



The Congressional Company Visit Kit:

Summer 2014

Practical Steps For Unparalleled Results

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FOREWORD

Please note, if and your co-owners follow the enclosed steps to obtain a visit of a member of Congress, or his or her top staff person, to your company, and you let The ESOP Association know, we will supplement the following document with a short report on the member of Congress who will visit your company.

The report we will supply will tell you what prior record, if any, the member of Congress has on ESOP issues. The report will tell you what committees in Congress the member serves on, and what relevancy, if any, those committees have to ESOP laws. The report will tell you what the public record says is that member's prime interests as a legislator, and the major, if any, legislative initiatives the member of Congress is involved with. Finally this report will share any interesting data about the member who will visit your company that is relevant to her or his service in Congress, and/or issues.

For example, the report might contain information that the member of Congress was a small business person before going to Congress. This fact would be interesting in that most ESOP companies, and probably yours, are small, privately held businesses. The report might have information that the member recently served in the military. The report might have information that his or her predecessor was a strong supporter of ESOPs. The report might have information that she or he was a lawyer in a law firm that does ESOP legal work.

In other words, The ESOP Association stands ready to give you the most up to date information and ideas for a successful visit by a member of Congress to your company, which is our most important, and most powerful lobbying tool.

[Note: The reference to member of Congress includes a member of the U.S. Senate, or U.S. House of Representatives.]

Remember, the 2010 General Social Survey (GSS), the most prestigious survey of America next to the Census, provides overwhelming evidence that during the Great Recession of 2009, employees of employee-owned companies were four times less likely to be laid off than employees of conventionally-owned companies, and thus saved Uncle Sam over \$7 billion.

Your company's unique story is the **number one** advocacy tool you have; but the 2010 GSS provides macro evidence that encourages ESOP companies is good for America!

Congress and Tax Reform

House

Overview

The Chair of the House Tax Committee, Ways and Means, Dave Camp (R-MI) has put in motion a complete rewrite of the Internal Revenue Code.

First, he had the Committee staff working for the committee's majority, (Republicans) draft a tax reform bill for his colleagues to review.

While his proposal released on February 26, 2014, it is not expected to be formally considered by the Congress before 2015, his proposal will be the foundation for a re-write of our Federal income tax laws when Congress does formally consider a tax reform proposal, both in House and Senate.

His goal, and of senior Republican members, is to reduce the C corporate tax rate to no more than 25%, and individual rates to 25% and 10%, without reducing the revenue from the existing U.S. income tax regime.

To accomplish his and his Republican colleagues' goal, the Congress will have to eliminate, or significantly reduce, special tax law provisions, such as mortgage interest deduction, cap gains rate, local government bond tax treatment, and the list can go on.

On that list of special tax laws there are three major ESOP tax law special provisions. 1. S ESOPs are not currently taxed on the S ESOPs share of the S sponsors taxable income, but employee owners are taxed on value of ESOP distribution in the future, 2. Sellers of private C corporation stock may defer the tax on the sale of his/her stock to the ESOP under certain conditions; and 3. C Corporations may deduct value of dividends paid on ESOP stock under certain conditions.

(Note, ESOPs also are able to be established without getting specific permission from the Department of Labor. While not a direct tax benefit, some commentators have urged the House Ways and Means Committee to repeal this provision as part of the tax reform. In 1987, the Ways and Means Committee did consider, and rejected such a proposal.)

Now for some good news: The tax proposal put forward by Chair Camp on February 26, 2014, did not propose any modification of the special ESOP tax benefits! See <http://youtu.be/i2Y2ffbrWco>

This endorsement of ESOPs in the Camp Tax Reform proposal is very, very noteworthy because the proposal reduces special tax law benefits for the housing, insurance, energy industries, among many others, and impacts state and local governments, churches, charities, 401(k) plans, and many others.

What are ESOP advocates to do?

DON'T STOP NOW!

We won the first quarter, but there is still work to be done in the legislative process before a bill goes to the President.

Therefore the ESOP community needs to continue presenting to members of Congress that our nation's modest ESOP policies are to be maintained and expanded. We need members of Congress to demonstrate support for ESOP law by co-sponsoring any, or all pending pro ESOP legislative proposals.

As the handouts in this kit evidence, the vast majority of ESOP companies are more productive, more sustainable, and more profitable, providing locally controlled jobs.

But, as always, the most powerful story is your company's story; tell it; make it front and center; you and your fellow employee owners make the difference.

Ignore the Media's Advice to Ignore Tax Reform Developments

Do not be lulled into thinking there is no need to persuade members of Congress not to degrade, or eliminate ESOP tax benefits because the media says that Congress will not pass a tax reform bill in 2014.

The media is right! But so what?

The fact is if the House Ways and Means Committee approves a tax reform bill that impacts ESOPs negatively, that fact could impact your ESOP eventually. If Ways and Means approves a tax reform bill that does not harm ESOPs, that is a significant victory for ESOPs.

Why? Because historically, since 1921, what the Ways and Means Committee approves in a tax reform bill, 80% or so of that bill is eventually signed by the President of the United States.

So, until the Congress, whenever, sends legislation to a President to reform the Federal income tax laws, the ESOP community must continue to make a positive case to maintain, and even expand, positive law for ESOP creation and expansion.

Senate

The Chair of the Senate Finance Committee Ron Wyden (D-OR), and the Republican Ranking member are as dedicated to reforming the Federal income tax laws as is Chair Camp and his colleagues.

And while before he was Chair of the Senate Finance Committee, Senator Wyden introduced two very comprehensive tax reform bills in prior Congress.

His former tax reform proposals, like Chair Camp's did not propose reductions in ESOP tax benefits.

Chair Wyden makes it clear that the Senate Finance Committee will not draft a Federal tax reform bill in 2014. He states just as clearly, he intends to do so in 2015, or 2016.

Thus, when visiting with a Senator or her/his staff, it is important to be clear that your company, and its employee owners are appreciative for the support for ESOPs evident in Chair Camp's tax reform proposal, and evidenced in prior bills to reform Federal tax laws introduced by Chair Wyden.

