EsopCentre

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it's our business

newspad of the Employee Share Ownership Centre

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WELCOME

In this issue

From the life president

Esop barrister David Pett has made a compelling case in his paper for Intelligence Forum, arguing for change in the UK tax and company law regime. "We need a regime which encourages sustainable independent ownership of successful businesses, not one which incentivises them to sell out and run away".

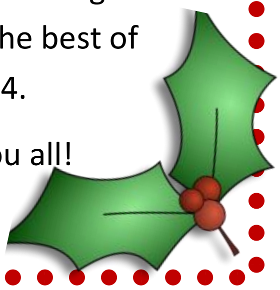
He points out that neither John Lewis or EOTs are employee-owned; they are owned by trusts and their employees cannot benefit from the growth in value to which they contribute.

His paper has been passed to HMRC and fellow speaker at the event Lady Hayman has sent it to the shadow Treasury team. Let us hope that either this government or the next seize this opportunity to create a more prosperous Britain.

Malcolm Hurlston CBE

Seasons Greetings: All at the Centre – president Malcolm Hurlston CBE; chairman Robert Pay and Juliet Wigzell wish members and friends the best of health and happiness in 2024.

A very joyful New Year to you all!



TOP STORIES

Autumn statement

Chancellor, Jeremy Hunt, presented his Autumn Statement 2023 speech on Wednesday November 22. He announced a number of measures with the aim of stimulating growth while continuing to control inflation. This is likely to be the last Autumn Statement before the next general election, which must be held by January 28 2025 but is expected to be called by autumn 2024.

There were no new announcements directly for incentive plans, but among the key measures, as announced in the Spring Budget 2023, legislation in the Autumn Finance Bill 2023 will extend the time limit to notify HMRC of a grant of EMI options from 92 days following the grant to July 6 following the end of the tax year in which the grant was made.

The time limit for the introduction of legislation to extend the existing sunset clauses for the EIS and VCT scheme will be extended from April 6 2025 to April 6 2035. This will continue the availability of Income and Capital Gains Tax reliefs for investors in new shares issued before this date by EIS qualifying companies and VCTs. The changes will take effect in accordance with regulations made by HM Treasury. The extension of the Enterprise Investment Scheme (EIS) sunset clause is a huge win for the startup ecosystem, ensuring future growth opportunities for companies receiving funding through EIS/SEIS.

Centre member **Tapestry Compliance** commented: “As expected, there was little change specifically on incentive plans in the Autumn Statement, but there will potentially be some changes to be made in processes and communications as a result of some of the more general updates.

“The changes to social security rates will take effect on January 1 2024 (which is different timing from the UK’s usual tax changes in April), so payroll teams will need to take action to ensure that this additional change will be incorporated into UK payroll processes ahead of time. Companies will want to ensure employee communications and guides on tax and social security remain up-to-date.

“The changes to ISAs will be welcomed to the extent these create greater flexibility for savers. In the context of incentive plans, it is expected that a greater number of participants will be looking at ISAs as a mechanism for capital gains tax planning on shares coming out of tax-advantaged Sharesave (SAYE) and Share Incentive Plans (SIPs), with the capital gains tax annual exempt amount having been reduced to £6,000 from April 2023, and dropping further to £3,000 from April 2024. Companies may wish to consider how much financial guidance or information they offer in relation to this, and with annual tax-free amounts falling for both capital gains and dividend tax. This is an area where employee communications may need revising or updating to ensure that plan participants are aware of their obligations to pay."

Centre member **Travers Smith** took the view "For businesses, the biggest headline is the permanent adoption of full expensing, allowing companies to claim a 100 percent deduction for capital expenditure in the year in which it is incurred. Billed as 'the largest business tax cut in modern British history', this measure comes at a sizeable cost to the Exchequer of around £11bn a year by 2028, but is clearly intended to promote investment in future years which will offset this cost.

"Another headline measure for innovative businesses is the merger of the R&D tax credits for SMEs and large companies into a single scheme. While billed as a simplification measure aimed at incentivising R&D expenditure, the changes come at a relatively limited cost given that many SMEs will now enjoy less generous reliefs for R&D.

In many ways, for all of the positive noise, this was a modest fiscal event, but not without its notable points and certainly interesting in terms of showing a direction of travel, with the possibility of more tax cuts to come in the spring – if a General Election doesn't arrive before that…"

A useful 'At a glance' summary of the key tax announcements and measures is provided by Ross Martin.

