



# The ESOP Association

## *Advocacy Kit*

Spring 2015

**Keeping Your ESOPs  
Strong: What We Need  
To Do!**



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

**Remember: YOU ARE THE ANSWER**

*“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

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## Why Speak UP?

<b>Document 1:</b>	Pro-ESOP Tax Bill Introduction
<b>Document 2:</b>	Strategy, Goals and Tactics
<b>Document 3:</b>	Enlist House Members to Support H. R. 2096
<b>Document 3A:</b>	ESOP House Advocates
<b>Document 3B:</b>	Summary of H.R. 2096 (Same as H.R. 4837 in Last Congress)
<b>Document 3C:</b>	Suggested Communication to a Member of the House Who <b>Is</b> a Sponsor of H.R. 2096
<b>Document 3D:</b>	Suggested Communication to a Member of the House Who Sponsored H.R. 4837 in 2014, but Is <b>Not Yet</b> a Sponsor of H.R. 2096
<b>Document 3E:</b>	Suggested Communication to ESOP House Advocate Who Has <b>Not</b> Sponsored H.R. 4873 or H.R. 2096
<b>Document 3F:</b>	Suggested Communication to a House Member with <b>No</b> Public Record of Supporting ESOPs
<b>Document 3G:</b>	Enclosures for Suggested Communication 3C through 3F
<b>Document 4:</b>	Enlist Senators to Support S. 1212
<b>Document 4A</b>	ESOP Senate Advocates
<b>Document 4B:</b>	Summary of S. 1212 (Same as S. 742 in Last Congress)
<b>Document 4C:</b>	Suggested Communication to a Senator Who <b>Is</b> a Sponsor of S. 1212
<b>Document 4D:</b>	Suggested Communication to a Senator Who Sponsored S. 742 but Is <b>Not Yet</b> a Sponsor of S. 1212
<b>Document 4E:</b>	Suggested Communications to an ESOP Advocate Who Have <b>Not</b> Sponsored S. 742 or S. 1212
<b>Document 4F:</b>	Suggested Communication to a Senator with <b>No</b> Public Record of Supporting ESOPs
<b>Document 4G:</b>	Enclosures for Suggested Communication 4C through 4F
<b>Document 5:</b>	Other Points You May Wish to Add
<b>Document 6:</b>	How to Learn Who Is “My” Member of Congress
<b>Document 7:</b>	Write, Email, Fax, or Telephone: Which One?
<b>Document 8:</b>	Follow Up: So How Do We Make Sure Our Voice Is Heard?
<b>Document 9:</b>	<u>SUPER IMPORTANT</u> : Be “On Your Toes”

## Why Speak Up?

ESOP advocates need to continue to be “on their toes”, as accepting as the gospel truth what the media proclaims as the “truth” can lead to nasty surprises if and when Congress decides to send to a President, this year, or three years from now, a tax reform bill. Keep in mind, a tax reform bill eliminates, or reduces, special tax laws that favor certain behavior by certain taxpayers.

ESOP tax laws are considered in the category of special tax laws that favor ESOP companies, ESOP employees, and those who sell stock to enable a company create an ESOP.

(Also note, that despite overwhelming evidence that in the vast majority of ESOPs are more profitable, more productive, providing sustainable jobs while building more than adequate retirement savings for ESOP participants, there is still a clique of law professors, who of course have no credentials for doing objective research of economic or social policy, that have published in many law journal articles since 1990 that imply ESOPs are a national scandal, cheating average pay employees out of their retirement security in order to enrich men and women selling their stock to an ESOP. These voices, hidden in publications that have a limited readership, will dominant discussion about ESOPs unless women and men who are participants in ESOPs stand up for what their companies do, and how they do it.)

Since 1990, The ESOP Association primary advocacy strategy has been premised on executing the view that the best defense is a good offense. Thus our community has staved off negative views of ESOP law for over 25 years, and has seen the enactment of positive ESOP law permitting S corporations to sponsor ESOPs beginning in 1998.

The offense consists of having a pro-ESOP bill introduced in Congress so that the ESOP community can have members of Congress declare for ESOPs by co-sponsoring the pro-ESOP legislation. Often the “ask” is done with the very impressive company visits by members of Congress.

Again, sitting on the sidelines because cable TV hooters and hollers love to tell you that our Congress is full of do nothing jerks can mean your ESOP could be diminished, or better put, your ESOP account diminished, if and when the tax laws are reviewed and possibly altered, and you sat on the sidelines.

# DOCUMENT 1

## Pro-Private ESOP Company Tax Bill Introduced in House and Senate

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### Overview

Last year (2014) first quarter the focus was the unveiling of a tax reform bill by the then Chair of the House Tax Committee, Ways and Means. To lower tax rates, he proposed eliminating or reducing many special tax rules. But his proposal did not “touch” current special ESOP tax laws.