THE CONGRESSIONAL-COMPANY VISIT KIT: PRACTICAL STEPS FOR UNPARELLED RESULTS

Introduction: This document establishes why having a member of Congress visit an ESOP company, your ESOP company, is the most important government relations activity you can undertake, and sets forth steps for arranging a visit, what might be done during the visit, and what is the follow-up to the visit. As noted, such an effort is more important now than ever.

Fact: The ESOP Association's members have advocated for ESOPs with members of Congress since 1980. There is one fact that has been consistent the entire time: This fact is that the most effective activity in obtaining the support for ESOPs from a member of Congress is having that member of Congress visit an ESOP company. The company visit is more effective than a visit in the member of Congress's home office and certainly more effective than visiting with a member of Congress in Washington DC. (Note, when using the term "member of Congress," included is a Senator.)

To make the factual case—since 1982, no member who has visited an ESOP company in his or her Congressional District or State has failed to take the pro-ESOP position. At worst, one member, who visited an ESOP company in 1985, took a neutral ESOP position after having taken a position not in favor of ESOPs in 1984. In fact, most members of Congress who have visited ESOP companies have become ESOP Champions, or even ESOP Super Champions.

The ESOP position of members of Congress who were exposed to ESOP advocates during DC visits by those advocates does not match the track record of those who have visited with an ESOP company in his or her home district or state.

In sum, if you want to have your member of Congress support pro-ESOP positions, the most effective step you could take would be to arrange a visit by that member of Congress to your company.

First Steps

The ESOP advocate will first want to contact the person who is the so-called District Administrator if the Congressperson's main district office in your area, or the Office Director if the Congressional office near you is a satellite office of his or her primary district office. Given that Congressional personnel frequently change, it is not fatal to not know name of the person. The name is usually on a member of Congress's web site, or call The ESOP Association. Congressional staff change rather often, thus it is not unusual for a website to be out of date. If you know the staff person's name, use it. A Senator has one main state office, and several regional offices as a rule. If her or his main state office is near you, you will ask to speak to the state Administrator, and if a satellite office, the Office Director.

In seeking an appointment through the District or State office, the best tactic is to call first to nail down who in that office might handle the member's schedule when s/he is home. Set forth below is a suggested telephone script.

“Congressional Office Phone Answering: Hello, [Congress][woman][man][Senator] [name] office. May I help you?”

ESOP Advocate: Yes, I am [name] and I work for [name of company]. We are an employee-owned, or ESOP company. We are located over on [street address, community, etc]. (*Tip:* Make it vivid where you are located in order to create a visual image. Remember, the person you are talking to probably has driven by, or has heard of your company – you are speaking to a fellow local citizen.) As an employee-owned company, we are required to comply with several federal laws and thus we are subject to being judged by Congress as to whether we are complying with the intent of those laws. I would like to speak to someone about having [Congress][woman][man]/[Senator] [name] visit our company in the near future and meet our people.

Congressional Aide: [Name] handles the [Congress][woman][man]/[Senator’s] schedule whiles/he is in the [district] [state]. I will see if s/he is available.

Person Handling Schedule: Yes, this is [name]. May I help you?

ESOP Advocate: Yes, I am [name] and I work for [name of company]. We are employee-owned, our [number] employee owners are more than aware that our employee ownership, through an ESOP, is subject to federal law, particularly Federal tax and retirement laws. We are located over on [address].

We would like to invite [Congress][woman][man]/Senator [name] to our company to see what we are doing and how the employee ownership program, through our employee stock ownership plan, or ESOP is benefiting our people and company. We would be honored for such a visit, and of course, we would at that time take a brief moment to highlight some of the key issues pending before Congress that might affect our employee owners negatively.

Congressional Aide: Well, I do not have the schedule for the [Congress][woman][man]/Senator’s next visit to our area, and I would have to review you invitation with him. It would be helpful if you would make your invitation in writing.

ESOP Advocates Response to This Response: Yes we intend to formalize our invitation in writing, and were seeking input on where the letter should go and to whose attention.

Congressional Aide’s Response to This Response: Okay, please send the letter to [name of Congressperson/Senator, at this office, marked to [my][name of someone else’s] attention, setting forth the information you just gave on the phone here. **Or, if the schedule is handled out of DC,** Well the schedule is handled out of DC, and write the [name of Congressperson/Senator at his/her DC office, and make it to the attention of his/her scheduler [name].

ESOP Advocate: I appreciate that information, and we will get out that letter today. Your time and attention to this matter is very much appreciated.”

Suggested Letter of Invitation for a Company Visit

Name of Member of Congress/Senator
Local Address/or DC is so instructed
City, State, Zip

Dear Representative/Senator [name]:

On behalf of the [number] employee owners of [name of company], located in [name of city] I spoke with [name of person you spoke to] about your visiting our company when you are home.

We are proud of our employee ownership through an employee stock ownership plan, or ESOP and we also know that Federal laws govern the program. We are also aware that pending before the Congress are positive ESOP proposals but we still read of certain groups questioning the values of ESOPs, including some in Federal agencies. We know you may have to make decisions on tax reform that may impact ESOPs.

We believe that the best way to judge the value of employee ownership is to see and meet those who are working with the ESOP in a company, and who are participating in the ESOP at a company.

We would be honored to host you at our office as your schedule permits and hope you can make time to meet with us in the near future.

As we know demands on your time are high, and you receive many requests for visits and appointments, we hope that you and your staff would not mind our checking on the status of this invitation in the weeks ahead. All of us would be honored to have you come.

Your consideration of our request is greatly appreciated.

Sincerely,

Name: *Tip: having several signatures on this letter is helpful.*

cc: [Name of Person Who You Talked To On Telephone]

Note: If you have made arrangements to email, the message is the same as the above letter.

How to Find Congressional Contacts

1. You can call The ESOP Association, and the information will be provided; or
2. Go on The ESOP Association's website, www.esopassociation.org and click on "Government Affairs." Once on Government Affairs, click on "Capitol Links." Once there, you can click onto the website of the U.S. Senate and U.S. House of Representatives. You can get the list of members, once you have yours, click to her or his website for addresses, telephone numbers, or often staff names. (Note, these Congressional member sites will have software for direct contact, or letter writing to these offices.)