The case for change

Centre member David Pett, barrister at Temple Tax Chambers, asserts that there is a strong case for a change in the UK's tax (and company law) regime to allow and encourage employees, workers and others who contribute their personal services towards the business of a trading company, to be able both:

⇒ to participate in dividends out of profits generated annually on shares held on their behalf collectively in a trust; and

⇒ to benefit from growth in value of shares which they may acquire on and after appointment, and dispose of on or after leaving (or after a reasonable holding period).

We need a regime which encourages sustainable independent ownership of successful businesses, not one which positively incentivises individual shareholders to sell out and run away. We need a UK version of the German "Mittelstand". Very broadly, our existing tax regime encourages the sale of successful private trading companies. It does not, as in many European countries, allow and encourage the maintenance of independence through succession of family and employee ownership.

The idea of "companies with employee ownership" (as opposed to "employee-owned companies") being "a good thing" was recognised by the former coalition government and model documentation to support its implementation was published on the Dept for Business website in 2013. It remains accessible. By contrast, the EOT regime was independently devised by HM Treasury (no consultation with the Dept for Business as it then was).

The policy behind EOT legislation should be to balance the interests of company proprietors - so they have a financially viable alternative to selling the company to a trade buyer, private equity or other investors - with the interests of employees who should be able to benefit personally from the growth in value to which they contribute. Employees should be able to do so in a manner which is taxed no less favourably than if they were private investors.

As things have stood since 2014, the balance is firmly in favour of vendor proprietors. They receive total exemption from tax, and employees have little opportunity to benefit (even if they were the people for whom the EOT regime was enacted – the clue being in the title!).

Here's an example to illustrate the current position: rather than sell a company worth, say, £10m to a trade buyer keen to acquire it, and accept a CGT bill (assuming entitlement to BADR) of 10 percent on the first £1m, and 20 percent thereafter, Mr X can instead sell 75 percent to an EOT for £7m (discounted to reflect the size of the holding) of which £2m is paid upfront, and retain 25 percent with a view to waiting until after the end of the next tax year.

Then, the trustees (who may well be effectively controlled by the original vendors) agree to join in a sale to the trade buyer for £10m in aggregate. If the trustees' 75 percent is sold for, £7.5m, the trust fund (after tax of 20 percent on their gain, over the nil inherited base cost of Mr X, and payment of the balance remaining of the £4m consideration due to Mr X is left with £2.5m to be distributed among the qualifying employee beneficiaries, subject to PAYE income tax and NICs. Mr X will have received £7m tax-free, and £2.5m subject to CGT (of which £1m is at the reduced BADR rate of 10 percent).

The paper then summarises what might be done:

> First, to improve the EOT regime in order to enable and allow individual employees to benefit from distributions of profits and capital growth, and secondly to enable all employees, workers, consultants and contractors of an independent company (or member of an independent trading group of companies) to benefit likewise and with a tax treatment no less favourable other investors receive.

Follow this link to read David's paper in full.

British Isles Share Plans Symposium—April 25 2024

Under the heading: *Employee Share Plans – Beyond the 1%*, next year's symposium will focus on increasing productivity through an uplift in the percentage of total equity in employee ownership. If at least 10 percent of equity is in the hands of employees, as is frequent in France, this should give productivity a boost and benefit all investors. The programme will include interactive panel sessions based on content accessible in advance online. The in-person session will be on the afternoon of Thursday April 25 2024, at the central London offices of White & Case. The *newspad* awards presentation will close the symposium, followed by a drinks reception.

A preliminary programme can be viewed on the event's webpage.

Thank you to British Isles Employee Share Plan Symposium host

WHITE & CASE

Admission rates:

*Delegates from **plan issuer companies** will be admitted **free** of charge.*

Practitioners:

Members: £450; Non-members: £800

Trustees:

Members: £400; Non-members: £650

Multi-booking discount: **50%** off cost of ticket for your **third delegate**.

**All prices are subject to UK standard rate VAT*

There will be limited opportunities to attend remotely for members not able to travel to London.

To register a delegate email:

events@esopcentre.com or phone the team on +44 (0)207 562 0586

Esop Sofa webinar - January 16

The Centre's next Esop Sofa-*newspad* Review will be at 11:00am on Tuesday January 16 2024. Join our panel of share schemes issuers and experts for in depth discussion of their pick of articles featured in recent editions. Registration is open.

