

## ESOP Promotion and Improvement Act of 2007.

Adapted from The ESOP Association.

Senator Blanche Lincoln [D-AR], a member of the Senate Finance Committee, introduced the ESOP Promotion and Improvement Act of 2007 (S.1322) on May 7, 2007.

The ESOP Association is urging all ESOP companies to ask their U.S. Senators to co-sponsor S. 1322. If you don't know who your Member of Congress is, there's an easy way to find out. Go to



[www.house.gov/](http://www.house.gov/) to find your Representative and/or go to [www.Senate.gov/](http://www.Senate.gov/) to find your Senator. The most effective way to demolish unfavorable views toward ESOPs is to have a significant number of Senators publicly express their support for both S and C Corp ESOPs.

Similar to the proposed ESOP Promotion and Improvement Act of 2005, if it becomes law, S.1322 provides modest incentives for creation of more ESOPs, and modest improvements in the operation of current ESOPs.

For more information on the legislation, a summary may be found in The ESOP Association's Spring 2007 Advocacy Kit, at [www.esopassociation.org/members/pdfs/2007\\_Advocacy.pdf](http://www.esopassociation.org/members/pdfs/2007_Advocacy.pdf). This kit, completely accessible online, provides sample letters and hints that you can use to reach your legislator on the importance of promoting ESOPs.

*“The greater danger for most of us is not that our aim is too high and we miss it, but that it is too low and we hit it.”*

- Michelangelo

## Ownership Culture.

Adapted from NCEO online.

Research shows that employee ownership is a powerful tool that improves corporate performance, but only when paired with what is called an “ownership culture” (details of that research can be found at [www.nceo.org/library/corpperf.html](http://www.nceo.org/library/corpperf.html)).

Companies with an ownership edge demonstrate some different types of management styles from traditional management companies:

### **Ownership Management** *An ownership stake:*

Employees receive and maintain a level of ownership that is financially significant to them.

**Traditional Management** Ownership is concentrated, with a single person or a small group owning the company.

**OM** *Ownership understanding:* Employees understand what ownership means.

**TM** Ownership issues are seen as irrelevant to employees.

**OM** *Entrepreneurship training:* People are trained to have the skills not just to do their own jobs, but to understand how the business works; they learn to be *effective*.

**TM** People are trained to do their jobs; they learn to be *efficient*.

**OM** *Sharing information:* Companies share financial and performance information with employees at the company and work team levels.

**TM** Managers guard information.

**OM** *Short-term incentives:* Everyone shares in the short-term rewards of company success.

**TM** People may, at their managers' discretion, receive bonuses.

**OM** *Employee involvement:* Employees have structured, regular opportunities to have meaningful input into decisions concerning the work they do.

**TM** Ideas come from managers. Employees are allowed to make suggestions (maybe).

Companies that combine these elements create an ownership edge.

## ESOP Audits.

Adapted from SFE&G.

To determine whether your ESOP has been operating properly, there's a possibility that your company could be selected for an audit by a branch of the Department of Labor, the Employee Benefits Security Administration (EBSA).

An audit begins with a letter from either an EBSA investigator or other agency employee, requesting copies of specific ESOP documents. Your goal should be to seek basic guidance from plan counsel and your ESOP CPA, gather the requested materials, organize your responses, and deliver the documents to the auditor with little fanfare and no editorial or unnecessary explanatory statements - and in a timely manner.

### SOME AREAS THAT RECEIVE SCRUTINY DURING AN AUDIT.

- Were all purchases and sales of shares by the ESOP accompanied by reasonable valuations, and were annual updates properly performed?
- Did plan fiduciaries engage in self-dealing or otherwise have conflicts of interest?
- Were share allocations, forfeitures and ESOP loan payments properly calculated?

Never turn over ESOP records without carefully reviewing the materials first. Responding to an

audit may alert you to other operational issues, and if you have concerns, your CPA and ESOP counsel can help you craft your response. There are steps you can take to lessen the impact of operational defects that you discover and address before the auditor does.

After you have responded, you may hear nothing for many months. If you receive a letter detailing alleged ERISA or Code violations, you should immediately involve ESOP counsel. The fines and penalties associated with even minor technical matters can quickly spiral out of control unless addressed in a sophisticated manner. By regulation, EBSA is required to report to the IRS any finding that a "prohibited transaction" has occurred. IRS penalties may be significantly greater than those imposed by the Department of Labor.

Most ESOP audits do not result in major problems. The best approach is to operate your ESOP according to the rules. Your ESOP advisors can also discuss with you ways of performing relatively inexpensive "check-ups" to make sure that you remain in compliance.

## Test Your Business Etiquette.

Excerpted from GradView's "Test Your Business Etiquette."

Business etiquette involves more than knowing how to give a firm handshake or where to put your napkin after you're done with your meal. Right or wrong, the perception of others does matter - particularly in a professional setting.

1. Your boss, Ms. Alpha, enters the room when you're meeting with an important client, Mr. Beta. You rise and say, "Ms. Alpha, I'd like you to meet Mr. Beta, our client from San Diego." Is this introduction correct?
2. When you greet a visitor in your office, do you:
  - a. say nothing and let her sit where she wishes?
  - b. tell her where to sit?
  - c. say, "Just sit anywhere"?
3. You've forgotten a lunch with a business associate. You feel terrible and you know he's furious. Do you:
  - a. write a letter of apology?
  - b. send flowers?
  - c. keep quiet and hope he forgets about it?
  - d. call and set up another appointment?

Visit [www.gradview.com/careers/etiquette.html](http://www.gradview.com/careers/etiquette.html) for the complete quiz.

**ANSWERS:** 1. No. Introduce the more important person first. You should address your client and say "Mr. Beta, I'd like you to meet our Vice President of Development, Ms. Alpha." 2. B. Indicating where your guest should sit will make her feel more comfortable. 3. D. Call and set up another appointment, and don't forget to apologize for your error. Imagine how you'd feel if it was you!

## Our Newest Team Member.

Enterprise Services recently added an Assistant Financial Analyst to its team to help prepare annual valuation updates.

**Chris Kroll** joined ESI in June 2007 and comes to us with over twenty years of experience in a manufacturing accounting environment. She earned both her undergraduate degree and MBA from the University of Wisconsin - Milwaukee.



With the addition of Chris, ESI now boasts a staff of ten team members. We are one of the largest valuation groups focused on ESOPs in the country, backed by our professional credentials and industry experience.

We're pleased to have Chris join the ESI group and are confident that you will enjoy working with her.