Best Time for Visit

While it might be a truism to say, "anytime," or "better late than never," the fact is that having a member of Congress visit your company is best when there is **NO** ESOP government relations crisis. Waiting to interact with a member of Congress when there is a crisis means that the ESOP issue will be one of many issues that might be before the member for decision. And of these non-ESOP issues she or he may be more familiar with and has probably already taken a position on these issues. Such a situation means the ESOP issue might go way down the list of importance to that member of Congress.

So the best time to arrange a visit with a member of Congress is when there are no crisis ESOP issues to be decided by Congress, or in other words, **NOW**.

Specific Time: The best time for a Congressional visit would be during Employee Ownership Month at one of the company's EOM events, during October.

In odd numbered years, October, during the week, is not compatible for most Congressional company visits since Congress tends to be meeting the entire working week that month, except for the long weekend of Columbus Day, or, sometimes during a Jewish Holiday, which of course varies year to year.

In even numbered years, which are election years, October is a good month to try to get a Congressional visit, since Congress more often than not, recesses for the entire month of October before the early November general elections.

But the fact is that many companies do not have special events during EOM, and often, if the events are scheduled, they would not match the member of Congress's schedule.

In the third and fourth quarter here is when most Congresspeople are home and thus available for company visits.

- August through September Labor Day week, and any Jewish Holiday period in September.
- October, Columbus Day week, and any Jewish Holiday period in October.

- November, Veterans Day week, Thanksgiving week.
- December, Christmas week.

Special Events: Many companies have employee owner events that are not EOM related. For example, many companies have an all employee meeting when the new valuation is available, when statements are passed out, or an anniversary of the founding of the company, and similar events.

- Be flexible in suggesting a day and time for the visit. For example, “We would be able to welcome [Member of Congress] on either [day] at [time] or [time and date – mention two options]; or we can host [Congress [man] [woman] on [give some other dates.]
- Be prepared for changes. Schedules of elected officials can be notoriously unpredictable due to changes in the congressional schedule.

The Member of Congress Is Here—Now What?

The member of Congress more often than not arrives late, in a car driven by one of his or her district office aides. Please remember to take note of the aide and have someone in the company engage that person in conversation during the member of Congress’s visit. District staff often feel like the odd person out, but in many ways a District staff person is more influential with a member of Congress than anyone on the member of Congress’s Washington staff.

Make sure that people in your reception area know the member of Congress is coming. Have the welcoming delegation ready to come out quickly once notified by front desk personnel.

It is always positive to have on the bulletin board, or stand, a message of welcome for the member of Congress.

Now we come to the meat of the visit.

On the one hand it is dumb to just let the member wander around, or to sit in the conference room and have a disjointed conversation. On the other hand, it is dumb to act like you are afraid of the member of Congress engaging in conversations with employees. And it is a waste of time to permit the member Congress to give a speech, as that speech is more than likely going to take up the entire visit time. (Politicians like to give speeches, as one, they are usually good at it, and two, they do not have to make commitments if there is not time for the constituent to ask a question, or to make a request.)

A good way to think about your time with the member of Congress is that you have a plan of “organized spontaneity,” or “spontaneous organization.”

There is no question that each company should tailor the visit that best suits its culture and style.

Following is a typical approach:

- A delegation of four or five persons greet the member of Congress in the reception area. The group might include the employee owner chair of the ESOP/employee communications group—goes by various names in different companies as well as the CEO and two or three other senior executives.
- After the greeting, the delegation might escort the member into a conference room for a brief power point, or video about the company, and perhaps some information on its ESOP. The conference room group should include more than the three or four greeters, perhaps 10 or more persons, including, if there is one, the entire ESOP/employee committee group.
- After that presentation of the company and ESOP history, a walk around to see the company, stopping by different stations on the floor, or in the offices if not a manufacturing business, for an exchange of greetings is positive. Having one to three employee owners primed to comment on the ESOP at the company is powerful.
- After the walk around, the core delegation, the first four or five for example, or the CEO, and/or chair of the ESOP/employee committee, should take time, perhaps back in the conference room to make the “sale,” or in other words, to ask for the member of Congress to do “something” for ESOPs.

Now, this outline of a visit is an example, and again each company needs to implement the visit in accord with its own style and culture.

For example, many ESOP companies over the years have had positive results with all the corporate headquarters employees in a room and having just a power point, or video presentation about the company. Others just turn the member of the Congress loose on the company floor, and have him or her meet up with executives later. Others have the member join the early morning “team” session, where the day’s work load and assignments are discussed and divvied out. Others have the member join the annual meeting where the financials are discussed and statements of ESOP accounts handed out. Others have the member join the annual picnic, and its games. Other have the member come to the special event, such as an anniversary celebration and so on.

So flexibility is possible depending on the company, but again, do not leave the encounter to chance.

Helpful Tips for a Company Visit

- The visit is about the people and culture of your company. What makes your company unique? What does your company do/make?
 - Prepare a one page handout on company and ESOP for Member of Congress and staff.
- Get employee owners involved and most importantly, make sure they know when and why the member of Congress is visiting.
 - Provide some background on the member of Congress to the employee owners. You can find this information on his/her website.
 - Announce the visit by email, information in community rooms and on bulletin boards.
- Have a few employee owners ready to share their story about why the ESOP is important. Have a few employee owners ready to ask questions as well.
 - Prepare questions in advance to keep conversation flowing, such as:
 - [If Congressperson is a member of the House Committee on Ways and Means or Senate Committee on Finance:
 - Do you think that your committee will take up a big tax bill this year?
 - Do you think your committee will make any changes in ESOP tax law this year?
 - Or, a question about a “hot” topic local issue that has relevance to Congress such as: Do you think that there will be money soon to widen interstate X?]
 - [If Congressperson is NOT a member of either Congressional tax committee:
 - Will Congress take up a big tax bill this year?
 - Do you ever hear any talk about employee stock ownership?
 - The local “hot” issue.]
- Take pictures!
- Send out a press release announcing the visit.
- Most important – Remember to **close the sale!**

What Are You Selling, and How Do You Make the Sell?

It does not serve the ESOP cause well if the goal is to convert a member of Congress to the ESOP advocate status to let him or her come to your company, and do no more than pat employee owners on their backs.