Employee ownership in German-speaking countries

On November 29, the Centre attended a round-table discussion, hosted by IAFP and Associations, on employee ownership in German speaking countries. An international group including delegates from Germany, France, Slovenia, Netherlands, Canada and the UK heard presentations from L'Oreal, University of Groningen, Mit-Nehmer.com; Veolia; and Deutches AktienInstitut.

Jessica Geng and Jean-Yves Jouan-Auzeby of international companies L'Oreal and Veolia respectively, described their companies' employee share programmes – L'Oreal is a relative newcomer to Eso, launching its first share plan in 2018, while Veolia has a longer tradition, starting in 2004 when Vivendi was spun off. Both companies offer purchase plans with varying levels of matching shares.

L'Oreal offered its 2022 Esop to 63,865 eligible employees in 63 countries – 37,000 employees are now shareholders, holding 1.86 percent of the company's equity.

Veolia, which has 220,000 employees working in 58 countries, 90 percent of whom are blue collar workers, aims to get five percent of the company's share capital in the hands of employees.

Focusing on the German speaking countries, the group learnt that:

- Indirect employee ownership schemes work best in Austria and Switzerland.
- For German developments see *world newspad* later in this issue.
- The three countries share a similar culture, with barriers to Esop take up being high levels of uncertainty avoidance and the unpopularity of stocks (in Germany less than 10 percent of the population is interested in stock markets).
- Generally in European countries there are no trusts and cooperative law is used to form EOT style arrangements.

Newspad awards 2023

The Centre is accepting submissions for the 2023 *newspad* all-employee share plan awards.

The *newspad* awards recognise the achievements of companies which offer employee share plans and hold up best practice models for other companies to follow.

If your company or client made a notable contribution to employee share ownership, issued an inspirational share plan or showed excellence in its communication and presentation; has been creative in using share plans to overcome significant changes or challenging situations, increasing participation or using technology; or maybe upped its game through the enthusiasm of the chairman or ceo; then why not tell the world about it?

Companies can nominate themselves or advisers can make submissions on clients' behalf. Entrants can apply for awards in more than one category.

Submitting nominations is free and simple. Required information is kept to a minimum. Clarity matters more than length. The deadline for nominations is 17:00 on **Friday January 12 2024**.

The awards present a great opportunity to celebrate your company's or clients' achievements.

The award categories this year are:

1. **Best all-employee share plan**
2. **Best share plan communications**
3. **Best use of technology, AI or behavioural science**
4. **Best share plan response to significant changes or challenging situations**

Category descriptions and rules of entry can be viewed on the Awards 2023 webpage: esopcentre.com/awards

The winners will be decided by two impartial judges, experts in the use of employee equities, plus Malcolm Hurlston CBE, founder of the Esop Centre. **The finalists will be announced in *newspad* and award certificates will be presented during the Centre's British Isles Symposium 2024**.

If you have any questions, please contact us at esop@esopcentre.com or call +44 (0)20 7562 0586. We look forward to receiving your nominations.

newspad

New member - Vestd joins the Centre

Equity management platform Vestd became a member of the Centre last month.

Vestd aims to make sharing ownership "a piece of cake". It helps businesses to enhance their rewards and reduce their risks. Companies that share ownership report growth of 10.2 percent compared with the UK average of 7.7 percent. Additionally, 93 percent of founders say their share scheme helps their company grow and 95 percent say shares improve employee loyalty. In addition, there are big tax efficiencies.

Vestd wants all of this to be accessible to all, so its platform makes it easy to get going; business leaders can manage their own equity and unleash its power at the same time. The easy-to-use software helps businesses manage their shares, options and schedules and keeps an accurate live cap table.

Vestd's is the only technology of its type to be FCA regulated and is fully synced with Companies House. For further information contact the firm to arrange a call with one of Vestd's equity specialists.

The Centre looks forward to working with ceo Ifty Nasir and the rest of his team.

Pamphleteers article taken up by accountancy and law publications

Getting noticed is *Direct Employee Share Ownership: A Catalyst For Social Mobility & Levelling-Up*, in which Centre member David Craddock discusses how the link between social mobility and direct employee share ownership can contribute to achieving the goals of the government's levelling-up policy. First published in Z/Yen Group's *Pamphleteers Blog*, the paper has now been accepted for publication by Liverpool Society of Chartered Accountants' *Chartered One* and Manchester Law Society's *The Messenger* magazines.

