

On Employee Ownership Trusts:

‘Employee-partnerships’ with neither partner capital accounts nor partner governance?

David Ellerman

Institute for Economic Democracy

Ljubljana, Slovenia

<https://orcid.org/0000-0002-5718-618X>

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Abstract

This paper explores the Employee Ownership Trust (EOT) model, comparing it with traditional partnerships and employee ownership structures like the US ESOPs and the European Coop-ESOPs. It primarily focuses on the crucial distinction of EOTs lacking internal capital accounts for employees due to common ownership and leading to what is termed a “horizon problem” where employees do not recoup their share of retained earnings. The “naked in, naked out” rationale, often used to justify this lack of individual accounts in EOTs, is easily refuted by noting that even professional partnerships described as “naked out” still pay off the partner capital accounts of exiting partners. Furthermore, the “first-cohort problem” is analyzed highlighting how initial employees in an EOT may effectively subsidize the acquisition debt without a mechanism to access their accumulated equity, potentially pressuring a future sale of the firm. Finally, EOTs are distinguished from democratic employee ownership since they have a form of trustee-ownership, where governance ultimately rests with a trust rather than with the employee-beneficiaries.

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Introduction

In employee ownership circles, a debate is underway about the UK Employee Ownership Trusts (EOTs), primarily concerning their common ownership capital structure and secondarily their governance structure by a trust, a problem shared with the US ESOP.¹ This paper contributes to this debate by focusing on the arguments made by lawyers advocating for the EOT common ownership capital structure. The issues discussed focus on UK applications but relate also to recent adaptations of UK EOT ideas into the American context (Rosen 2024a).

Capital Structure Issues

Remnants of socialist reasoning

Despite the demise of socialism (at least of the Marxist variety) among the adult population, there are remnants of socialistic reasoning that remain. In particular, there is the idea that any property rights, such the subordinate debt of the internal capital accounts (ICAs), in a Mondragon-type cooperative or democratic firm must be “capitalist” (Jossa and Cuomo 1997) and hence that should be “social ownership” in an alternative model. This involves denying to the past workers the rights to the net-asset value that was accumulated *by them* reinvesting part of their net income in the firm rather than taking it out as bonuses or dividends. If the net income was taken out as bonuses or the like, then it became the property of the worker-members. But for a variety of (fallacious) reasons, socialist thought holds that reinvested earnings, e.g., retained patronage dividends (Zeuli and Cropp 2004), must be penalized by being “socialized.” There is no connection between the size of a member’s internal capital account (a property right transferred to their estate if a member dies) and a member’s personal rights to a share of the net income and a vote in the governance (membership rights which are extinguished upon exit).

The horizon problem with common ownership

According to the UK Employee Ownership Trust (EOT) model, a certain percentage of the shares in an operating company are held in a special purpose vehicle that is a trust where the employees of the operating company are the beneficiaries of the trust. There are no internal capital accounts in the trust for the employees, so it is what used to be called “common ownership” as in the John Lewis Partnership or Scott Bader Commonwealth (Oakeshott 2001). Those pre-EOT common ownership trusts were established as gifts from the family shareholders to those trusts. While still featuring the common ownership capital structure, the EOT is significantly different from those older common ownership companies by using the American ESOP² mechanism of the company paying out the exiting owners for their shares—rather than the shares being a gift or having the employees pay for the shares with their personal assets. As with the ESOPs, there are significant tax benefits for the sellers to an EOT.

In the economics literature, there has long been a critique of common or social ownership in businesses (Furubotn and Pejovich 1970 and 1972) most often referred to as the “horizon problem.” The root of this problem is that social or common ownership provides no recoupable claim on retained earnings to buy productive assets or pay down debts. Thus, there is a general

¹ See, for instance, (Ellerman and Gonza 2024; Pendleton and Robinson 2025) or (Rosen 2024; Michael 2024)

² “ESOP” refers to the US ESOP unless otherwise specified.

preference for paying out all net income and debt financing of investment which postpones the problem of finance to the future debt payments. This problem is called the “horizon problem” since the views of a worker will depend on their time horizon with the firm. For instance, if a worker is with the firm throughout the lifetime of a purchased asset, then that is the way they recoup the benefit of their portion of the retained earnings. But if their time horizon with the firm is shorter than the useful life of the purchased asset, then they are not recouping the full benefit of their retained earnings.