But “stuff” is still staring the ESOP community in the face with regard to tax reform.

The Senate Tax Committee, Senate Finance Committee in the first half of 2015 has been developing a comprehensive tax reform bill.

So, ESOP advocates as has been the case since 1990 must follow the sports adage that the best defense is a good offense.

In sum, ESOP advocates need to urge Senators to sponsor S. 1212, and Representatives to sponsor H.R. 2096, to promote private company ESOPs.

In doing so, ESOP advocates can – after making the best case for ESOPs, which is the story of their own companies – provide the evidence that employee stock ownership through the ESOP model is good public policy.

So, following, in this ESOP Advocacy Kit is what you need in addition to your best message – your own company story – to persuade your Senators and your Representatives to be for positive ESOP laws.

## DOCUMENT 2

### House/Senate Pro-ESOP Bill: In Line with Strategy, Goals and Tactics

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#### **House/Senate Pro-ESOP Tax Bill: In Line with Strategy, Goals, and Tactics**

Even in the current Congress, the 114<sup>th</sup> of our nation, where fewer bills are being introduced, and very few bills are being considered by either the House or the Senate, it might be simple to yawn about the April 29<sup>th</sup> introduction of H.R. 2096 by eight members of the House Ways and Means Committee -- four Republicans and four Democrats. A similar bill was introduced in the Senate on May 6, 2015, also with bi-partisan support - Republicans and Democrats.

But to dismiss the introduction of H.R. 2096, and S. 1212 (One-Two, One-Two) would be a mistake by the ESOP community and its advocates. Having supporters of ESOPs who are members of the House and Senate tax committees, which are arguably the most important Committees in Congress, put their names on a bill that represents a modest expansion of law to encourage ESOP creation and operation is a big deal for implementation of The ESOP Association's advocacy strategy, The ESOP Association's advocacy goals, and The ESOP Association's tactical implementation of its strategy.

The ESOP Association's strategy to reach its goal is simple, and straightforward: Do what is necessary to protect and expand all laws that promote the creation of employee ownership through the ESOP model, and that aid positively the operation of ESOPs in existence.

The goal is to have the group responsible for the laws and regulations that impact the promotion and operation of ESOPs, i.e. the Congress of the United States, do nothing to diminish the incentives to create ESOPs and to help in their operation by the ESOP corporate sponsor, and to add to the laws, regulations, and incentives to create ESOPs and to help in their operation.

The grand tactic to reach the goal is to be active with what can be loosely referenced as an "offense" for more and better ESOP laws. The specific tactic is to have legislation that can be used to implement the grand tactic.

To be more plain spoken -- having a pending bill that ESOP advocates can use to ask a member of Congress to endorse formally, by putting her or his name of the list of members of Congress that have declared "for" ESOPs, is essential in developing a "defense" against any effort to repeal or reduce pro-ESOP laws.

Why? The dynamic of how a member of Congress decides to relay to her and his colleagues the provisions of law s/he does not want to change, or that s/he wishes to expand, relates primarily to prior declarations of policy positions.

Qualified observers of decision-making by members of Congress have noted that the number of issues, the multitude of requests, sometimes impolite demands, from their “customers” --- i.e. voters --- are many, and can be muddled. There are literally thousands of matters that impact the well-being of the United States, domestic and foreign. The demands on members of Congress can of course vary from one section of the country to the next, and are from both the less government is best view and from the government should do more view.

Given the huge number of issues, it is noted that a member of Congress’s brain becomes like a “collage,” with little pictures and writings numbering in the hundreds on a bulletin board. When an issue comes up, the member runs a mental check to see if that issue is “on his/her bulletin board,” and is it a positive on the bulletin board, or a negative?

Take ESOP issues for example. Let’s assume that the Chair of the tax committee of Congress is leading an effort to re-write the Federal income tax laws by lowering the tax rates, but making sure the lower rates do not raise the Federal deficit. To not increase the deficit, the proposed tax code will have to eliminate or reduce special tax benefits. In response, the staff, after hearings, or briefings, prepares a list of special tax laws that can be repealed in order to raise more tax money in order to offset tax revenue loss due to lower rates.

Let’s assume that on the staff list are all the special ESOP tax rules, and an estimate that repealing those special ESOP provisions will mean X billion more tax revenues to be used to offset the cut in the tax rates. The Chair of the tax committee will want to know from his/her colleagues if they have any objection to getting rid of the ESOP tax benefits.