FRC calls for more outcomes-based reporting

The Financial Reporting Council has published its latest annual review of corporate governance reporting. The review outlines areas where the FRC would like to see improvement as well as giving examples of good reporting and insights into corporate governance trends.

The report is a based on reviewing the annual reports of a sample group of 100 premium listed companies right across the size spectrum including FTSE 100, FTSE 250 and Small Cap companies. The sample group is different each year.

Deliveroo riders denied right to collective bargaining

The operation of the gig economy continues to be a feature of worker status cases, despite the guidance given by the Supreme Court in Uber BV v Aslam. In IWGB v CAC, the Supreme Court looked at the issue of worker status through the lens of the right to union recognition and the human right to freedom of association.

A group of Deliveroo riders operating in the London district of Camden and Kentish Town joined the Independent Workers Union of Great Britain (the Union). The Union made a formal request to Deliveroo to recognise it for collective bargaining. The request was rejected and the Union applied for recognition to the Central Arbitration Committee (CAC) (the quasi-judicial body with the power to order an employer to recognise a union and engage in collective bargaining).

The CAC's powers can only be exercised where certain conditions are met. One such condition is that the individuals in the union must be employees or workers, within the meaning of section 296 of the Trade Union and Labour Relations Consolidation Act 1992. The CAC rejected the Union's application on the grounds that *the riders were not workers*.

Metro Bank shareholders vote to back rescue deal

Metro Bank shareholders have voted to back a rescue deal worth nearly £1bn aimed at securing the bank's future, according to a BBC News report. The agreement to raise extra funds from investors and refinance debt was struck last month after speculation about Metro's financial position. The deal includes £325m in new funding and the refinancing of £600m of debt.

Metro said shareholders had voted "overwhelmingly" in favour of the deal, with nearly 93 percent of votes cast backing the package.

The lender has faced a number of challenges in recent years after an accounting scandal in 2019, which led to the departure of some top executives, including the bank's founder. Metro's share price has slid from above £40 a share in 2018 to 41p by mid-afternoon on Monday November 27.

The bank's shares slumped in early October after reports suggested it needed to raise money to shore up its finances. This led to several days of intense speculation about the bank's future, before the new financial package was agreed. Nonetheless Metro Bank insisted that its finances were strong and it met all regulatory requirements.

UK firms surviving rather than innovating

The London *Evening Standard* reported that UK firms are failing to innovate as they focus on survival amid a bleak economic outlook and recession fears, a survey has suggested.

Half of company bosses said the threat of economic volatility has caused them to stop innovating, according to a poll of more than 300 chief executives and top bosses across the country by consultancy Magnetic.

Some 56 percent of firms are prioritising the survival of their business above all else.

Business leaders are choosing to "batten down the hatches" in the tougher economic environment rather than invest in future growth, Magnetic said.

It comes as firms have grappled with rising prices, weaker consumer demand, higher borrowing costs and a bleak growth outlook for the economy, with ongoing concerns Britain could dip into a recession.

Bank of England: Growth is slowing, but that's not slowing inflation

According to *CityA.M.*, the Bank of England's chief economist, Huw Pill has warned that though UK growth is slowing, it is not necessarily slowing inflation as fast as the central bank would have hoped.

"There's slower growth in activity and employment… but because I think that is more supply-driven rather than demand-driven, the weakening of activity is not as associated with easing of inflationary pressures," he told the *Financial Times* in an interview.

The remarks mark a change in tone for Pill who last month publicly speculated on rate cuts next summer.

Since then Andrew Bailey and other Bank of England figures have rowed back Pill's comments, saying it was too early to say.

Pill in fact told the FT that his own vote to hold the interest rate rather than push for a hike in the last two months had been "very finely balanced."

Inflation has been falling but pay growth and services inflation in particular suggest that a spiral of sorts is already embedded into the economy.

The Bank of England has been heavily criticised for decisions made at the start of the present inflationary wave, and for a perceived willingness to then point the finger at external factors.

