



The ESOP Association

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The American Jobs Creation Act of 2004 - A Victory for ESOPs

On October 22, 2004, President Bush signed the American Jobs Creation Act of 2004 (AJCA), which contains a provision that permits S corporations sponsoring an ESOP to use distributions from current earnings on both allocated and unallocated ESOP stock to pay the loan used by the ESOP to acquire stock for the employees. The law is now effective as of January 1, 1998.

In 1998, IRS had taken the position that only distributions from current earnings on unallocated shares could be used to pay debt. This provision reverses the 1998 IRS position. Please note the provision, just like in the C corporation area, requires that employee owners have stock placed in their accounts that equals their shares of the distributions that is used to pay the debt.

The legislation, which has many controversial provisions, was passed by the Congress on October 11, 2004. Despite many differences among Members of Congress on the final wording of the bill, there was significant support by both the Senate Finance Committee and the House Tax Committee, as it was the Chair of the Senate Committee, Charles E. Grassley [R-IA], and the ranking Democratic Senator Max Baucus [D-MT], who asked for Section 240 of the legislation to be included in the final version of the legislation with the retroactive date. Section 240 of the legislation contains the S corporation provision.

AJCA deals primarily with the U.S. tax regime pertaining to income earned by U.S. corporations overseas and offers tax benefits for domestic manufacturing, the business community, and energy related industries among many others.

Clearly the men and women involved with this legislation had no problem with trying to expand ESOPs and helping create more employee owners in America.

**For more information about this legislation, please visit The ESOP Association's website at www.esopassociation.org.
Click on the Advocacy link on the homepage.**

For more information, please call The ESOP Association at 202/293-2971 or email amy@esopassociation.org.

Did you know...

- Approximately 24 million people in the United States own stock in the companies where they work.
- Over 80% of individuals that own company stock are more or less satisfied with their financial situation and another 78.9% of individuals strongly agree or agree that they have a good chance of improving their standard of living.

SOURCE: Information obtained from a series of questions on the General Social Survey. The series of questions were developed and analyzed by Dr.'s Joseph Blasi and Douglas Kruse (School of Management and Labor Relations at Rutgers University), and Dr. Richard Freeman (Harvard University) for the Shared Capitalism Project of the National Bureau of Economic Research in Cambridge, Massachusetts.

On the calendar...

14th Annual Two Day Conference

November 4 & 5, 2004
Bellagio Hotel
Las Vegas, NV

7th Annual S Corporation ESOP Seminar

February 24 & 25, 2005
Hyatt Regency Orlando
Orlando, FL

28th Annual Conference

May 11 - 13, 2005
Grand Hyatt Washington
Washington, DC