The response will depend on what has been placed on each member’s collage of issues. If the ESOP picture is a memory of, “Yes, I sponsored a pro-ESOP tax bill after visiting and hearing from employee owners in my district, and I have staked out a pro-ESOP position,” that member is more than likely to say to the Chair, “No, let’s keep the special ESOP rules, and find some other ways to raise the tax revenues needed.”

The outcome, ESOP positive law is retained.

What is set forth above was a general explanation of the dynamics of first quarter 2014 when the then Chair of the Ways and Means Committee, Dave

Camp's (R-MI) released a tax reform proposal on February 26, 2014, that did not cutback on positive ESOP law after input from his committee colleagues.

Over 100 members of Congress have had formally endorsed ESOPs in the recent Congresses by co-sponsoring pro-ESOP legislation, and reports are some of these people conveyed to Chair Camp that they did not wish to abandon their pro-ESOP position.

But sitting back and not pushing for renewed declarations of support for ESOPs in the 114<sup>th</sup> Congress because of what happened in the last Congress would mean that when the tax committees sit down in 2015, 2016, or 2017 to consider repealing tax benefits, including ESOP tax benefits, it might result in the key members' collage having that ESOP picture further back in the corner of their brain, and perhaps faded in prominence.

So, it is important that ESOP advocates seek their members of Congress to sponsor H.R. 2096 in the House, and for the Senators to sponsor S. 1212 (One-Two, One-Two) in the Senate.

The Association's website will post names of sponsors of S. 1212 (One-Two, One-Two), H.R. 2096, and those who sponsored pro-ESOP positions in earlier congresses.

## **Enlist Support**

**For H.R. 2096**



## **DOCUMENT 3**

### **Enlist House Members to Support H.R. 2096**

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An important part of the 2015 Association agenda is to persuade as many members of the House as possible, to sponsor H.R. 2096, the “Promotion and Expansion of Private Employee Ownership Act of 2015”.

For background, see

- List of Current Members of House Who Are “ESOP Advocates”.
  
- Bullet points explaining H.R. 2096 provision; and
  
- Suggested letter, or e-mail to members of House of Representatives, or staff, asking members of the House to sponsor H.R. 2096.
  
- Additional points you may include in letter/e-mail or conversation in person or via telephone with a House member or her/his staff.

## DOCUMENT 3A

### ESOP House Advocates

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Those House members with two asterisks \*\* by their name are sponsors of H.R. 2096 in the current Congress, and were sponsors in last Congress (2013-2014) of the same bill H.R. 4837.

Those House members with one asterisk \* by their name were sponsors of H.R. 4837 in last Congress (2013-2014) which was the same as H.R. 2096.

Those House members with the number "1" after their name sponsored H.R. 2096, but not last Congress's H.R. 4837. (i.e. "new" ESOP advocates!)

Consider sending House members with two (2) asterisks \*\* the suggested letter Document 3C.

Consider sending House member with number "1" after their name the suggested letter Document 3C.

Consider sending House members with one (1) asterisk \* the suggested letter Document 3D.

Consider sending House members with **no** \*, the suggested letter Document 3E.

Consider sending House members who are **not** on the list of ESOP Advocates the suggested letter Document F.

#### As of May 21, 2015

Congressman Mark E. Amodei (R-NV)	*Congressman Joe Courtney (D-CT)
**Congressman Brad Ashford (D-NE)	*Congressman Kevin Cramer (R-ND)
Congressman Andy Barr (R-KY)	Congressman Eric A. "Rick" Crawford (R-AR)
Congressman Rob Bishop (R-UT)	Congressman John Culberson (R-TX)
Congressman Timothy H. Bishop (D-NY)	*Congressman Danny Davis (D-IL)
*Congresswoman Diane Black (R-TN)	Congressman Rodney Davis (R-IL) <sup>1</sup>
**Congressman Earl Blumenauer (D-OR)	Congressman Robert Dold (R-IL) <sup>1</sup>
Congressman John Boehner (R-OH)	Congressman John Duncan, Jr. (R-TN)
*Congresswoman Suzanne Bonamici (D-OR)	*Congressman Michael G. Fitzpatrick (R-PA)
Congresswoman Madeleine Bordallo (D-GU)	Congressman Randy Forbes (R-VA)
**Congressman Charles Boustany, Jr. (R-LA)	Congressman Rodney P. Frelinghuysen (R-NJ)
Congressman Kevin Brady (R-TX)	**Congressman Bob Goodlatte (R-VA)
Congressman Vern Buchanan (R-FL)	Congressman Sam Graves (R-MO)
Congressman Larry Bucshon (R-IN)	Congressman Gene Green (D-TX)
Congressman Ken Calvert (R-CA)	Congressman Raul Grijalva (D-AZ)
Congressman John C. Carney (D-DE)	Congressman Brett Guthrie (R-KY)
Congressman Andre Carson (D-IN)	Congresswoman Vicky Hartzler (R-MO)
Congressman Steve Chabot (R-OH)	Congressman Joseph Heck (R-NV)
Congresswoman Donna M. Christensen (D-VI)	*Congressman Michael Honda (D-CA)
*Congressman Emanuel Cleaver (D-MO)	Congressman Randy Hultgren (R-IL)
Congressman James Clyburn (D-SC)	*Congresswoman Lynn Jenkins (R-KS)
Congressman Michael K. Conaway (R-TX)	Congresswoman Eddie Bernice Johnson (D-TX)
*Congressman Gerald E. Connolly (D-VA)	Congressman Sam Johnson (R-TX)
<sup>1</sup> Congressman John Conyers, Jr. (D-MI)	Congressman Walter Jones, Jr. (R-NC)