Wins by unions are heartening, but lavish ceo pay is out of control

In an opinion piece for the Las Vegas Sun, Bob Kustra, a columnist for the Idaho Statesman, said that a strong middle class has prospered as the backbone of the American economy, and it is imperative for the health of the economy that it be revived from its shrinking status in recent years. If you haven't noticed, Kustra writes, unions are at the helm of the fight to improve middle-class wages, and that's a good thing. First, it's good for the American family that deserves to be treated fairly by corporate America. When profits rise, so too should wages for those on the factory floor producing the goods.

Unions that pressure companies for their fair share of the profits also help address income and wealth inequality, which the Pew Research Center claims has been increasing since 1980. Pew's research shows that upper-income household income has grown in recent decades, which exacerbates the shrinkage of the middle class.

It's the strikes that seem to be making the difference. Strikes get the attention of the media, but the disparity between ceo salaries and average employee salaries gets less attention. Instead, the focus is always on the percentage increase the new contract gives to the workers, with little or no attention given to the ceo salary, which plays a role in the growing inequality in the American economy.

Qantas executive pay report rejected overwhelmingly by shareholders

Shareholders of Australia's Qantas Airways voted overwhelmingly to reject the airline's executive pay plans at its annual meeting on Friday November 3, a final show of frustration after one of the company's most reputationally damaging years.

More than four-fifths of the votes in a resolution to adopt the remuneration report came in against it, according to the tally of proxies shown at the meeting, easily surpassing the 25 percent needed. It was the first time for the high-profile company to receive a so-called strike.

The vote has no immediate consequences, but if repeated a second year, under Australian law it gives shareholders the right to hold another vote on whether to remove the board.

"This is obviously a very clear message from shareholders," chairman Richard Goyder told the meeting in Melbourne after two and a half hours of shareholder questions about customer service and workplace controversies at the airline.

The ceo shareholder: incentivising long-term performance

A paper by Joel Paula, FCLTGlobal, discussing paying for long-term performance, looks at the frustrations of both companies and investors with say-on-pay voting; suggests that total shareholder return is not the one metric to rule them all; and says in achieving long-term incentive design, the strongest link between shareholder wealth and executive wealth is direct stock ownership.

To be successful, companies need to attract and reward leaders who create value over the long term, but executive remuneration often focuses on short- term targets. Shareholders and their advisers similarly focus on short -term returns as a primary metric in the evaluation of pay plans. Replacing these short term-oriented approaches with direct long-term stock ownership by executives is a better solution.

It's no surprise that executive remuneration stands out as one of the most visible and closely examined aspects of a publicly listed company's corporate governance programme.

Companies, and their corporate boards who set remuneration policy, are facing increasing pressure on executive pay amid rising shareholder scrutiny of pay plan proposals. Last year's proxy season in the United States saw a record number of say-on-pay failures. Yet say-on-pay voting at publicly listed companies has arguably had the opposite of its intended effect, driving up executive compensation and showing little relationship to long-term shareholder interests.

Total shareholder return is the most common metric that shareholders employ to align interests, but it is often short term-oriented. By tying executive pay to stock prices over short periods of time, companies and investors are actually putting their long-term interests at risk.

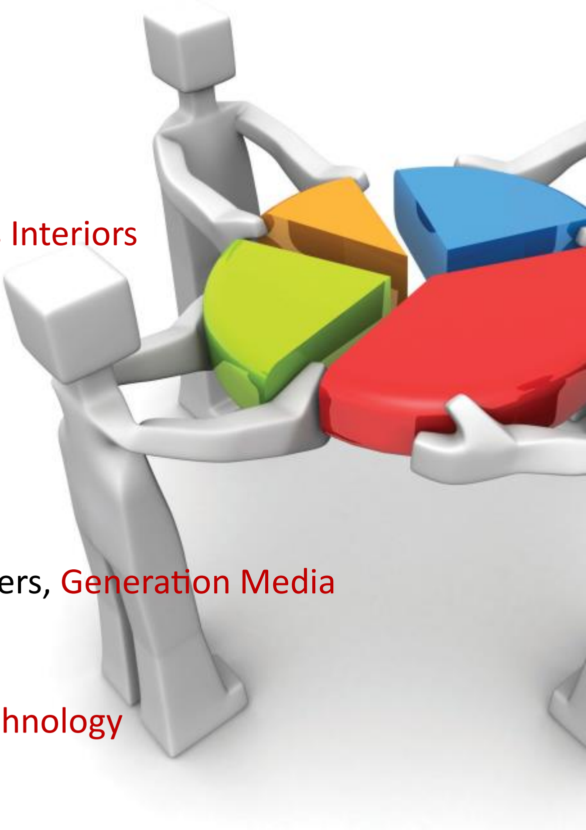
The paper is related research from the Programme on Corporate Governance and was posted on the Harvard Law School Forum on Corporate Governance.

