the coming months whereas the rate was 24% for employees without employee stock ownership. This indicates significantly lower expected turnover for workers with employee stock ownership. *(Information from the 2010 General Social Survey conducted by the National Opinion Research Center at the University of Chicago and analyzed by Rutgers University professors, Dr. Joseph Blasi and Dr. Douglas Kruse, well-known researchers of employee ownership.)*

- The Employee Ownership Foundation's 21st Annual Economic Performance Survey (EPS), that evidenced a very high percentage of companies, 93.3% of survey respondents, reported that creating employee ownership through an ESOP was "a good business decision that has helped the company." In addition, 76% of respondents indicated the ESOP positively affected the overall productivity of the employees. In terms of profitability and revenue, both were up from previous years --- 70.5% of respondents reported profitability increased and 76.2% of respondents noted revenue increased. In terms of stock value, the majority of respondents, 80%, stated the company's stock value increased as determined by outside independent valuations; 17.4% of the respondents reported a decline in share value, and 2.6% reported no change. Asked for the first time was the question --- in what year was your ESOP established? Among those responding to this survey, the average age of the ESOP was 16 years with the average year for establishment being 1996. *(The Economic Performance Survey is conducted annually by the Employee Ownership Foundation among the members of The ESOP Association. The Survey has been conducted annually for 21 years.)*

- ESOP companies paid better benefits, had twice the retirement income for employees, and paid higher wages than their non-ESOP counterparts. *(Wealth and Income Consequences of Employee Ownership: A Comparative Study from Washington State, Kardas, Peter A., Scharf, Adria L., Keogh, Jim, November, 1998.)*

- In 1995, an analysis found that "positive and significant coefficients [are found] much more often than would be expected if there were no true relation between ESOPs and productivity." It was concluded that "the average estimated productivity difference between ESOP and non-ESOP firms is 5.3%, while the average estimated pre/post-adoption difference is 4.4% and the post-adoption growth rate is 0.6% higher in ESOP firms. *(Dr. Douglas Kruse of Rutgers University examined several different studies between ESOPs and productivity growth. Dr. Kruse cites two studies as part of his research: Kumbhakar and Dunbar's 1993 study of 123 public firms and Mitchell's 1990 study of 495 U.S. business units in public firms. Both reports found significant positive effects of greater productivity and profitability in the first few years after a company adopted an ESOP.)*

For additional information about ESOP or The ESOP Association, visit the website at www.esopassociation.org, call 1-866-366-3832, or email esop@esopassociation.org.

DOCUMENT 5

How to Learn Who Is “My” Member of Congress

If you don’t know who your Member of Congress is, there is a very easy way to find out.

To locate your Representative in the United States House of Representatives, visit the House of Representatives website at http://www.house.gov/ and near the top of the page, you’ll see a box that says “Find Your Representative.” In the box provided, enter your zip code and hit go. It will bring up a new page that lists your Representative. To visit your Representative’s website, click on the name.

To find your Members of Congress through The ESOP Association’s website, visit http://www.esopassociation.org/, and click on the Government Affairs link located at the top of the page. In the Government Affairs section, click on the Capitol Links button on the left hand side of the page. On the Capitol Links page, you will find links to the U.S. House of Representatives.

Each state has two Senators, and this information is found at http://www.senate.gov, go to box on right hand side of home page labeled, “Find Your Senators” And of course you can use The ESOP Associations home page as set for above, but click U.S. Senate under Capitol Links button.

DOCUMENT 6

Write, E-Mail, Fax, or Telephone:
Which One?

Since the advent of email, and since the Anthrax attack on Congress in 2001, when a “call to action” goes out to ESOP advocates, the question is always asked by the ESOP advocate of the national office—“Should I send a letter, an email, a fax, or should I telephone?”

There is no “best” answer, and which will be the most effective in terms of timeliness, and getting through to the decision maker depends on circumstances.