It is true that it is sometimes unrealistic to expect a member of Congress to “buy” into the ESOP agenda based on his or her first experience. (If your member of Congress is already on the list of ESOP advocates, meaning he or she have publicly done something that is evidence of a pro-ESOP position that is part of the public record, then having the visit is super important to reinforce that member’s view that being for ESOPs is a good political posture to have.)

Please note the update or current Congressional work to enact a new Federal income tax code. This document below is so important it is a repeat of pages 5 and 6 of this kit.

Tax Reform Update: House

The Chair of the House Tax Committee, Ways and Means, Dave Camp (R-MI) has put in motion a complete rewrite of the Internal Revenue Code.

First, he had the Committee staff working for the committee’s majority, (Republicans) draft a tax reform bill for his colleagues to review.

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To accomplish his and his Republican colleagues’ goal, the Congress will have to eliminate, or significantly reduce all, special tax law provisions, such as mortgage interest deduction, cap gains rate, local government bond tax treatment, and the list can go on.

On that list of special tax laws there are three major ESOP tax law special provisions. 1. S ESOPs are not currently taxed on the S ESOPs share of the S sponsors taxable income, but employee owners are taxed on value of ESOP distribution in the future, 2. Sellers of private C corporation stock may defer the tax on the sale of his/her stock to the ESOP under certain conditions; and 3. C Corporations may deduct value of dividends paid on ESOP stock under certain conditions.

(Note, ESOPs also are able to be established without getting specific permission from the Department of Labor. While not a direct tax benefit, some commentators have urged the House Ways and Means Committee to repeal this provision as part of the tax reform. In 1987, the Ways and Means Committee did consider, and rejected such a proposal.)

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What are ESOP advocates to do?

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Therefore the ESOP community needs to continue presenting to members of Congress that our nation's modest ESOP policies are to be maintained and expanded. We need members of Congress to demonstrate support for ESOP law by co-sponsoring any, or all pending pro ESOP legislative proposals.

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Why? Because historically, since 1921, what the Ways and Means Committee approves in a tax reform bill, 80% or so of that bill is eventually signed by the President of the United States.

So, until the Congress, whenever, sends legislation to a President to reform the Federal income tax laws, the ESOP community must continue to make a positive case to maintain, and even expand, positive law for ESOP creation and expansion.

**For A Member of the House of
Representatives Visiting**

H.R. 4837

&

H.R. 2041

Enlist Support

For H.R. 4837

**The Promotion and Expansion
Of Private Employee Ownership
Act of 2014**

Enlist House Members to Support H.R. 4837

An important part of the 2014 Association agenda is to persuade as many members of the House as possible, to co-sponsor H.R. 4837, the “Promotion and Expansion of Private Employee Ownership Act of 2014”

For background, see

- Bullet points explaining H.R. 4837 provision; and
- Memo to members of Congress, or staff, visiting your company, asking the members of Congress to co-sponsor H.R. 4837.
- List of current co-sponsors

H.R. 4837 Co-sponsors As of 7-23-14 (14)

Sponsor

*Rep. David G. Reichert, R-8-WA

Co-sponsors

*Rep. Earl Blumenauer, D-3-OR
Rep. Suzanne Bonamici, D-1-OR
*Rep. Charles W. Boustany, Jr., R-3-LA
*Rep. Lynn Jenkins, R-2-KS
Rep. Michael G. Fitzpatrick, R-8-PA
*Rep. Ron Kind, D-3-WI
Rep. Gwen Moore, D-4-WI
*Rep. Richard E. Neal, D-1-MA
*Rep. Bill Pascrell, Jr., D-9-NJ
*Rep. Erik Paulsen, R-3-MN
Rep. Gary C. Peters, D-14-MI
*Rep. Peter J. Roskam, R-6-IL
Rep. C.A. Dutch Ruppersberger, D-2-MD
*Rep. Patrick J. Tiberi, R-12-OH

*on Ways and Means, the House Tax Committee

Summary of H.R. 4837
“Promotion and Expansion of Private
Employee Ownership Act of 2014”
(Introduced June 11, 2014)

H.R. 4837 will:

1. Permit owners of S stock to sell the stock to an ESOP and defer the capital gains tax on his/her gain if the proceeds are reinvested in the equities of U.S. operating corporations as owners of C corporations stock have done under IRC 1042 since 1984;
2. Permit lenders to S corporations with 50% or more ownership through an ESOP to exclude 50% of the interest from the loan, if used to acquire stock for the ESOP;
3. Establish an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;
4. Provide that a small business, S or C, eligible for one of the many programs provided by the Small Business Administration to remain eligible for SBA programs if the company becomes owned 50% or more by and ESOP, and the workforce remains the same or nearly the same as before the establishment of the 50% ownership by employees through the ESOP.

General Explanation

1. As evidenced in [name of your company] employee stock ownership plans are benefiting [name of company], our employees, and [name of your city or town.]
2. There is ample macro-data evidencing that the benefits our ESOP provides to [name of company] is also the case in the vast majority of privately-held ESOP companies in America.
3. H.R. 4837 is a modest proposal that will not cost any significant tax revenues, and will build even larger account balances for retired employee owners, who will pay more taxes on their ESOP distributions than the targeted tax expenditure for ESOPs in H.R. 4837. For example, more ESOPs will be created, certain existing ESOP small businesses will qualify for SBA loans, and all S ESOP private companies can access Treasury experts on the complex rules governing S ESOPs.
4. In short H.R. 4837 will address the growing concerns of individual access to ownership, equitable distribution of our nation’s capitalism, in companies that are more productive, more profitable, and more sustainable providing locally controlled jobs.

(This is the “one-pager” you can hand to the visiting member of Congress, or her/his aide.)

(Following are summaries of overwhelming evidence that the vast majority of private ESOP companies are more productive, more profitable, and more sustainable, providing locally controlled jobs.)

