Media Release

Embargoed: Monday, 1 April 2013

Employee Ownership
Australia & New Zealand
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Employee share ownership weakened by government legislation, new report finds

Lower participation in employee share plans and a decrease in the use of option plans is hitting innovation in Australian business

Sydney, 1 April 2013: Employee share plans have been widely hit over the last 4 years by government legislation resulting in a significant drop in employee ownership while adding complexity for companies.

According to a new report by the Employee Ownership Australia and New Zealand (EOA) the number of employees participating in employee share plans and the amount of capital they are investing in these plans has been "substantially reduced".

"Broad based employee share ownership has been unequivocally shown to promote employee engagement and productivity, and ultimately lead to the enhancement of national savings," said Angela Perry, chair of the EOA and Global Head of EPS BD at Link Market Services Limited.

"We are recommending a series of changes which will allow employee share plans to operate more efficiently and which we believe will see a return to greater employee ownership levels."

In 2009 the Federal Government introduced new tax legislation, Division 83A. It was designed to improve the horizontal equity in the tax system by treating all forms of remuneration more consistently, to target employee share scheme tax concessions more closely to low and middle income earners, and to reduce the scope for losses to Commonwealth revenue through tax evasion and avoidance.

A key reform was the introduction of the share scheme reporting regime, but at the expense of a complete rewrite of the existing rules. Companies and businesses are still coming to grips with the rewrite and many question if it was needed.

"Division 83A is failing its fundamental objective of strengthening employee participation in Australian business and increasing productivity," said Adrian O'Shannessy, Director, Greenwoods & Freehills.

"By insisting on tax at vesting Division 83A forces employees, who can't keep remuneration at risk for extended periods, to sell in order to fund their tax rather than continue to hold equity as long term investors. And the irony is that in a generally rising market the Government might be better off if they did hold – the tax would rise with the market."

Employee share option plans, often used by small or cash poor companies, particularly in the technology sector, are used to attract and retain talented staff. The change from tax at exercise to tax at vesting has reduced the effectiveness of such companies using option plans.

"Consultation is urgently needed with both Treasury, regarding policy issues and in particular tax vesting and the retention of the taxing point at termination of employment which causes many real problems, and the Australian Taxation Office regarding the administration of Division83A on matters such as what is a genuine disposal restriction," said Karen Quinsey, Principal PwC and one of the experts who contributed to the report.

"Addressing these matters should really help companies in administering employee share plans and increasing employee participation levels."

"We certainly welcome the share scheme reporting regime, but one really has to question the drama back in 2009 to rewrite the tax rules, and this has left a legacy of reduced employee participation negatively impacting Australian employees, productivity and national savings," said PwC's Quinsey.

The report recommends a series of changes to help lift employee share plan participation to pre-2009 levels including re-instating tax at exercise time for options and the removal of the $5,000 cap on salary sacrifice contributions.

Media inquires

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