Congresswoman Marcy Kaptur (D-OH)  
\*\*Congressman Ron Kind (D-WI)  
Congressman Steve King (R-IA)  
Congressman Adam Kinzinger (R-IL)  
\*Congresswoman Ann M. Kuster (D-NH)  
Congressman John Larson (D-CT)  
Congressman Robert E. Latta (R-OH)  
Congresswoman Barbara Lee (D-CA)  
Congressman Sander Levin (D-MI)  
\*Congressman John Lewis (D-GA)  
\*Congressman David Loebsack (D-IA)  
Congressman Billy Long (R-MO)  
Congressman Frank Lucas (R-OK)  
Congressman Blaine Luetkemeyer (R-MO)  
Congresswoman Carolyn Maloney (D-NY)  
\*\*Congressman Kenny Marchant (R-TX)  
\*Congressman Tom Marino (R-PA)  
Congresswoman Betty McCollum (D-MN)  
Congressman James McGovern (D-MA)  
Congressman David McKinley (R-WV)  
\*Congresswoman Cathy McMorris Rodgers (R-WA)  
Congressman Jeff Miller (R-FL)  
\*\*Congresswoman Gwen Moore (D-WI)  
Congressman Patrick Murphy (D-FL)  
Congressman Tim Murphy (R-PA)  
\*\*Congressman Richard Neal (D-MA)  
\*Congresswoman Gloria Negrete McLeod (D-CA)  
\*Congresswoman Kristi Noem (R-SD)  
Congressman Alan Nunnelee (R-MS)  
Congressman Pete Olson (R-TX)  
\*\*Congressman Bill Pascrell, Jr. (D-NJ)  
\*\*Congressman Erik Paulsen (R-MN)  
\*Congressman Collin Peterson (D-MN)  
Congresswoman Chellie Pingree (D-ME)  
Congressman Joseph Pitts (R-PA)  
Congressman Ted Poe (R-TX)  
Congressman Jared Polis (D-CO)

Congressman Bill Posey (R-FL)  
Congressman Mike Quigley (D-IL)  
Congressman Charles Rangel (D-NY)  
\*Congressman Tom Reed (R-NY)  
\*\*Congressman David Reichert (R-WA)  
Congressman James B. Renacci (R-OH)  
Congressman Reid Ribble (R-WI)  
Congressman Dana Rohrabacher (R-CA)  
Congressman Todd Rokita (R-IN)  
\*Congressman Peter Roskam (R-IL)  
Congresswoman Ileana Ros-Lehtinen (R-FL)  
Congressman Edward Royce (R-CA)  
\*Congressman C.A. Dutch Ruppersberger (D-MD)  
Congressman Paul Ryan (R-WI)  
\*Congresswoman Janice Schakowsky (D-IL)  
Congressman Bradley Schneider (D-IL)  
Congressman Austin Scott (R-GA)  
\*Congressman James Sensenbrenner (R-WI)  
Congressman Jose Serrano (D-NY)  
Congressman Pete Sessions (R-TX)  
Congressman Brad Sherman (D-CA)  
Congressman Adrian Smith (R-NE)  
\*\*Congressman Jason T. Smith (R-MO)  
\*Congressman Steve Stivers (R-OH)  
\*Congressman Glenn Thompson (R-PA)  
\*Congressman Mike Thompson (D-CA)  
Congressman William Thornberry (R-TX)  
\*\*Congressman Patrick Tiberi (R-OH)  
Congressman Michael Turner (R-OH)  
Congressman Juan Vargas (D-CA)  
Congressman Tim Walberg (R-MI)  
Congressman Greg Walden (R-OR)  
Congressman Timothy Walz (D-MN)  
Congressman Peter Welch (D-VT)  
Congressman Steve Womack (R-AR)  
\*Congressman Kevin Yoder (R-KS)  
Congressman Todd Young (R-IN)

**DOCUMENT 3B**  
Summary of H.R. 2096  
“Promotion and Expansion of Private  
Employee Ownership Act of “2015”  
Introduced April 29, 2015

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H.R. 2096 will:

- 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;
- 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;
- Establish an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;
- 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.