Employee Owner Impact Corporate Performance Positively Overwhelming Evidence ESOP Companies More Productive, More Profitable, and More Sustainable, Providing Locally Controlled Jobs

- During the Great Recession, employee stock owned companies laid off employees at a rate of less than 3%, whereas conventionally owned companies laid off at a rate greater than 12%. (Data source: 2010 General Social Survey.)
- Because employees of ESOP companies were four times more likely to retain jobs during the Great Recession, Federal government recognized savings of over \$14 billion in 2010 compared to tax payments foregone by laid off employees of conventionally owned companies; in other words for every \$1 in tax expenditures to promote employee stock ownership, the Federal government collected \$13 in taxes. (Data Source: 2010 General Social Survey analyzed by National Center for Employee Ownership.)
- A survey of 1400 ESOP companies in 2010 evidenced the average age of the companies' ESOPs were 15 years, and the average account balances for employees were nearly \$200,000, much higher than data reported for average 401(k) account balances. (The ESOP Company Survey, 2010, of The ESOP Association's of Corporate members.)
- According to 2012 General Social Survey, 13% of employees of employee stock-owned companies were thinking of seeking employment elsewhere, whereas 24% of the employees of conventionally-owned companies were considering leaving their current job.
- In the summer of 2013, the Employee Ownership Foundation released its 22nd Annual Economic Performance Survey (EPS). Since the annual survey began 22 years ago, a very large majority, 94% of survey respondents, reported that creating employee ownership through an ESOP was "a good business decision that has helped the company." It should be noted this figure has consistently been over 85% since 2000. In addition, 77% 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% of respondents reported profitability increased and 78% of respondents noted revenue increased. In terms of stock value, the majority of respondents, 83%, stated the company's stock value increased as determined by outside independent valuations; 14% of the respondents reported a decline in share value, and 3% reported no change. The survey also asked respondents what year the ESOP was established. Among those responding to this survey, the average age of the ESOP was 16 years with the average year for establishment being 1997.
- More than half of the ESOP companies have two retirement savings plan (primarily a 401(k)), whereas more than half of all companies have no retirement income savings plan. (Analysis of forms 5500, and Bureau of Labor Statistics by the National Center for Employee Ownership, funded by the Employee Ownership Foundation.)
- The average ESOP company (less than 200 employees) has sales \$9 million more per year than its non-employee owned comparable competition. (June 2008 Dissertation, Dr. Brent Kramer, CUNY.)
- A study of 1100 ESOP companies over eleven years compared to 1100 comparable conventional owned companies evidenced the 1100 ESOP companies had better sales, more employment, and were more likely over the period to remain independent businesses by 16%. (Most detailed study of ESOP companies by Dr. Joseph Blasi, and Dr. Douglas Kruse, tenured professors, Rutgers University School of Labor and Management, 1999.)

Suggested Handout to a House Member Who is Visiting IF NOT A Co-Sponsor of H.R. 4837

On June 11, 2014, a bi-partisan group of Ways and Means members introduced H.R. 4837, the Promotion and Expansion of Private Employee Ownership Act of 2014. This modest legislation would continue Congressional policies to encourage employee ownership through an employee stock ownership plan or ESOP, model, especially by S corporations.

The original sponsors are Representatives Reichert, Kind, Boustany, Blumenauer, Neal, Paulsen, Pascrell, and Tiberi. Since introduction 4 members of the House have joined efforts to promote private company employee ownership, including 2 more Ways and Means members.

Enclosed is a brief summary of the legislation.

We would respectfully ask that you review the provision of H.R. 4837 and consider co-sponsoring H.R. 4837.

ESOPs sponsor privately-owned corporations have a very positive 35 year track record of providing locally controlled jobs that provide significant benefits in a high performing company. For example, during the Great Recession of 2009, employees of employee-owned companies were four times less likely to be laid off than employees of conventionally-owned companies! (General Social Survey, February, 2010) See enclosed summary of new evidence supporting value of ESOPs to America, America's economy, and America's Jobs.

Please contact [Name] [anyone at Name of Company] for any questions. Or, if you wish, you or your staff, may ask the representative of The ESOP Association to visit your office for a full dialogue of questions you may have.

Attachment: Summary of H.R. 4837
Background Documents on ESOPs

Summary of H.R. 4837
“Promotion and Expansion of Private
Employee Ownership Act of 2014”
(Introduced June 11, 2014)

H.R. 4837 will:

1. Permit owners of S stock to sell the stock to an ESOP and defer the capital gains tax on his/her gain if the proceeds are reinvested in the equities of U.S. operating corporations as owners of C corporations stock have done under IRC 1042 since 1984;
2. Permit lenders to S corporations with 50% or more ownership through an ESOP to exclude 50% of the interest from the loan, if used to acquire stock for the ESOP;
3. Establish an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;
4. Provide that a small business, S or C, eligible for one of the many programs provided by the Small Business Administration to remain eligible for SBA programs if the company becomes owned 50% or more by and ESOP, and the workforce remains the same or nearly the same as before the establishment of the 50% ownership by employees through the ESOP.

General Explanation

5. As evidenced in [name of your company] employee stock ownership plans are benefiting [name of company], our employees, and [name of your city or town.]
6. There is ample macro-data evidencing that the benefits our ESOP provides to [name of company] is also the case in the vast majority of privately-held ESOP companies in America.
7. H.R. 4837 is a modest proposal that will not cost any significant tax revenues, and will build even larger account balances for retired employee owners, who will pay more taxes on their ESOP distributions than the targeted tax expenditure for ESOPs in H.R. 4837. For example, more ESOPs will be created, certain existing ESOP small businesses will qualify for SBA loans, and all S ESOP private companies can access Treasury experts on the complex rules governing S ESOPs.
8. In short H.R. 4837 will address the growing concerns of individual access to ownership, equitable distribution of our nation’s capitalism, in companies that are more productive, more profitable, and more sustainable providing locally controlled jobs.

(This is the “one-pager” you can hand to the visiting member of Congress, or her/his aide.)

(Following are summaries of overwhelming evidence that the vast majority of private ESOP companies are more productive, more profitable, and more sustainable, providing locally controlled jobs.)