But what is <u>wrong</u> is to assume that an email is the best way to communicate to a member of Congress and his or her staff, as data indicates that the over hundreds of millions of emails received each year by the Congress is overwhelming, and have an impact only if, repeat, <u>***only if,***</u> the sender of the email has received (1) a specific request to send to a specific person in the Congressional office the email; or (2) a prior line of communications using emails was established <u>***prior to***</u> taking action on the matter that is the subject of the “call to action”.

If the matter is not time sensitive, in order words, the Congress and the members of Congress will not be asked to take action soon, a letter is suitable if the sender has no prior relationship with the member of Congress and the staff member.

Whether email, or fax, or letter, is always effective to follow up with a telephone call to the staff person who is responsible for briefing the member of Congress on tax, and ERISA laws.

Please note, the sample letters can become a script for a telephone presentation, and are obviously suitable for use as an email, or a faxed letter or memo.

Any questions never hesitate to call, or email, an ESOP Association staff member who works on Government Relations matters, 202.293.2971.

Document 7

Follow-Up: How Do We Make Sure Our Voice Is Heard?

Key to making sure a message is heard by a member of Congress is follow-up. Whether you communicated to your member of Congress via letter, email, fax, or phone call, you have to contact her or his office again, and often again.

Let's do a little role playing.

Assume you written your member of Congress urging him or her to convey concern to the Secretary of Labor about the negative proposal to increase the costs of private ESOP company ESOP transactions and operations. Wait about two weeks after your written communication, and then call that office – telephone number, Congressional switchboard is 202-224-3121, which will connect you to any office in the Capitol Hill complex – yes, it is old fashioned, real person operator service – or you can look up a member of Congress's direct phone number on the web – using www.esopassociation.org, government relations, capital links, or go direct to www.house.gov, or www.senate.gov, and use prompts to find your member of Congress home page.

The person answering the telephone will not be responsible for the Representative's/Senator's legislative staff work 99% of the time. So, you should ask to speak to the staff person who handles tax and/or ERISA issues for the Representative/Senator. Chances are high that you will be placed into that person's voice mail, and what you say initially would be the same whether the person takes the call, or you get that person's voice mail. Sample statement: "Yes, I am xxxxxxx, and I am calling about a proposed reg by the Department of Labor that will have a negative impact on [Name of Company] employee stock ownership plan. I wrote/called/fax'd/email'd our concerns on [date], and am following up to learn if Representative/Senator xxxxx has had a chance to review our concerns/position. I look forward to hearing from you."

If by chance you are talking to the staff person who handles tax and/or ERISA issues, more likely the person will say, "We have not had a chance to review this matter."

In this case say, "Okay. Do you mind if I touch base with you in about 10 working days to learn Representative/Senator xxxxxx's reaction to our request?"

At some point, whether it takes two calls, three calls, or even five calls, you will be given some kind of answer.

Once you have an answer consider strategizing with the national office of the Association by calling or emailing Michael Keeling, President, at 202.293.2971 or Michael@esopassociation.org.

But in the rare case where the staff person, or the Member wants to be cantankerous about ESOPs, or to argue with you, you have plenty of ammo in the enclosures in this advocacy kit, plus your own ESOP story to rebut each and every point someone cynical about ESOPS can make.
Remember, persistence wins the day, not brilliance, 90% of the time. Or, it was the tortoise that won the race, not the hare.

Also remember, any question, any time, contact The ESOP Association, government relations for consultation to make sure your voice is heard on behalf of your ESOP and your ESOP participants.

Document 8
"Be On Your Toes"

As obvious, this spring advocacy kit talks about "future" government action.

When will you know action of importance to ESOPs is just around the corner?

Simple, keep an eye on www.esopassociation.org for news –Home Page, be on the outlook for e-bulletins from The ESOP Association, but most important follow breaking news, 24-7, 365 days a year on our blog at http://esopassociationblog.org/