Since this critique of common or social ownership (e.g., for the old Yugoslav socialist firms) is well known in the economics literature, it is available to all who want to find out about it. And the less well-known solution (Ellerman 1986, 2013, and 2020) to the horizon problem is the system of internal capital accounts, e.g., in the Mondragon cooperatives or in the European Coop-ESOP model adopted into law in October 2025 in Slovenia (Ellerman et al. 2022; Gonza et al. 2024; Gonza 2025). Each member’s internal capital account records each member’s share of the annual net earnings minus any cash payouts such as bonuses or profit-sharing payments. When a member exits, the balance in the member’s capital account is paid out perhaps over a period of time.

One (mistaken) reasoning behind EOT’s common ownership structure

Some people reason that businesses should have a “social” purpose and thus should have social or common ownership—reasoning that will be considered in the section below on governance issues. But there is a more basic misunderstanding in the reasoning put forth by lawyers who support common ownership and that is our concern in this section.

The first point to understand is that *all (for-profit) legal partnerships have internal capital accounts for the partners.*³ Those partner capital accounts operate (*mutatus mutandis*) like the internal capital accounts (ICAs) in the Mondragon cooperatives or the Coop-ESOP model. At the end of each year, each partner/member’s capital account is credited with their share of the net earnings minus any cash payouts to (or “drawings” by) the partner/members. Upon exit, the partner/member’s capital account is paid out in cash typically over a period of time. We may thus assume that any lawyers in legal partnerships in the UK, US, Canada, or elsewhere advocating EOTs are well-aware of partner capital accounts.

Yet EOTs have no such capital accounts for the partner/member/beneficiaries. How can this fundamental fact be so “overlooked”? Here is the mistaken reasoning.

An EOT conveys ownership in the company to employees, just as an ESOP does. However, there is typically no equity component (no individual employee share accounts) with an EOT. The standard practice is that when employees leave the company, they do not receive any compensation relative to the value of the company. As is said in the United Kingdom, participants in an EOT are “naked in, naked out.” This means that employees do not buy into the plan when they enter the company and are not bought out when they leave. This is just the same as in any professional partnership, like a law firm, architectural firm, or medical practice. In some cases, a nominal buy-in and fixed buyout might be involved in such a firm. But the main benefit of participating in such a professional

³ See (Gov.UK 2025) for the UK, (Hurwitz 2023) for the US, (Achen Henderson CPAs 2023) for Canada, or Google on “partner capital accounts.”

partnership is to participate in the profits, not the equity growth of the firm. (Broughton et al. 2024, pp. 17-8)⁴

In a professional partnership, a partner makes an initial investment (which may be nominal or substantial) but that is recorded as the initial balance in the partner capital account that is eventually paid out (with interest). Sometimes, the partner's account is divided into a capital account (initial investment) and a current account which records the partner's share in the net income minus the payouts called "drawings." For simplicity, we assume both functions in the partner's unified capital account. *All that is the same in the internal capital accounts or ICAs in a Coop-ESOP.* There may be a nominal "membership fee" in the beginning, which is recorded in the ICAs, but their main function is to record each member's share in the retained earnings (i.e., share in net income minus payouts).

Since we must assume that the lawyers advocating the common ownership EOTs are well aware of the partner capital accounts in "any professional partnership, like a law firm," how is that "overlooked" in their "naked in, naked out" rationale for EOT's common ownership? After all, Mondragon cooperatives and Coop-ESOPs are also "naked out" in the sense of that *after the payouts of the internal capital accounts* there is no more payouts. In most law partnerships, they are also "naked out" in the same sense of *after the payouts of their partner capital accounts*.

The confusion in the EOT lawyers' reasoning may come from the existence of some law firms organized on a share basis so after the payouts, in effect, of the capital accounts, there may be an additional payout of share appreciation reflecting the goodwill created by the law firm. A leading UK law firm, Fieldfisher LLP, wisely argues against that share-based structure and in favor of the "naked out" structure where only the partner capital account (initial capital contribution plus profit shares minus drawings) is paid out with no regard for some alleged "goodwill" factor over and above the capital account increases.

The "naked out" part of this means that a retiring partner does not realise a capital return for goodwill built up over time. What the partner gets is a share of profits over the time he or she was a partner. This business model can stand the test of time. There are no distracting discussions on what "my equity" is worth and "how will I get paid that increase in value"? (Fieldfisher 2015)

Now comes the *basic confusion*. Since the internal capital accounts in the US ESOPs are denominated in shares and since the shares are annually valued at so-called "market value" (even though they are not marketable), the EOT-advocating lawyers may confuse the payouts of share value from the ESOP internal share accounts with the extra payouts representing the "capital return for goodwill." Since they are wisely against those extra payouts for "goodwill," they take that as if it were an argument against having partner/employee capital accounts in EOTs, i.e., as an argument for common ownership in EOTs.