Employee Owner Impact Corporate Performance Positively Overwhelming Evidence ESOP Companies More Productive, More Profitable, and More Sustainable, Providing Locally Controlled Jobs

- During the Great Recession, employee stock owned companies laid off employees at a rate of less than 3%, whereas conventionally owned companies laid off at a rate greater than 12%. (Data source: 2010 General Social Survey.)
- Because employees of ESOP companies were four times more likely to retain jobs during the Great Recession, Federal government recognized savings of over \$14 billion in 2010 compared to tax payments foregone by laid off employees of conventionally owned companies; in other words for every \$1 in tax expenditures to promote employee stock ownership, the Federal government collected \$13 in taxes. (Data Source: 2010 General Social Survey analyzed by National Center for Employee Ownership.)
- A survey of 1400 ESOP companies in 2010 evidenced the average age of the companies' ESOPs were 15 years, and the average account balances for employees were nearly \$200,000, much higher than data reported for average 401(k) account balances. (The ESOP Company Survey, 2010, of The ESOP Association's of Corporate members.)
- According to 2012 General Social Survey, 13% of employees of employee stock-owned companies were thinking of seeking employment elsewhere, whereas 24% of the employees of conventionally-owned companies were considering leaving their current job.
- In the summer of 2013, the Employee Ownership Foundation released its 22nd Annual Economic Performance Survey (EPS). Since the annual survey began 22 years ago, a very large majority, 94% of survey respondents, reported that creating employee ownership through an ESOP was "a good business decision that has helped the company." It should be noted this figure has consistently been over 85% since 2000. In addition, 77% 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% of respondents reported profitability increased and 78% of respondents noted revenue increased. In terms of stock value, the majority of respondents, 83%, stated the company's stock value increased as determined by outside independent valuations; 14% of the respondents reported a decline in share value, and 3% reported no change. The survey also asked respondents what year the ESOP was established. Among those responding to this survey, the average age of the ESOP was 16 years with the average year for establishment being 1997.
- More than half of the ESOP companies have two retirement savings plan (primarily a 401(k)), whereas more than half of all companies have no retirement income savings plan. (Analysis of forms 5500, and Bureau of Labor Statistics by the National Center for Employee Ownership, funded by the Employee Ownership Foundation.)
- The average ESOP company (less than 200 employees) has sales \$9 million more per year than its non-employee owned comparable competition. (June 2008 Dissertation, Dr. Brent Kramer, CUNY.)
- A study of 1100 ESOP companies over eleven years compared to 1100 comparable conventional owned companies evidenced the 1100 ESOP companies had better sales, more employment, and were more likely over the period to remain independent businesses by 16%. (Most detailed study of ESOP companies by Dr. Joseph Blasi, and Dr. Douglas Kruse, tenured professors, Rutgers University School of Labor and Management, 1999.)

Enlist Support

For H.R. 2041

**To Modify the Definition of Fiduciary
under the Employee Retirement
Income Security Act of 1974 to
Exclude Appraisers of Employee
Stock Ownership Plans**

Problems with DOL's ESOP Position

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.)

DOL, after a hearing protests about the proposed reg, by both Republicans and Democrats, withdrew the proposal; but DOL has promised to issue a similar rule in 2014. 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, and be subject to aggressive, needless lawsuits.

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.

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

H. R. 2041 Co-sponsors As of 7-16-14 (39)

Sponsor

Brett S. Guthrie, R-2nd-KY

Co-sponsors

Rep. Mark E. Amodei, R-2nd-NV
Rep. Andy Barr, R-6th-KY
Rep. Timothy Bishop, D-1st-NY
Rep. Charles W. Boustany, Jr. R-3rd-LA
Rep. Bruce L. Braley, D-1st-IA
Rep. John Campbell, R-45th-CA
Rep. Kevin Cramer, R-ATL-ND
Rep. Shelley Moore Capito, R-2nd-WV
Rep. John C. Carney, Jr., D-ATL-DE
Rep. Michael K. Conaway, R-11th-TX
Rep. Tom Cotton, R-4th-AR
Rep. Eric A. “Rick” Crawford, R-1st-AR
Rep. Michael G. Fitzpatrick, R-8th-PA
Rep. Tim Griffin, R-2nd-AR
Rep. Lynn Jenkins, R-2nd-KS
Rep. Steve King, R-4th-IA
Rep. Ann M. Kuster, D-2nd-NH
Rep. Tom Latham, R-3rd-IA
Rep. Robert E. Latta, R-5th-OH
Rep. David Loebsack , D-2nd-IA
Rep. Daniel B. Maffei, D-24th-NY
Rep. Carolyn McCarthy, D-4th-NY
Rep. Patrick Murphy, D-18th-FL
Rep. Kristi L. Noem, R-ATL-SD
Rep. Erik Paulsen, R-3rd-MN
Rep. Collin C. Peterson, D-7th-MN
Rep. James B. Renacci, R-16th-OH
Rep. Todd Rokita, R-4th-IN
Rep. Bradley S. Schneider, D-10th-IL
Rep. Aaron Schock, R-18th-IL
Rep. Austin Scott, R-8th-GA
Rep. Brad Sherman, D-30th-CA
Rep. Adrian Smith, R-3rd-NE
Rep. Glenn W. Thompson, D-5th-PA
Rep. Mike Thompson, D-5th-CA
Rep. Juan Vargas, D -51st-CA
Rep. Tim Walberg, R-7th-MI
Rep. Steve Womack, R-3rd-AR
Rep. Todd C. Young, R-9th-IN

H.R. 2041

H.R. 2041 – To modify the definition of fiduciary under the Employee Retirement Income Security Act of 1974 to exclude appraisers of employee stock ownership plans. (Introduced in House – IH)

HR 2041 IH

113th CONGRESS

1st Session

H. R. 2041

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 HOUSE OF REPRESENTATIVES

May 17, 2013

Mr. Guthrie (for himself, Mr. Loeb sack, and Ms. Jenkins) introduced the following bill; which was referred to the Committee on Education and the Workforce

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),''.

For A Senator

S. 742

&

S. 273

Bi-partisan Group of Senators Introduces and Sponsors Pro-Private Company ESOP Promotion Bill S. 742

Background: While there is a pro-ESOP tax bill pending in the Senate, with 19 sponsors, the letter now to Senators should differ from letters (communications) to those who are sponsors; and the letter (communication) should have focus on tax reform and ESOPs.

But for your information, set forth below is information on S. 742, “the Promotion and expansion of Private Employee ownership Act of 2013”, plus list of sponsors.

On April 17, 2013, seven members of the U.S. Senate introduced S. 742, the “Promotion and Expansion of Private Employee Ownership and Expansion of Private Employee Ownership and Expansion of Private Employee Ownership Act of 2013.” Four are members of the Senate Committee on Finance, which has jurisdiction over all ESOP tax instances. Two more Senators, both members of the Senate Finance Committee joined as co-sponsors recently.