**DOCUMENT 3C**  
Suggested Communication to a  
Member of the House Who  
**IS A Sponsor of H.R. 2096**  
(Two \*\*, or a "1" after their Name on Document 3A)

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

Dear Representative [Name]:

[I][We] work at [Name of Company].

[Name of Company] sponsors an employee stock ownership plan, or ESOP. [Give a few facts about the company's ESOP such as (Company Name) established employee ownership through its ESOP in \_\_\_\_\_. Our ESOP holds XX % of (Company Name). Or other points about the company.]

[I][We] write to express sincere appreciation for you sponsoring H.R. 2096 that would encourage the creation and operation of ESOPs. [I][We] take special note that your endorsement of broad-based ownership in our capitalistic economy was evidenced by you in the prior Congress, as you sponsored a similar bill in 2014.

With the impressive bi-partisan support of H.R. 2096, [I][We] believe that Congress should follow your lead and seriously consider making H.R. 2096 law, or sections of H.R. 2096 law. (Enclosed is a one-page summary of the impressive macro-data evidencing ESOPs in the vast majority of instances are more productive, providing sustainable jobs while building impressive account balances for employees.

Again, we thank you for supporting a pro-ESOP agenda: H.R. 2096.

Sincerely,

Name[s]"

Enclosure:

Summary of H.R. 2096  
Summary of Data from Research of  
ESOP Companies Performance

**DOCUMENT 3D**  
Suggested Communication to a  
Member of the House Who  
Sponsored H.R. 4837  
**Not** a Sponsor of H.R. 2096  
(One\* on Document 3A)

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

Dear Representative [Name]:

[I][We] write on behalf of the employee owners of [name of company], which established its employee stock ownership plan, ESOPs, in (xxxx).

[I][We] continue to appreciate your open and public support of broad-based ownership of our capitalistic economy as evidenced by your sponsoring H.R. 4873 in the last Congress. On April 29<sup>th</sup> of this year the same proposal was introduced as H.R. 2096.

H.R. 2096 would encourage the creation and operation of private company ESOPs. It was introduced by a bi-partisan group of eight members of the Ways and Means Committee – 4 Republicans and 4 Democrats. (Representative Reichert was the lead sponsor.)

[I][We] would respectfully request that you consider sponsoring H.R. 2096, as you did H.R. 4873. Enclosed is a summary of H.R. 2096, as well as a summary of the overwhelming 35 plus years of data that is the vast majority of instances, ESOP companies are more productive providing more sustainable jobs than conventionally-owned businesses, while building significant amounts of wealth for the employees of the ESOP companies.

Your consideration of [may][our] request is appreciated.

Sincerely,

Name[s]”

Enclosures:  
Summary of H.R. 2096  
Summary of Data from Research of  
ESOP Companies Performance

**DOCUMENT 3E**  
Suggested Communication to  
ESOP Advocates in the House  
Because of Public Support but Who  
Have **Not** Sponsored H.R. 4873 or H.R. 2096  
(Does Not have \* or \*\* on Document 3A)

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

Dear Representative [Name]:

[I][We] write on behalf of the employee owners of [name of company], which established its employee stock ownership plan, ESOPs, in (xxxx).

[I][We] continue to appreciate your open and public support of broad-based ownership of our capitalistic economy as evidenced by your public stand support in the past.

[I][We] bring to your attention that on April 29<sup>th</sup> of this year H.R. 2096 was introduced by a bi-partisan group of eight members of the Ways and Means Committee – 4 Republicans and 4 Democrats. (Representative Reichert was the lead sponsor.) Since introduction 7 more of your colleagues have sponsored H.R. 2096: 4 Republican and 3 Democrats.

H.R. 2096 would encourage the creation and operation of private company ESOPs. Enclosed is a summary of H.R. 2096, as well as a summary of the overwhelming 35 plus years of data that is the vast majority of instances, ESOP companies are more productive providing more sustainable jobs than conventionally-owned businesses, while building significant amounts of wealth for the employees of the ESOP companies.

Your consideration of [may][our] request is appreciated.

Sincerely,

Name[s]”

Enclosures:

Summary of H.R. 2096  
Summary of Data from Research of  
ESOP Companies Performance

**DOCUMENT 3F**  
Suggested Communication to a  
Member of the House Who **IS NOT**  
on List of ESOP Advocates – Document 3A

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“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.