It may also be helpful to be clearer about the nature of ESOPs.

An EOT holds shares collectively on behalf of all employees. There are no individual awards of shares and so an EOT is not the UK equivalent of a US

⁴ This quotation can also be found on the NCEO website at: <https://www.nceo.org/publications/using-employee-ownership-trust-business-transition> (accessed July 5, 2025).

ESOP. EOTs provide all employees with a significant and meaningful stake in the business that employs them through shares held in trust on their behalf. This avoids the complications of direct EO, especially for private companies. There is no need, for example, for there to be a share market to allow employees to sell shares. (Nuttall 2014)

The share-denominated capital accounts in an ESOP are *not* direct employee ownership. The ESOP is the registered owner of all the ESOP shares; the employees may not sell, gift, bequeath, or mortgage the shares said to be “in” their capital accounts. The ESOP share-denominated capital accounts are indirect employee ownership. In arguing for what would become the EOT, Fieldfisher said:

The indirect ownership model usually involves the permanent holding of shares within an employee trust. This avoids some of the complications associated with direct share ownership such as buying back shares when employees leave the business. (Fieldfisher 2013)

The American ESOP and the Slovene Coop-ESOP both involve a “permanent holding of shares” while the EOT presents a case of “employee ownership in name only” rather than indirect employee ownership (Rosen 2024b). The US ESOP features indirect employee ownership. The European ESOP or Coop-ESOP has value-denominated capital accounts *just like in a partnership* doing away with the need to buy or sell shares in the first place and thus there “are no distracting discussions on what ‘my equity’ is worth...” (Fieldfisher 2015).

Unlike the case of direct employee shareholding (e.g., in Employee Share Purchase Plans or ESPPs), there is no “share market to allow employees to sell shares” in an ESOP. The ESOP pays out the value of the shares “in” an employee’s capital account of an exiting member *just as a partnership pays out the value in the partner capital account of an exiting partner*.

The basic point is worth repeating for lawyers arguing against capital accounts in EOTs based on the “naked out” description of the standard legal partnerships such as Fieldfisher LLP. The naked-out description of a partner’s exit from a law partnership is *after the payout of the partner’s capital account; it is not an argument for having no partner capital accounts in the first place*. Hence the argument for common ownership in EOTs based on the “naked out” description in “any professional partnership, like a law firm” is a fallacious argument.

Of course, EOTs have cash bonuses (when available) which play a role corresponding to the drawings (*mutatis mutandis*) in the legal partnership. But cash bonuses depend on the availability of cash which may not be available due to investment demands for new structures or equipment or for paying off debts. In the partner capital accounts, those retained earnings are recorded as each partner’s share of the profits minus the drawings. But in an EOT, there is no such record of *a share of profits minus bonuses* since there are no internal capital accounts in the common ownership structure in the first place (see the first-cohort problem discussed below).

Partner/member capital accounts in a partnership and in an EOT

The following is an illustration of a partner capital account assuming no initial capital contribution, i.e., “naked in.” In each year, the partner’s profit share minus drawings is the partner’s share in the *retained* earnings of the partnership for that year.

Partner Capital Account

Debits	Credits
Accumulated Drawings	Accumulated Profits Shares
	Balance = Accumulated Profit Shares minus Accumulated Drawings = Accumulated Retained Earnings

In spite of the obvious differences between a legal partnership and a Coop-ESOP (e.g., all employees are member/partners and one-person/one-vote), *the ICAs in a Coop-ESOP nevertheless operate in the same way as the partner capital accounts*. Thus, there should be no objective reason why lawyers advocating EOTs should not understand what is missing in EOTs, i.e., *member/partner capital accounts to record each member's share of the retained earnings*.

The following is the hypothetical or implicit capital account for an employee-member of an EOT.

Implicit Member Capital Account in an EOT

Debits	Credits
Accumulated Drawings (bonuses)	Implicit Accumulated Profit Shares
	Balance = Implicit Accumulated Profit Shares minus Accumulated Drawings (Bonuses) = Implicit Accumulated Retained Earnings

In spite of the “naked out” language, an exiting partner in a partnership (or exiting member in a Mondragon cooperative or Coop-ESOP) is paid out the last balance in their account which is their Accumulated Retained Earnings prior to their exit. Thus, the partner gets over their time in the partnership the Accumulated Drawings plus the Accumulated Retained Earnings of the partner, and similarly with the ICAs in cooperatives or Coop-ESOPs.