They are: Senators Ben Cardin (D-MD), Pat Roberts (R-KS), John Thune (R-SD), Mary Landrieu (D-LA), Amy Klobuchar (D-MN), Debbie Stabenow (D-MI), Roy Blunt (R-MO), Mike Crapo (R-ID), and Sherrod Brown (D-OH).

As more ESOP advocates contact their Senators, we expect other sponsors. (The ESOP Association will notify you when a Senator from your state joins his/her colleagues taking the pro-ESOP position. Also, the Association lists Senators who have taken pro-ESOP positions on its website.)

Summary of S. 742’s substantive provisions are:

1. Would extend the gain deferral provisions of Internal Revenue Code Section 1042 to sales of employer stock to S corporation ESOPs. (I.R.C. 1042 permits sellers of C corporation stock to defer paying capital gains on the sale proceeds if, and only if, the ESOP owns 30% of the company stock, and the seller reinvests her/his proceeds in the securities of another U.S. operating corporation. When disposing of the securities acquired with proceeds from the sale to the ESOP, the seller pays the capital gains tax on his/her gain based on his/her basis in the shares sold to the ESOP.
2. Would mandate the establishment of an “S Corporation Employee Ownership Assistance Office” by the Department of Treasury to foster increased employee ownership of S corporations. The S Corporation Employee Ownership Assistance Office would be required to provide education and outreach to inform people about the possibilities and benefits of employer ownership of S corporations and would provide technical assistance for companies that may be interested in forming an S corporation ESOP. The Department of Treasury would be required to establish the S Corporation Employee Ownership Assistance Office within 90 days after the date of enactment of the bill.
3. Would permit an SBA certified small business, C or S, to be eligible for SBA 8A preference programs to maintain its eligibility after becoming majority-owned by an ESOP, if employee demographics remain the same. Since the passage of ERISA in 1974, SBA has taken the unfair position that when a small business is eligible for SBA 8A preference programs such as women, minority etc. becomes majority owned by an ESOP, it is no longer eligible for SBA 8A preference programs, even though the workforce remains the same or nearly the same. Such a position has had unfair results such as a minority-owned, SBA eligible company with a 100% minority workforce is no longer deemed to be so after ESOP majority ownership.

Employee Owner Impact Corporate Performance Positively Overwhelming Evidence ESOP Companies More Productive, More Profitable, and More Sustainable, Providing Locally Controlled Jobs

- During the Great Recession, employee stock owned companies laid off employees at a rate of less than 3%, whereas conventionally owned companies laid off at a rate greater than 12%. (Data source: 2010 General Social Survey.)
- Because employees of ESOP companies were four times more likely to retain jobs during the Great Recession, Federal government recognized savings of over \$14 billion in 2010 compared to tax payments foregone by laid off employees of conventionally owned companies; in other words for every \$1 in tax expenditures to promote employee stock ownership, the Federal government collected \$13 in taxes. (Data Source: 2010 General Social Survey analyzed by National Center for Employee Ownership.)
- A survey of 1400 ESOP companies in 2010 evidenced the average age of the companies' ESOPs were 15 years, and the average account balances for employees were nearly \$200,000, much higher than data reported for average 401(k) account balances. (The ESOP Company Survey, 2010, of The ESOP Association's of Corporate members.)
- According to 2012 General Social Survey, 13% of employees of employee stock-owned companies were thinking of seeking employment elsewhere, whereas 24% of the employees of conventionally-owned companies were considering leaving their current job.
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- A study of 1100 ESOP companies over eleven years compared to 1100 comparable conventional owned companies evidenced the 1100 ESOP companies had better sales, more employment, and were more likely over the period to remain independent businesses by 16%. (Most detailed study of ESOP companies by Dr. Joseph Blasi, and Dr. Douglas Kruse, tenured professors, Rutgers University School of Labor and Management, 1999.)

**Current List of Sponsors of S. 742
“The Promotion and Expansion of Private
Employee Ownership Act of 2013”**

**As of 7-16-14
Sponsors (20)**

Sen. Tammy Baldwin (D-WI)
Sen. Roy Blunt (R-MO)
*Sen. Sherrod Brown (D-OH)
*Sen. Ben Cardin (D-MD)
Sen. Susan M. Collins (R-ME)
*Sen. Mike Crapo (R-ID)
Sen. Al Franken (D-MN)
Sen. John Hoeven (R-ND)
Sen. Tim Johnson (D-SD)
Sen. Amy Klobuchar (D-MN)
Sen. Mary L. Landrieu (D-LA)
Sen. Patrick J. Leahy (D-VT)
Sen. Jerry Moran (R-KS)
Sen. James E. Risch (R-ID)
*Sen. Pat Roberts (R-KS)
Sen. Bernard Sanders (I-VT)
*Sen. Debbie Stabenow (D-MI)
Sen. Jon Tester (D-MT)
*Sen. John Thune (R-SD)
Sen. Sheldon Whitehouse (D-RI)

***Senate Finance Committee**

Summary of S. 742's substantive provisions are:

1. Would extend the gain deferral provisions of Internal Revenue Code Section 1042 to sales of employer stock to S corporation ESOPs. (I.R.C. 1042 permits sellers of C corporation stock to defer paying capital gains on the sale proceeds if, and only if, the ESOP owns 30% of the company stock, and the seller reinvests her/his proceeds in the securities of another U.S. operating corporation. When disposing of the securities acquired with proceeds from the sale to the ESOP, the seller pays the capital gains tax on his/her gain based on his/her basis in the shares sold to the ESOP.
2. Would mandate the establishment of an "S Corporation Employee Ownership Assistance Office" by the Department of Treasury to foster increased employee ownership of S corporations. The S Corporation Employee Ownership Assistance Office would be required to provide education and outreach to inform people about the possibilities and benefits of employer ownership of S corporations and would provide technical assistance for companies that may be interested in forming an S corporation ESOP. The Department of Treasury would be required to establish the S Corporation Employee Ownership Assistance Office within 90 days after the date of enactment of the bill.
3. Would permit an SBA certified small business, C or S, to be eligible for SBA 8A preference programs to maintain its eligibility after becoming majority-owned by an ESOP, if employee demographics remain the same. Since the passage of ERISA in 1974, SBA has taken the unfair position that when a small business is eligible for SBA 8A preference programs such as women, minority etc. becomes majority owned by an ESOP, it is no longer eligible for SBA 8A preference programs, even though the workforce remains the same or nearly the same. Such a position has had unfair results such as a minority-owned, SBA eligible company with a 100% minority workforce is no longer deemed to be so after ESOP majority ownership.