No dividends for Triton's employee-owners

With profits substantially down, there are no dividends this year for Triton Construction's employee ownership trust.

In the year to March 31 2023 turnover was flat at £62.1m (2022: £62.8m) and pre-tax profit was reduced to £119,000 (2022: £936,000). With such slim profits, no equity dividends were paid. However, after coming through "some of the worst trading conditions in many years", according to the chairman, the Yorkshire-based business is now rebounding, unburdened by debt or borrowings.

It is three years now since Triton Construction was sold to its employees. At that time, it was looking to grow turnover from around £40m to £100m by now, but that was before the pandemic, the invasion of Ukraine and other market destabilisers. However, Triton has avoided the fate of Britain's biggest employee-owned construction company, Buckingham Group Contracting, which was sold to its employees in September 2021, made an £11m loss in its first year under the new regime, and went out of business this summer.



New EOTS

- Workplace interior solutions provider Abbey Business Interiors
- Glass processing specialist A.B.C. Glass Processing
- The London studio of architect's practice ACME
- Cost consultant Core Five
- Tree nursery English Woodlands
- Media specialists for children, young people and gamers, Generation Media
- Research and consultancy specialists Miller Research
- Technology and connectivity service provider NCS Technology
- Recruitment specialist Pratap Partnership
- Sandwich supplier Raynor Foods
- Market research agency Swift Research
- B2B telemarketing agency Toucan Telemarketing
- Electronic assemblies manufacturer UK Electronics
- Organiser of the UK's Real Estate Investment and Infrastructure Forum (UKREiiF)

ByteDance offers employee share buyback plan

ByteDance, the parent company of TikTok, is implementing a share buyback plan for employees outside of the United States. The company is offering to purchase shares at a price of $160 per share, providing liquidity options for its staff. This move comes after a similar offer was made to current and former US employees in October.

The $160 price per share reflects a valuation of $223.5 billion for ByteDance, which is about 26 percent lower than its valuation from the previous year. In 2020, the company was valued at $300 billion during a buyback programme for non-US employees.

Canada

EOTs—improved tax incentives announced

The Canadian Department of Finance introduced draft legislation in the 2023 Canadian Federal Budget to create employee ownership trusts (EOTs) to facilitate the transfer of a business to the employees of the business.

The 2023 Fall Economic Statement, released on November 21 2023, addresses the concern that the revised draft legislation of August 4 still contained minimal tax incentives, making EOTs a viable and attractive structure for vendors of small and medium sized businesses. Specifically, the Department of Finance announced an enhanced $10 million exemption for capital gains realised on the sale of a business to an EOT, subject to certain conditions.

The proposed EOT rules now contain the following material positive tax features:

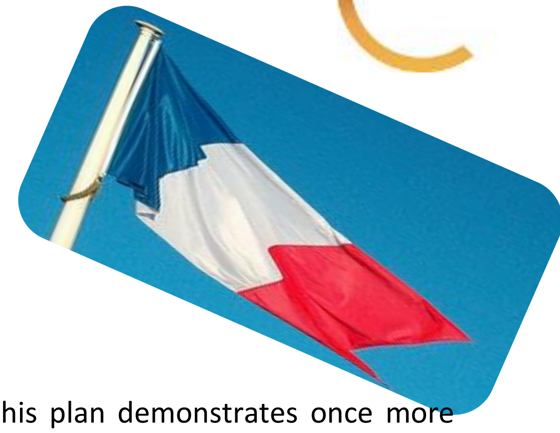
⇒ $10 Million Capital Gains Exemption: The first $10 million in capital gains realised by a vendor on the sale of a qualifying business to an EOT may be exempt from taxation in Canada (at least for the 2024, 2025, and 2026 tax years).

⇒ Shareholder Loan Funding: If structured properly, cash from the qualifying business can be used to fund an EOT's acquisition of the business, allowing employees to acquire an indirect ownership interest in the business without any need to directly pay for that interest.

⇒ Extended Capital Gains Reserve: An extended 10-year capital gains reserve for dispositions of a qualifying business to an EOT, which allows a vendor to defer the recognition of a capital gain realised on the sale of a qualifying business to an EOT where all or part of the proceeds from the disposition are receivable after the end of the taxation year.