On April 29, 2015, a bi-partisan group of Ways and Means members introduced H.R. 2096, the Promotion and Expansion of Private Employee Ownership Act of 2015. 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 7 members of the House have joined efforts to promote private company employee ownership.

Enclosed is a brief summary of the legislation.

We would respectfully ask that you review the provision of H.R. 2096 and consider co-sponsoring H.R. 2096.

Privately-owned corporations with ESOPs 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.

Sincerely,

Name[s]”

Enclosures: Summary of H.R. 2096  
Background Documents on ESOPs



## **Document 3G**

### **Enclosures for Letters 3C-3F**

#### Summary of H.R. 2096 “Promotion and Expansion of Private Employee Ownership Act of “2015”

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H.R. 2096 will:

- 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;
- 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;
- Establish an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;
- 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 an ESOP, and the workforce remains the same or nearly the same as before the establishment of the 50% ownership by employees through the ESOP.

## **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 1,400 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 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 2014, the Employee Ownership Foundation released results from the 23<sup>rd</sup> Annual Economic Performance Survey (EPS) of ESOP companies. Since the Employee Ownership Foundation's annual economic survey began 23 years ago, a very high percentage, 93% of survey respondents, have consistently agreed that creating employee ownership through an ESOP was "a good business decision that has helped the company." It should be noted that this figure has been over 85% for the last 14 years the survey has been conducted. In addition, 76% of respondents indicated the ESOP positively affected the overall productivity of the employee owners. In terms of revenue and profitability --- 70% of respondents noted that revenue increased and 64% of respondents reported that profitability increased. In terms of stock value, the majority of respondents, 80%, stated the company's stock value increased as determined by outside independent valuations; 18% of the respondents reported a decline in share value; 2% 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 1998.
- 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 Senate Support For  
S. 1212**

## **DOCUMENT 4**

### **Enlist Senators to Support S. 1212**

---

An important part of the 2015 Association agenda is to persuade as many members of the Senate as possible, to sponsor S. 1212 the “Promotion and Expansion of Private Employee Ownership Act of 2015”.

For background, see

- List of Current Senators Who Are “ESOP Advocates”.
  
- Bullet points explaining S. 1212 provisions; and
  
- Suggested letter, or e-mail to members of the Senate, or staff, asking Senators to sponsor S. 1212.
  
- Additional points you may include in letter/e-mail or conversation in person or via telephone with a Senate member or her/his staff.

## DOCUMENT 4A

### List of Senate ESOP Advocates

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Those Senators with two asterisks \*\* by their name are sponsors of S. 1212 in the current Congress, and were sponsors in last Congress (2013-2014) of the same bill S. 742.

Those Senators with a “1” after their names are sponsors of S. 1212 in the current Congress, but did not sponsor S. 742 in prior Congresses.

Those Senators with one asterisk \* by their name were sponsors of S. 742 in last Congress (2013-2014) which was the same as S. 1212, but have not yet sponsored S. 1212.

Those Senators with no asterisk by their name have endorsed in the public record employee ownership via the ESOP model in years prior to 2013.

If your Senator[s] is not on the list, The ESOP Association has no direct knowledge of her/his view of ESOPs.

Senators with two (2) asterisks \*\* **or** a “1” after their name should receive the suggested letter Document 4C.

Senators with one (1) asterisk \* should receive the suggested letter Document 4D.

Senate ESOP advocates **without** a \* should receive suggest letter Document 4E.

Senators whose position on ESOPs is **not** set forth in public record should receive suggested letter Document 4F.

**As of May 21, 2015**

Senator Kelly Ayotte (R-NH) <sup>1</sup>	Senator Mark Steven Kirk (R-IL) <sup>1</sup>
**Senator Tammy Baldwin (D-WI)	**Senator Amy Klobuchar (D-MN)
Senator Richard Blumenthal (D-CT)	**Senator Patrick Leahy (D-VT)
**Senator Roy Blunt (R-MO)	Senator John McCain (R-AZ)
*Senator Sherrod Brown (D-OH)	Senator Mitch McConnell (R-KY)
Senator Richard Burr (R-NC)	Senator Robert Menendez (D-NJ)
*Senator Maria Cantwell (D-WA)	*Senator Jerry Moran (R-KS)
Senator Shelley Moore Capito (R-WV)	Senator Rand Paul (R-KY)
**Senator Ben Cardin (D-MD)	*Senator Gary C. Peters (D-MI)
Senator William Cassidy (R-LA)	Senator Rob Portman (R-OH)
**Senator Susan M. Collins (R-ME)	**Senator James E. Risch (R-ID)
Senator Tom Cotton (R-AR)	**Senator Pat Roberts (R-KS)
**Senator Michael Crapo (R-ID)	**Senator Bernard Sanders (I-VT)
Senator Michael B. Enzi (R-WY)	Senator Jeanne Shaheen (D-NH)
**Senator Al Franken (D-MN)	**Senator Debbie Stabenow (D-MI)
Senator Charles Grassley (R-IA)	*Senator Jon Tester (D-MT)
Senator Orrin Hatch (R-UT)	Senator Pat Toomey (R-PA)
**Senator Heidi Heitkamp (D-ND)	**Senator John Thune (R-SD)
*Senator John Hoeven (R-ND)	**Senator Sheldon Whitehouse (D-RI)
Senator Johnny Isakson (R-GA)	Senator Ron Wyden (D-OR)
Senator Angus S. King, Jr. (I-ME)	