In an EOT, the employee-member gets the Accumulated Drawings in the form of the cash bonuses, and that is all, since there is no member capital accounts or ICAs for the members to record their share of the retained earnings. They do not recoup their share of the retained earnings which are implicitly ‘donated’ to common or social ownership—unless the EOT is sold out (see the first cohort problem below).

Law partnership as EOTs?

Organizing a law partnership as an EOT would be a step backward since the common ownership structure would eliminate the individual partner capital accounts.

An alternative route is now available for professional partnerships: employee ownership. This is a simple model and gives employees a collective ownership of the company (a preliminary step of course being the conversion of the partnership to a company). (Fieldfisher 2015)

This Fieldfisher LLP argument that (other) law firms could now be organized as EOTs, with a common ownership structure and thus with no partner capital accounts for the lawyer/employees, would not pass muster. Most, if not all, lawyers (in ordinary law firms) will understand the implications of having no recoupable claim on retained earnings in the common ownership capital structure, e.g., retained earnings to pay off the acquisition debt or to purchase fixed assets. And with the EOT structure, lawyers would not have drawings on their capital accounts but occasional bonuses depending on the cash-flow needs of the company.

A digression on valuation issues

In the literature of financial economics, two Nobel-prize-winning authors, Merton Miller and Franco Modigliani (1961) gave the idealized but definitive arguments for four equivalent formulas to value corporate shares. But there is a fifth proven equivalent formula (Ellerman 1982, Chap. 12; Ellerman 2021, Chap. 3) which shows that their share valuations can be parsed as the economic value of the identifiable net assets of the company plus the present discounted value of all future pure profits. The value of the identifiable assets of the firm minus the value of the liabilities is the *net asset value* on the balance sheet and the discounted value of future pure profits is called “goodwill” so the Miller-Modigliani value can be parsed as:

$$\text{Share value} = \text{Net asset value} + \text{Goodwill}.$$

In the generally accepted accounting standards of most countries, it is not allowed to list “goodwill” as an asset of the company. There is a good reason for this, not because future profits are uncertain, but because future profits are based on the contractual decisions of other parties such as customers, suppliers, and employees. The company has no present property rights to enforce those decisions to give the assumed future pure profits.

Practicing valuers of corporate shares use various cookbook formulas instead of the highly mathematical and idealized formulas of Miller and Modigliani. But if those formulas use estimated future cash-flows or profits, then they go beyond the net asset value on the balance sheet of a firm to include some estimate of goodwill.

One of the conceptual flaws in the US ESOP is the requirement, after the original purchase of shares, of annual valuations by those conventional methods. This requirement is flawed not only because it includes some notion of “goodwill” but also because in an employee-owned company, the future profits should accrue to the future members who produce them. Those future profits should not be included in the price of present employee shares—as if future workers had to buy the right to the net fruits of their labor from the present employees. No annual valuations are needed in the Mondragon cooperatives or in a Coop-ESOP since the capital accounts are adjusted annually to register the changes in the net asset value (also called “book value”) which is a known balance sheet value.

That is why the Fieldfisher recommendation of the conventional “naked in. naked out” legal partnerships with partner capital accounts (as opposed to a share-based system) is correct. The partner capital accounts are updated each year, just like the Mondragon capital accounts or the value-denominated ICAs in a Coop-ESOP, so their sum is equal to the net asset value on the balance sheet. No annual valuations are needed in a partnership.

The first-cohort problem: EOTs as mule firms

In a partnership with partner capital accounts, the partners eventually recoup their share of the retained earnings (share of earnings recorded in the partner accounts minus drawings) when their capital accounts are eventually paid out. But since the member capital accounts are left out of the EOT structure, the member/beneficiaries do not recoup their share of the *retained* earnings. This is particularly evident when the EOT is paying out its net earnings to buy the seller's shares or to pay off the loan to purchase the shares.

While these [bonus] payments are still subject to NICs [National Insurance Contributions], they provide a real, material benefit to the employees of an EOT company. The company must still generate sufficient cash flow to pay the bonuses and they may not be paid up to the full level, if at all, for the first several years of EOT ownership, as the company may need to dedicate its excess cash flow to repaying the debt used to finance the transaction. (Karch 2018, p. 10)

Thus, the first cohort of employees in the EOT will have their would-be bonuses kept as retained earnings to pay off the acquisition debt. They are building up an "implicit equity" in the company which they can only recoup by a selling out the EOT. This pressure to sell out the EOT to recoup those retained earnings means that the EOT (without member capital accounts to record their share of the retained earnings) is a "mule firm," an employee-owned firm with a tendency not to reproduce itself as an employee-owned firm.

