

NEWSLETTER

Author: **Hedon Sulimani, BSc**

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(English machine translation provided as courtesy)

SME employee participation programme

Dear Sir or Madam

Employee share ownership programmes allow employees to participate in the success and growth of the company and promote entrepreneurial thinking and action at all levels. This creates the basis for a long-term partnership between the company and its employees. It is not uncommon for listed companies to have various employee share ownership programmes. In small and medium-sized enterprises (SMEs), such programmes are not established, although this can release synergies, especially at times of succession planning. The list of different employee share ownership programmes is long and a programme can be adapted to individual needs. It is beyond the scope of this newsletter to go into the different types and possibilities, so in this newsletter we focus on the most common solutions found in the SME sector.

SMEs are companies with 1 to 249 employees, these can be further segmented into micro-enterprises (less than 10 employees), small enterprises (10 to 49 employees) and medium-sized enterprises (50 to 249 employees). 67% of all employees work in an SME - Switzerland is and will remain an SME country - so it is worth exploring the possibilities of the various participation programmes.

In the world of SME employee share ownership schemes, it is mostly genuine employee share ownership that can be found. These are usually shares that the employer gives to the employees.

Before the share allotment

Before employees become shareholders, it is important to create the organisational conditions. This is done through an employee share policy, which should include the following points:

- Objectives of the employee share ownership programme
- Participation substrate and stock procurement

The shares to be distributed and their statutory characteristics are defined. In addition, it is determined how the shares to be distributed are to be procured.

- Subscription entitlement
Definition of which employees or categories of employees are eligible to participate in the company.
- Conditions of issue
At what conditions are the shares offered, with or without a blocking period?
- Valuation model applied
Definition of the applied valuation model of the shares.
- Restrictions on disposal
Restrictions on disposal include disposal rules defined by the company. For example, it can be ensured that acquired shares are not sold to third parties.
- Return obligations/rights
- Final provisions

In the case of unlisted employee shares, there is no market value (not to be confused with the tax value). The relevant value is generally calculated according to a method that is suitable and recognised for the respective employer. Once selected, the calculation method must be retained for the corresponding plan. If the formula value is only calculated once a year, it is only relevant for tax purposes if the allocation of the employee shares takes place within six months of the relevant valuation date. The framework conditions for the valuation of unlisted securities are set out in circular 28. Commercial, industrial and service companies are often valued using the capitalised earnings method.

Example:

Muster AG achieves a profit of CHF 200,000 in 2022, a profit of CHF 150,000 in the previous year and a profit of CHF 160,000 in 2020. The equity capital amounts to CHF 500,000. There are no hidden reserves.

Net asset value of Muster AG: CHF 500,000.

Average annual profit: $(\text{CHF } 200'000 + \text{CHF } 150'000 + \text{CHF } 160'000) = \text{CHF } 170'000$

Earning value of the company: $\text{CHF } 170,000 / 9.5\% = \text{CHF } 1,789,474$

Company value: $(2 \times \text{CHF } 1,789,474 + \text{CHF } 500,000) / 3 = \text{CHF } 1,359,649$

In a next step, the project and the valuation model value should be secured with a tax ruling in order to avoid tax problems.

During the share allocation

The rules for the taxation of employee shares are set out in circular no. 37. In principle, the allocation of shares represents a pecuniary benefit that qualifies as income from employment. This is taxed according to the realisation principle and is also subject to the social security obligation. It is also possible for an SME to have shares with a blocking period. Blocked employee shares have a reduced value compared to freely available shares, which is quantified with a discount of six percent per blocking year, whereby a maximum of ten blocking years can be taken into account.

After the share allocation

Since 1 January 2013, employers have had obligations to cooperate and certify in connection with employee shareholdings. The employer must issue a certificate for each tax period in which it has granted employee shareholdings or if employee shareholdings have led to a realisation under income tax law. The employer is free to design the certificate as long as the minimum requirements of the Employee Participation Ordinance are met.

If you have any questions about the different variants of employee share ownership, our competent tax team will be happy to assist you.

Kind regards

artax Fide Consult AG

Gartenstrasse 95, Postfach, 4002 Basel

Tel: +41 61 225 66 66

info@artax.ch, www.artax.ch

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