



# Employee Stock Ownership Plans (ESOPs)

Employee stock ownership plans (ESOPs) can be effective tools for business owners seeking helpful employee recruitment and retention devices, ownership structures, succession planning strategies, and tax advantages. Today, many businesses—including small, closely held companies—have chosen to convert to full or partial ESOP ownership. The ESOP Services Team at Hinshaw & Culbertson LLP can provide the sophisticated legal assistance required for successful implementation and maintenance of an ESOP Company.

## Experienced ESOP Services Legal Counsel

Hinshaw's ESOP Services Team is composed of experienced corporate, ERISA, finance and tax lawyers. We address the strategic, financial and compliance-related issues associated with ESOP design, implementation and maintenance strategies, as well as financing transactions. Our comprehensive counseling covers not only the legal issues concerning corporate, employee benefits and tax laws, but also the attending larger organizational and transition-related concerns.

## Our Clients

Hinshaw's ESOP Services Team works with clients in planning and implementing the transition to full or partial ESOP ownership. We also represent clients who have already transitioned to ESOP ownership with ongoing administration issues, as well as advanced planning issues, to address the concerns of mature ESOP companies.

Our clients include employers who create ESOPs, controlling shareholders who sell to them, financial institutions that lend into these kinds of transactions, and ESOP trustees as they address ongoing plan administration and maintenance issues.

Many of our clients are closely held or family businesses in the middle market, for which we serve as outside general counsel. We understand these companies and are particularly well-suited to guide similar entities in the important but oftentimes nuanced area of business succession planning and the use of ESOPs as part of it.

## ESOP Creation and Implementation

Before investing significant time and resources in transitioning your company to an ESOP ownership model, it is critical to examine whether such a conversion is right for the business. This involves considering factors such as the company's:

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### Related Services

Business & Commercial  
Transactions

Business Formation

Corporate Governance  
Structure

Employee Benefits

Family-Owned Businesses

Mergers & Acquisitions

Securities

Tax

### Related Industries

Banking & Finance



- culture
- debt capacity
- depth and commitment of management team and other key personnel
- history of profitability
- number of employees
- valuation of company

Hinshaw's ESOP Services Team helps companies evaluate all of these factors to properly assess the suitability of the organization for conversion to an ESOP.

## ESOP Design

Where conversion to an ESOP is appropriate, we provide all of the legal services necessary to design and implement the plan. This includes:

- ensuring compliance with ERISA and other laws
- structuring the plan to account for the company's unique features
- preparing all necessary documents
- communicating with all stakeholders

## ESOP Financing

Hinshaw's ESOP Services Team assists clients with all of the activities inherent in transactions involving outside funding for ESOP transactions, such as:

- due diligence
- structure-related issues
- contract drafting
- legal compliance

In doing so, we prepare and negotiate the loan agreements, intercreditor agreements among lenders, security agreements and ancillary loan documents necessary in transactions involving outside funding for ESOP transactions.

## ESOP Maintenance

Hinshaw's ESOP Services Team provides ongoing representation to ESOP companies. We provide day-to-day advice on plan administration and compliance and assist the business with all filings and plan amendments required to maintain the ESOP's compliance with IRS and U.S. Department of Labor rules.

## ESOP Redemptions

Hinshaw's ESOP Services Team has experience handling ESOP redemptions and asset sales that follow. In assisting our clients, we advise on:

- valuation and ensuring a fair price for the shares to be redeemed
- amendment and eventual termination of the ESOP
- legal compliance



## Experience

A sample of our ESOP engagements include the following representations:

- The lead first-lien lender for an aggregate \$145 million loan in a refinance transaction involving an ESOP company as borrower.
- A small business in a multistep transaction where the 50 percent ESOP shareholder was redeemed and all assets of the company were subsequently sold.
- An ESOP trustee in connection with a corporate transaction that required pass-through voting to ESOP participants.
- The lead lender/administrative agent in a \$31 million syndicated loan, in a transaction that also included mezzanine debt.
- The senior lender in its credit facility to a middle-market tool and die works and machining corporation in connection with the corporation's reorganization, formation of an ESOP and ESOP stock purchase transaction.

## News

[Hinshaw Represents Senior Lender in ESOP Conversion](#)

January 2, 2014

## Events

[Survey Says: Tony Jacob, Connie Mayer, and Todd Young to Present ESOP Family Feud!](#)

March 7, 2024

Oak Brook, Illinois

[Todd Young to Present at the 2016 Las Vegas ESOP Conference](#)

November 11, 2016

Caesar's Palace | Las Vegas, Nevada

[Todd Young to Co-Present at Illinois ESOP Association Conference in Champaign, IL](#)

March 10, 2016

iHotel and Conference Center | Champaign, Illinois

[Todd Young to Present on Risk Avoidance During the ESOP Lifecycle at the Illinois ESOP Annual Conference](#)

March 6, 2014

Champaign, Illinois