S. 273

S. 273 (H.R. 2041) – To modify the definition of fiduciary under the Employee Retirement Income Security Act of 1974 to exclude appraisers of employee stock ownership plans. (Introduced in the Senate)

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),`.

**S. 273 Co-Sponsors
As of 7-16-14
Co-Sponsors (8)**

Sponsor

Sen. Kelly Ayotte, R-NH

Co-sponsors

Sen. Roy Blunt, R-MO

Sen. Susan M. Collins, R-ME

Sen. Amy Klobuchar, D-MN

Sen. Mary L. Landrieu, D-LA

Sen. Mitch McConnell, R-KY

Sen. Rand Paul, R-KY

Sen. John Thune, R-SD

Sen. Pat Toomey, R-PA

Problems with DOL's ESOP Position

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.)

DOL, after a hearing protests about the proposed reg, by both Republicans and Democrats, withdrew the proposal; but DOL has promised to issue a similar rule in 2014. 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, and be subject to aggressive, needless lawsuits.

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.

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

The Follow-Up

As powerful as a Congressional visit is to an ESOP company in winning support for ESOPs in Congress, it is not the end all of the be all. To really nail down the case for ESOPs, follow-up is crucial. Since follow-up is so crucial, this fact makes it even more important that the ESOP advocates that hosted the Congressional visit have a reason to follow-up, such as asking politely if the member has declared for ESOPs.

Number one, it goes without saying that a nice letter of appreciation from the company, and as many of its employees as it desires, to the member of Congress for his or her visit, that **mentions** by name the staff person[s] who facilitated the trip must be written.

Other Follow-Up Steps: Under the theory that one does not grow Congressional support overnight, but cultivates it month after month, and year after year, the host of a Congressional visit should take every opportunity to renew, or exchange greetings with the member and/or her or his staff.

For example, let's assume you are attending the 2013 Annual Conference in DC. Try to drop by the office of the member of Congress that visited your company at some other time during the Conference, or the day before if you arrive early. If the member of Congress has not signed on to the pro-ESOP legislation, it is a perfect time to make inquiry about the review process again.

For example, let's assume your company is having a grand celebration, or opening a new building, or marking a milestone—invite the member of Congress to the event, thinking ahead of time of those periods of the year that the member of Congress might be in her or his state or Congressional district.

For example, let's assume you read in the newspaper, or received a notice that the member of Congress was going to have a town hall meeting in your community, or near your community, or conduct the new, popular telephone town hall meeting, when thousands can call-in and ask, and listen, to their member of Congress answer. Make a point to attend, or call, and before the formal Q&A period, or after the close, make a point to go up to the member of Congress and shake hands, reminding her or him of his visit. Don't forget, if the member of Congress local staff person is with him, the same person who came to your company, shake that person's hand as well, and exchange pleasantries, expressing appreciation once again for the visit. (Avoid town hall meetings until the health care debate ends.)

(Nothing is more powerful than that staff person to say in the car as they drive away, "You know, those ESOP people sure are nice.")

Fall Back

If after several tries, it is not possible to schedule a visit for your member of Congress to visit your company, why not visit the member at his/her District office? While this meeting is not as effective as a company visit in terms of introducing a member of Congress to your company and its culture, it is another way to reach out to your member of Congress.

This meeting is a great opportunity to bring employee owners to the meeting to tell your company's story and ask for his/her support of ESOPs and employee ownership in America.

Super Duper Fall Back

It is not easy to fit into the schedule of a member of Congress, particularly a Senator who might be in your part of the state only occasionally. No matter what you or your colleagues might think of a member of Congress, they have tremendous demands on their time. There is fortunately a very good fallback position that pays dividends for a future visit by the member of Congress.

If a member of Congress cannot schedule a visit to your company in the near term, ask the top staff person in the district or state office to make a visit. Treat the visit similar to one by a member of Congress, ending the visit with the presentation of the “sales” pitch.

Worthless waste of your time to have a young whipper snapper, hot-shot Congressional aide visit your company? Not at all, as that young person will be riding around the Congressional district or state with the member of Congress many, many hours, with not a great deal to talk about. (Unfortunately, cell phones, and Smart phones have cut down car talk time between the member of Congress and his or her staff car driver.)

For example, once a company tried and tried and tried to get a Senator to visit their company. Finally they settled on having the state director come to the company. Then in a few weeks that person was riding down the turnpike with the Senator and mentioned that he had visited with a company just off the exit they were passing, and it was a really special company—an ESOP company. The staff man said that the company leaders had invited the Senator to visit, and that he thought that the Senator should do that. The Senator came. The Senator chaired an important committee of Congress, and upon returning to DC told his committee staff that he wanted an employee owner to testify at the next appropriate committee hearing. The employee owner came. Also testifying that day was the Secretary of Labor. He was impressed. He was tasked by the President to have a “seminar/symposium” in Chicago on the work place of tomorrow. He remembered the employee owner. He invited him to testify before the President of the United States. The President of the United States was impressed. It is all on tape.

Never feel you failed if you have the staff person visit your company first.

Conclusion

HAVING A MEMBER OF CONGRESS BECOME AN ESOP CHAMPION IS NOT A ONE TIME EFFORT. ON THE OTHER HAND, THE FIRST ONE TIME EFFORT SHOULD BE A VISIT TO THE ESOP COMPANY, AS IT IS THE MOST EFFECTIVE LOBBYING TOOL IN THE ESOP ADVOCATES KIT. THE DATA FROM THE PAST 32 YEARS PROVES THIS STATEMENT AS A FACT.

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.

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

Since email has become the most common method of communication, 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 wrong 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, only if, 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 prior to taking action on the matter that is the subject of the “call to action”.

If the matter is not time sensitive, in other 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.

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 xxxxxx 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.

“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/>