The proposed EOT rules are set to come into force on January 1 2024. The newly announced $10 million exemption for capital gains realised on the sale of a business to an EOT has the potential to greatly increase the viability and uptake of EOT structures.

France



Capgemini Esop success

On November 27, Capgemini announced the success outcome of its tenth Employee Share Ownership Plan. Aiman Ezzat, Capgemini ceo said: “As a strategic business and technology partner of large companies and organisations, the Group fully answers market demand for value generating solutions. With 50,000 employees subscribing, the sheer scale of this plan demonstrates once more the trust they place in Capgemini’s strategy, resilience, and ambitions. Our annual Esop is a key tool to share with them the value which they contribute to creating and an important attraction component for current and future talent.”

Germany

Financial reforms approved

On November 17, Germany approved a package of key reforms to its capital markets frameworks to help its technology industry compete with Silicon Valley. The reforms, which are expected to come into effect on January 1 2024, will usher in a litany of changes to Germany's frameworks for stock-based compensation at startups, listing of companies and taxation.

The objective of the Financing for the Future Act to make Germany more attractive for entrepreneurs and to help drive the economy of Europe’s industrial powerhouse. In the future, companies will be allowed to go public with a minimum market capitalisation of one million euros instead of the previous 1.25 million. In addition, an underwriter such as a bank is no longer required.

Some of the major changes will be to employee stock ownership plans. New companies struggle to retain workers and share ownership is seen as a good option to attract talent when they are not able to offer high salaries. The Act increases the tax allowance for employee share ownership to €2,000 from €1,440, though this is disappointing as a draft of August 16 had indicated that the allowance would be raised to €5000 (as reported in the September edition of *newspad*).

Martin Mignot, a partner at Index Ventures who has pushed for reform to stock options policies in Europe to improve tech employee retention, said that previously the laws were "disadvantageous for employees and a really unfair policy for everyone.

"There was a formal Esop in law in Germany but it was just so cumbersome administratively where every minority shareholder gets a vote and veto right almost, and also very little tax advantage."

Under the new German rules on Esops, taxes on employees' stock options will be deferred until the point of sale so that staff aren't faced with the prospect of being taxed on their shares as soon as they receive them, according to a draft version of the legislation, reported by CNBC.

USA

Impact of philanthropic “Big Bet” on employee ownership

The principle behind “Big Bet Philanthropy” is for philanthropy to eschew risk aversion and instead purposefully take risks to advance practice in a field. As John Palfrey, president of MacArthur, put it, “If philanthropy doesn’t act as society’s risk capital, we’re making a terrible mistake.” In short: nothing ventured, nothing gained.

The idea behind it is to pour large amounts of resources into a small number of groups, with the goal of shifting practice throughout society. This is the possible “big gain” of the big bet.

According to *Non-Profit Quarterly*, a report by the Ohio Employee Ownership Center (OEOC) at Kent State University - *Employee Ownership at the Crossroads: Reflections on the Kendeda Fund’s Big Bet on Employee Ownership* – examined how Kendeda’s bet has turned out—and highlights some lessons learned from the four organisational beneficiaries.

In a foreword to the OEOC report, Diane Ives of the Kendeda Fund offers four primary objectives (paraphrased here): 1) increase the number of employee-owned businesses, with an emphasis on encouraging the development of those that are run democratically and address the economic and racial wealth gap; 2) use grant dollars to leverage additional investments; 3) strengthen core elements of a supportive ecosystem; and 4) amplify coverage of employee ownership in the media.

To do this, the foundation initially made investments in four organisations—the Fund for Employee Ownership (part of Evergreen Cooperatives), Nexus Community Partners, the ICA Group, and Project Equity.

In assessing the impact, report authors Chris Cooper and Michael Palmieri point out that success is hard to define. Towards the end, they offer the following possible definition, writing that “one guiding benchmark can be when business owners, workers, and communities everywhere are able to reap the benefits of employee ownership without encountering common, and perhaps arbitrary, barriers that define our current economic landscape.” If that is the benchmark, there is still evidently a long way to go.