This analysis of the "first-cohort problem" for EOTs was even developed by one of the original practitioners of setting up EOTs, Nigel Mason, as the head of the RM2 firm.

A threat to the long term future of EOTs lies embedded in the way they are currently structured. In the current set up, employees have no right of access to the equity value locked up in the trust. So a successful EOT business could face pressure to accept a takeover offer so that all or some of the equity value trapped in the trust can be distributed to the employee beneficiaries. The dilemma for EOT companies is that holding all equity collectively in trust is good for long term, stable governance; but bad in that employees have no right to a share in potentially rising capital values. (Mason 2019, p. 12)

Mason even went beyond the theoretical critique of the first cohort problem and calculated the average implicit ICA balance (see the previous example of a member's implicit capital account) that would have accrued to the employees in the twenty EOTs that his company RM2 had implemented at that time.

As an illustration of the scale of value in EOTs, in the twenty EOT transactions advised on to date by RM2, the equity value per employee will be £175,000 [DE: about a quarter-million dollars] once vendor loans have been repaid, assuming (very pessimistically) no appreciation in the value of the company in the meantime. One can imagine some employee beneficiaries questioning why such value should remain inaccessible to them indefinitely. (Ibid., p. 12)

Nigel Mason's proposed solution was to have some individual capital accounts as an option in an EOT. He reasoned in terms of share-based accounts but value-based and denominated ICAs, as in the usual legal partnership or in the Coop-ESOP model, would be better in the context to avoid

the usual problems of needing costly annual valuations or having “goodwill” incorporated in the share valuations.

Governance Issues

What’s wrong with democracy?

It is remarkable how lawyers, economists, political scientists, and other social commentators can ‘forget’ about the idea of democracy in the workplace in the never-ending discussions about corporate governance. There is no parallel debate about municipal governance in the political democracies so why is the question of governance of most adults in half their waking hours even debated? The issues of war and peace, that can determine the fate of humankind, can be dealt with by political democracies, but the somewhat more mundane issues of corporate governance somehow cannot be entrusted to workplace democracy? Is it a matter of professional elites always coming up with smart and high-minded ideas why self-government cannot be entrusted to ordinary people?

Democratic versus steward/trustee governance

The governance issue for alternative firms centers on the conflict between democratic employee ownership and the tradition variously described as trustee-ownership, foundation ownership, or steward ownership or the like.

It is an old debate in political theory between political democracy and the form of government by the “Great & Good” as in the Roman Senate (Purpose Foundation n.d., p. 6). The American founders adopted a compromise between the Senate of the Great & Good and the House of Representatives based on democratic principles of proportional representation.

Applying people’s inalienable rights to self-determination to the workplace gives the notion of workplace democracy in a democratic firm (Dahl 1985; Ellerman 2021), not governance by “trustees” with the workers only as “beneficiaries” to the trustee ownership. This old debate has come to a head in the controversy over the EOTs which are clearly in the trustee-ownership tradition of John Lewis Partnership and Scott Bader Commonwealth in the UK. Prior to the EOT 2014 legislation, these trustee-ownership companies were largely or entirely good-hearted gifts to a charitable trust which thus held the shares of the underlying operating company. In Europe, Zeiss, Bosch, Novo Nordisk, Fabre, and Carlsberg are examples in this tradition.

How EOTs differ from older trusteeship companies

The innovation in the 21st century EOTs have introduced into the 19th and 20th century tradition of common ownership is using the ESOP buyout mechanism to establish trustee-ownership *without it having to be a gift*. That innovation and the sizable tax benefits which have been attached to EOT’s by UK law have led to the significant statistical uptake in the UK (Pendleton and Robinson 2025). Trustee-ownership is explicitly neither direct nor indirect employee *ownership* but the employees have a special position as beneficiaries of profit-sharing and tax-favored bonuses. The EOTs are a tax-benefited way to convert to trustee/common ownership using the ESOP buyout mechanism (i.e., the company itself pays out the exiting owners) with a tax-favored employee profit-sharing scheme. The employees have neither a recoupable claim on retained earnings (ICAs) nor governance rights in the basic model of trust-ownership although some more democratic provisions can be written into the trust documents.

