National Employee Ownership Day – 2017

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National Employee Ownership Day – 2017

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Cerys Williams, Employment Partner at BDBF LLP, specialising in advising businesses on all aspects of employment law speaks to Liz Hunter, Head of Share Schemes at Mazars LLP about the key benefits of Employee Ownership.

What is National Employee Ownership Day?

30 June is National Employee Ownership Day in the UK this year.

The purpose of EO Day is to highlight the benefits of employee ownership to business, whether this is direct ownership, using share plans, or indirect ownership using an employee ownership trust and following the well known John Lewis model; or a hybrid approach using a combination of direct and indirect ownership.

Interest in the wider spectrum of employee ownership possibilities has broadened, especially since the Finance Bill 2014 introduced a number of new tax reliefs to support wider employee ownership. It is these more recent tax reliefs that now make this a particularly attractive consideration when thinking about business ownership succession.

What are the Government's new tax relief measures?

- a capital gains tax relief on the disposal of a controlling interest of shares into a trust, where a qualifying trust is used as a vehicle for indirect employee ownership (an uncapped tax-free gain on disposal – particularly attractive to anyone who has already exhausted their £10 m lifetime limit for entrepreneur's relief).
- the annual limits for awards under a Share Incentive Plan (SIP) are £3,600 for Free Shares and £1,800 for Partnership Shares – this is a particularly tax efficient all employee plan suitable for larger employers.
- capital gains tax rates are low (20% or 10%) and with annual exemption of £11,300 but gains on matured SIP

shares are tax-free.

transfers of shares and other assets to qualifying employee ownership trusts will also be exempt from inheritance tax (IHT) providing certain conditions are met.

- an income tax exemption on up to £3,600 per annum in bonuses or equivalent payments for employees of companies that are indirectly employee owned through a qualifying trust. (Employer and employee National Insurance still applies.)
- for those pursuing direct employee ownership, where employees can become shareholders in their employer corporate group, the current dividend tax regime means that employees holding shares can receive up to £5,000 in dividends per annum tax-free. This dividend allowance is applied to a shareholders aggregated dividend income across their entire shareholding portfolio.

Why should a business consider employee ownership now?

With the economic climate still challenging and auto-enrolment, apprenticeship levy, national minimum, living wage and other costs all putting a squeeze on an employer's purse, many companies cannot afford to pay their employees much more in cash. FDs are looking to preserve or enhance cash flow and do not wish to incur additional pay outlay, especially when you add on the on-costs of NICs and other benefits. Instead, companies are increasingly looking to provide rewards in the form of shares, because equity pay can be designed to give corporate tax deductions, no income tax or NICs and no cash flow out of the business. If profits go down, pay-outs from equity awards could be cut back too, creating a true alignment of pay for performance.

For some, an external exit and employee participation under a share plan in such sale proceeds is a commercial goal. Yet even, or perhaps especially for those business owners who might prefer independence to a traditional trade sale and who wish to see their venture continue sustainably over the longer term, an employee ownership trust can provide a framework for efficient succession handover, secure in the knowledge that there is appropriate stewardship in place.

Is this for UK based companies and employees only?

No, we can advise internationally on the benefits, compliance issues and tax implications across jurisdictions.

What are the employment law issues with international plans?

One of the issues that BDBF has encountered in practice is that international businesses sometimes roll out share plans globally which are governed by the law of their corporate HQ location and which say that disputes must be resolved in that country. For example, a US company might say Delaware law governs the contracts and that disputes must be resolved in the Delaware courts.

This approach conflicts with European laws that say that EU employees can sue – and can only be sued – in the country where they live.

This means that local laws will be brought into play, with unpredictable consequences. A common issue this causes is that post-termination restraints in the plan will be unenforceable because they don’t comply with the laws where the employee lives, even though they work under the law stated to govern the plan.

Care must also be taken to ensure that plans don't breach local laws on discrimination, for example in respect of the way that vesting or retirement provisions work.

Where's the evidence it works?

For those of you who would like to see the empirical evidence that employee ownership improves corporate performance, have a look at the employee ownership index.

Free consultation offer and contact Mazars or BDBF to find out more

To celebrate EO Day Mazars are offering a free initial consultation call or meeting to any business looking to discuss matters further.

A final reminder about share plan care and maintenance, and return filing deadlines

Time is running out for finalising all share plan and employment-related securities annual compliance returns. These usually need to be filed online with HMRC by 6 July however, due to an HMRC online system outage in April and May the deadline for 2016/17 returns has now been extended to **24 August 2017**.

HMRC are also operating an aggressive employer compliance initiative at present with on-site visits to employers to check employment tax and share plan records. If you wish support with such a review or wish to proactively health-check, update or optimise your existing arrangements then please contact Mazars.

For the experts in bespoke planning, structuring, implementation and compliance of share schemes contact: Liz Hunter, Head of Share Schemes, Mazars LLP Email: Liz.hunter@mazars.co.uk

@Mazars_UK / @LizHunterReward Get Mazars' latest comments on tax matters on our blogs

For the experts in all employment and HR related matters for businesses contact Email: TomMcLaughlin@bdbf.co.uk

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