

ISSUE HIGHLIGHTS

- How to make an acquisition by an ESOP company work. See [page 4](#).
- Trends in new ESOPs reported on [page 5](#).
- Tax issues in converting from an LLC to S status when setting up an ESOP. See [page 6](#).
- Almost half the 100 Best Companies to Work For have broad-based ownership plans. See the list on [page 7](#).
- Tolling agreement can be based on when actual, not constructive, knowledge occurs. See Cases & Rulings, [page 9](#).
- Purpose, coworkers, and community in an ESOP company. See [page 11](#).
- TDIndustries: Inside one of the 100 Best Companies to Work For. See [page 12](#).
- The Owners Page, on [page 15](#), discusses "What is cash flow and why should you care?"



Thank you...

to everyone who attended this year's conference in Pittsburgh. We look forward to seeing you in Salt Lake City (Sept. 17–18, 2019) and Minneapolis (April 21–23, 2020).

EMPLOYEE OWNERSHIP REPORT

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State Employee Ownership Centers

Colorado Creates State Employee Ownership Center—A [March 22](#) article in the *Denver Post* noted that Colorado Governor Jared Polis (D) is promoting employee ownership in Colorado. An Employee Ownership Commission will be housed within the Office of Economic Development and International Trade (OEDIT) and will be responsible for advancing employee ownership statewide. It will help develop a strategic plan which may include additional legislative recommendations. The Rocky Mountain Employee Ownership Center will be a part of the state commission. OEDIT will have two employees whose main responsibilities will include employee ownership.

John Kovacs, program analyst for the state's Employee Ownership Commission, told the *Denver Post*, "we are looking to make Colorado the Delaware of employee ownership." Two years ago the state legislature approved a fund that can provide loans up to \$10,000 to companies to help form an ESOP or a worker cooperative.

Massachusetts Funds State Employee Ownership Center—Massachusetts governor Charlie Baker has approved funding for the Massachusetts Employee Ownership Center. The Center had been operational through the 1990s, but lost its funding. Two years ago, the legislature authorized the reestablishment and funding of the program, but the governor used his line item veto to block funding. Now he has agreed to provide \$200,000 to restart the organization.

We report inside on other initiatives in Texas and Newark. In the 1980s and to some extent the 1990s, there were a number of state employee ownership organizations, and NCEO research showed they had a significant impact on new ESOP formation. They all lost funding as states cut spending due to budget constraints arising from the recession in the early 1990s.

—Ownership News continues on [page 8](#)

IRS SETS HIGH BAR

Qualifying Equity Grants Under Empowering Employee Ownership Act

The 2017 tax bill contained provisions that allowed employees in private companies that provide non-qualified stock options and restricted stock units to at least 80% of their workforce to defer taxation on the awards until up to five years after termination. The law was intended to prevent employees from ending up with grants that were taxed even though the resulting shares could not yet be sold.

The law's restrictions have meant it has had limited appeal, but in Revenue Notice 2018-17, the IRS has set an even higher bar. Most important, the IRS followed the literal language of the law and required that 80% or more of the workforce gets grants annually. Many smaller companies do not do that. Companies also have to escrow shares sufficient to pay the taxes that will be due in as much as five years, and employees have to agree to that. The IRS did let companies opt out of the tax treatment so that they do not inadvertently fall under it when, even though they qualify, they do not want to offer this potential tax benefit to employees. Bruce Brumberg of MyStockOptions.com has written a useful and more [detailed explanation](#) of the new regulations.

—Read more Cases & Rulings on [page 9](#)

THE NCEO is a self-sustaining nonprofit membership organization that provides practical resources and objective, reliable information on employee stock ownership plans (ESOPs), equity compensation plans, and ownership culture. Our publications, meetings, webinars, and research are designed with you in mind.

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