**DOCUMENT 4B**  
Summary of S. 1212  
“Promotion and Expansion of Private  
Employee Ownership Act of 2015  
Introduced May 6, 2015

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S. 1212 will:

- 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;
- Establish an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;
- Provide that a small business, S or C, eligible for one of the many programs provided by the Small Business Administration referred to as 8A preference programs to remain eligible for SBA 8A programs if and when the company becomes owned 50% or more by an ESOP, and the workforce remains the same or nearly the same as before the establishment of the 50% ownership by employees through the ESOP.

**DOCUMENT 4C**  
Suggested Communication to a  
Senator Who **IS** A  
Sponsor of S. 1212  
(Two \*\* or a "1" after their Name on Document 4A)

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“Senator [Name Senator]  
U.S. Senate  
Washington, DC 20510

Dear Senator [Name]:

[I][We] work at [Name of Company].

[Name of Company] sponsors an employee stock ownership plan, or ESOP. [Give a few facts about the company’s ESOP such as (Company Name) established employee ownership through its ESOP in \_\_\_\_\_. Our ESOP holds XX % of (Company Name). Or other points about the company.].

[I][We] write to express sincere appreciation for you sponsoring S. 1212 that would encourage the creation and operation of ESOPs. [I][We] take special note that your endorsement of broad-based ownership in our capitalistic economy was evidenced by you in the prior Congress, as you sponsored a similar bill in 2014.

With the impressive bi-partisan support of S. 1212, [I][We] believe that Congress should follow your lead and seriously consider making S. 1212 law, or sections of H.R. 2096 law. Enclosed is a one-page summary of the impressive macro-data evidencing ESOPs in the vast majority of instances are more productive, providing sustainable jobs while building impressive account balances for employees.

Again, we thank you for supporting a pro-ESOP agenda: S. 1212.

Sincerely,

Name[s]”

Enclosures

Summary of S. 1212  
Summary of Data from Research of  
ESOP Companies Performance

**DOCUMENT 4D**  
Suggested Communication to a  
Senator Who Sponsored S.742  
**Not** a Sponsor of S. 1212  
(One\* on Document 4A)

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“Senator [Name of House Member]  
U.S. Senate  
Washington, DC 20510

Dear Senator [Name]:

[I][We] write on behalf of the employee owners of [name of company], which established its employee stock ownership plan, ESOPs, in (xxxx).

[I][We] continue to appreciate your open and public support of broad-based ownership of our capitalistic economy as evidenced by your sponsoring S. 742 in the last Congress. On May 6<sup>th</sup> of this year the same proposal was introduced as S. 1212.

S. 1212 would encourage the creation and operation of private company ESOPs. It was introduced by a bipartisan group of fourteen members of the Senate – 7 Republicans and 7 Democrats. (Senator Cardin was the lead sponsor.) Two Independent Senators, one Democrat, and one Republican have sponsored since May 6.

[I][We] would respectfully request that you consider sponsoring S. 1212, as you did S. 742. Enclosed is a summary of S. 1212, as well as a summary of the overwhelming 35 plus years of data that is the vast majority of instances, ESOP companies are more productive providing more sustainable jobs than conventionally-owned businesses, while building significant amounts of wealth for the employees of the ESOP companies.

Your consideration of [may][our] request is appreciated.

Sincerely,

Name[s]”

Enclosures:

Summary of S. 1212  
Summary of Data from Research of  
ESOP Companies Performance



**DOCUMENT 4E**  
Suggested Communication to  
ESOP Advocates in the Senate  
Because of Public Support but Who  
Have **Not** Sponsored S. 742 or S. 1212  
(Does Not have \* or \*\* on Document 4A)

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“Senator [Name Senator]  
U.S. Senate  
Washington, DC 20510

Dear Senator [Name]:

[I][We] write on behalf of the employee owners of [name of company], which established its employee stock ownership plan, ESOPs, in (xxxx).