Modest increases to IRS 2024 Esop limits

The Internal Revenue Service announced the 2024 cost-of-living adjustments to the dollar limitations for qualified retirement plans and other benefits, and the Social Security Administration announced its own cost-of-living adjustments for 2024. Most of the dollar limits, including the elective deferral contribution limit for 401(k), 403(b) and 457(b) plans, the annual compensation limit under 401(a)(17) and the maximum annual contribution limit under Code Section 415(c) will increase from 2023 limits. The dollar limit for catch-up contributions (if age 50 or older) remains the same as the 2023 limit.

The Esop limit for determining the maximum account balance subject to the five-year distribution limit will rise from the 2023 limit of $1,330,000 to $1,380,000; and the Esop dollar amount used for determining the lengthening of the five-year distribution period rises from $265,000 (2023) to $275,000 in 2024.

USA

Expert ponders, are Esops becoming mainstream?

In a think piece for *Forbes*, Mary Josephs of Verit wonders "with the preponderance of research on employee ownership demonstrating it generates superior performance and growth, improved culture and engagement, and distinctive wealth building for workers, why aren't more companies embracing employee ownership? In my 30-plus years advising on Esops, I've continually asked that question. Still, while the number of new formations hasn't grown meaningfully, recent momentum on several fronts signal that this extraordinary wealth and jobs opportunity awaits millions more workers.

"It's striking that of the estimated 1.56 million US companies with 10 or more employees that the North American Industry Classification System (NAICS) counts, companies with Esops numbered just 6,232 in 2020 (by the National Center for Employee Ownership's count.) Or compare the estimated 400 Esops created last year and this year with the 4,300 US private equity deals completed in 2022 and the 5,200 in 2021.

"So, why so few Esops? Recent surveys of business leaders identified key factors that hinder and also heighten interest in Esops:

⇒ Operating rules and the complexities of reporting to regulators

⇒ Both personal and corporate tax savings are a key consideration for establishing an Esop

⇒ Over time, the workplace culture and employee benefits of an Esop play a larger role in ceos' appreciation of employee ownership

⇒ Ceos of prospective Esops gain significant information and insights about employee ownership from networking with their peers and talking with advisers

⇒ Business leaders suggested that employee-ownership advisers do more to talk up the advantages of employee ownership and dispel common myths about Esops.

"As for the future, many encouraging factors are appearing. There continues to be support from Republicans and Democrats in both houses of Congress for preserving and expanding S-ESOPs founder and company tax benefits.

"The Worker Ownership, Readiness, and Knowledge (WORK) Act of 2022 requires the Department of Labor to establish an Employee Ownership Initiative.

"State legislatures are taking similar steps.

"Prominent business leaders also are promoting employee ownership.

"KKR partner Peter Stavros is playing an invaluable role as well. Stavros, co-head of global private equity, founded the nonprofit Ownership Works that has made employee ownership a mainstream topic among business owners and advisers.

"These and other positive developments contribute to my previously stated view that the 2020s will be the Decade of the Esop. As these tailwinds continue, I believe the experts of tomorrow will pinpoint the present moment as when employee ownership attained the tipping point and became mainstream."

USA

Corporate Transparency Act: Esop and deferred compensation implications

In an advisory piece for *National Law Review*, US law firm Varnum focuses on two important considerations for businesses as the CTA comes into effect: Esops and deferred compensation.

For companies that are not exempt from the CTA's reporting requirements, a crucial aspect of the company's compliance is assessing its beneficial owners. This key term goes beyond equity ownership. A "beneficial owner" is any individual who, directly or indirectly, (1) owns or controls at least 25 percent of the ownership interests of the reporting company (by vote or value) or (2) exercises substantial control over the reporting company.

Esop ownership of a company, in whole or in part, does not automatically change the analysis or conclusion about whether the company must file reports under the CTA. However, Esops can impact the CTA analysis for non-exempt reporting companies in two ways. First, the Esop trustee may be a beneficial owner for purposes of the CTA because an Esop trustee may have the right to exercise certain aspects of control over the company, such as the right to appoint or remove board members. Not all Esop trustees will be beneficial owners. Rather, Esop companies should conduct an analysis of whether reporting requirements are triggered based on the specific circumstances. Second, an Esop participant may be a beneficial owner for purposes of the CTA because a participant may be allocated shares that exceed 25 percent of the voting power or value of the company. As with the Esop trustee, an analysis of the specific circumstances relating to the company's capitalisation table and Esop will be important to determining if reporting is required and if so, what that reporting requires.