[I][We] continue to appreciate your open and public support of broad-based ownership of our capitalistic economy as evidenced by your actions that are set forth in public records.

S. 1212 would encourage the creation and operation of private company ESOPs. It was introduced by a bi-partisan group of fourteen members of the Senate – 7 Republicans and 7 Democrats. (Senator Cardin was the lead sponsor.) Two Independent Senators, one Democrat, and one Republican have sponsored since May 6.

[I][We] would respectfully request that you consider sponsoring S. 1212, as you did S. 742. Enclosed is a summary of S. 1212, as well as a summary of the overwhelming 35 plus years of data that is the vast majority of instances, ESOP companies are more productive providing more sustainable jobs than conventionally-owned businesses, while building significant amounts of wealth for the employees of the ESOP companies.

Your consideration of [may][our] request is appreciated.

Sincerely,

Name[s]”

Enclosures:

Summary of S. 1212  
Summary of Data from Research of  
ESOP Companies Performance

**DOCUMENT 4F**  
Suggested Communication to  
ESOP Advocates in the Senate  
Because of Public Support but Who  
Have **Not** Sponsored S. 742 or S. 1212  
(Does Not have \* or \*\* on Document 4A)

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“Senator [Name 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.

On May 6, 2015, a bi-partisan group of fourteen of the Senate introduced S. 1212, which were seven Republicans and seven Democrats, since May 6, two Independents and one Democrat and one Republican have joined their colleagues. This modest legislation would continue Congressional policies to encourage employee ownership through an employee stock ownership plan or ESOP, model, especially by S corporations.

Enclosed is a brief summary of the legislation.

We would respectfully ask that you review the provision of S. 1212 and consider sponsoring S. 1212.

Privately-owned corporations with ESOPs 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 on 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.

Name[s]”

Enclosures:

Summary of S. 1212  
Summary of Data from Research of  
ESOP Companies Performance

**Document 4G**  
**Enclosures for Letters 4C-4F**

**Summary of S. 1212**  
**“Promotion and Expansion of Private**  
**Employee Ownership Act of 2015”**  
**(Introduced May 6, 2015)**

S. 1212 will:

- 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;
- Establish an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;
- Provide that a small business, S or C, eligible for one of the many programs provided by the Small Business Administration referred to as 8A preference programs to remain eligible for SBA 8A programs if and when the company becomes owned 50% or more by an ESOP, and the workforce remains the same or nearly the same as before the establishment of the 50% ownership by employees through the ESOP.

# 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 1,400 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 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 2014, the Employee Ownership Foundation released results from the 23<sup>rd</sup> Annual Economic Performance Survey (EPS) of ESOP companies. Since the Employee Ownership Foundation's annual economic survey began 23 years ago, a very high percentage, 93% of survey respondents, have consistently agreed that creating employee ownership through an ESOP was "a good business decision that has helped the company." It should be noted that this figure has been over 85% for the last 14 years the survey has been conducted. In addition, 76% of respondents indicated the ESOP positively affected the overall productivity of the employee owners. In terms of revenue and profitability --- 70% of respondents noted that revenue increased and 64% of respondents reported that profitability increased. In terms of stock value, the majority of respondents, 80%, stated the company's stock value increased as determined by outside independent valuations; 18% of the respondents reported a decline in share value; 2% 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 1998.
- 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.)

## DOCUMENT 5

### Other Points You May Wish to Add to Your Letter

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**Special Points to Include, as you wish in verbal, or written (letter or e-mail) exchange with your Representatives (s) or her/his staff:**

**For H.R. 2096:**

- 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.]
- 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.
- H.R. 2096 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. 2096. 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.
- In short H.R. 2096 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.

**For S. 1212:**

- 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.]
- 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.
- S. 1212 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 S 1212. 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.
- In short S. 1212 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.

## DOCUMENT 6

### How to Learn Who Is “My” Member of Congress

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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 7

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

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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.

## Document 8

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

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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 asking him or her to sponsor H.R. 2096 or S. 1212. 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](http://www.esopassociation.org), government relations, capital links, or go direct to [www.house.gov](http://www.house.gov), or [www.senate.gov](http://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 [your name], and I am calling about proposed pro-ESOP legislation (H.R. 2096) (S. 1212). I wrote/called/ fax'd / email'd about (H.R. 2096) (S. 1212) on [date], and am following up to learn if Representative/Senator [name] has had a chance to review our request. 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 [name'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](mailto: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 9

### “Be On Your Toes”

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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](http://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/>