Trusts are for untrustworthy beneficiaries

It is helpful to remember that the whole idea of a legal trust is based on certain people not being trustworthy, e.g., minors or senile persons, so their affairs/property may be managed by a trust. At least in the case of trusts set up to manage the inherited property of minors, the young people eventually become of age and then the trust is dissolved and they manage their own property. Both the US Employee Stock Ownership Plans (ESOPs), US EOTs (Michael 2024), and the UK EOTs have trusts where the beneficiaries never grow up to manage their own affairs. The treatment of the employees as minors is permanent.

Low-brow and high-brow rationales for trust governance

Broadly speaking, it might be said that there are different reasons for the trusts in the US and UK examples. In the American case, the ESOP was essentially invented by Louis Kelso. Joseph Schuchert, managing partner of Kelso & Co., was quite explicit.

Our programs are the antithesis of workplace democracy... . We've been criticized for not giving workers more participation, but we believe workers are natural shareholders, not natural managers. (quoted in Hiltzik 1985, p. 54)

According to Hoerr and Hammonds (1988), Kelso felt that employee voice in corporate decisions would result in “amateur management.” (quoted in: Murphy 2005, p. 659).

In the UK case, that structure seems to be motivated by a high-minded notion of trusteeship, not simply by low-brow class prejudice. If employee-owners had actual control over the company, then they might be motivated by self-interest whereas a trusteeship could lift its sight and pursue lofty ‘social’ goals under the leadership of steward-elites who are not living paycheck to paycheck.

What Gandhi’s theory of trusteeship encourages is to get to the position that a company is not employee owned unless it also serves society and the environment, locally and globally, as well as its shareholders, its employees (call this EO with added Gandhian purpose or “EO Version 3”). (Nuttall 2022, p. 138; see also: Nuttall 2020)

Trustee-ownership versus employee-ownership in EOTs

In spite of the language of employee ownership in the name “Employee Ownership Trust,” that label was not applied to older common-ownership or trustee-owned companies. Prior to the 2014 EOT legislation, John Lewis, Scott Bader, Zeiss, etc. were *not* called “employee owned” but were the flagships of “common ownership” or “foundation ownership.” One friendly analysis of the non-EO motivation behind common, commonwealth, trustee, foundation, or steward ownership can be found in Robert Oakeshott's book on Scott Bader (Oakeshott 2001, Chap. 2).

That non-EO motivation consists of a high-minded mixture of upper class disdain for “worker” ownership, Gandhian trusteeship ideas (Nuttall 2022; Goyder 1979; Gandhi 1960), social Christianity ideas, appeals to social or stakeholder governance often dressed up in the language of a higher “purpose” embodied in the Great & Good who by nature or up-bringing are free of baser motives. And, as in the standard argument for stakeholder corporate governance, by being responsible to further the interests of all stakeholders (“society and the environment, locally and globally”), the steward/trustee management would be accountable to and removable by none.

What better social disguise for governance by a self-perpetuating elite than higher social goals; “Current stewards should choose future stewards based on these principles.” (Sanders and Neitzel 2025, p. 11)⁵

Another issue: Outside equity plans for managers

This paper focuses on the fallacies in the arguments given by advocates, particularly lawyers, in favor of EOTs as opposed to the US ESOPs or the Slovene Coop-ESOP model in Europe. Another problem in EOTs and US ESOPs that might just be mentioned is allowing managers to have their own outside individual virtual equity and stock options plans. These individual equity plans are particularly hypocritical in EOTs where ordinary employees have only common ownership. In both cases of UK EOTs and US ESOPs, such outside plans for managers increase the pressure, sooner or later, for sellouts—and, in both cases, the current employees and managers get the net proceeds of a sellout after the outstanding liabilities have been met.

Concluding remarks

The Coop-ESOP model is essentially a gradual version of the Mondragon-type worker cooperative. While Mondragon-type worker cooperatives have typically been start-ups or spin-offs, almost all prospective Coop-ESOPs will be partial or full conversions of established firms. When the ownership of the underlying company reaches 100% in the “employee ownership cooperative” that serves as the special purpose vehicle to hold the company shares, then it is the functional equivalent of a Mondragon worker cooperative.

One way to understand the European Coop-ESOP model (including the 100% version) is to compare it to a (limited liability) partnership. One difference is that all who work in the underlying company would be members/partners in the cooperative and, as a cooperative, it would be one-member/one-vote. The *major similarity* is that both a partnership and a Coop-ESOP both have internal capital accounts for the partners/members. That similarity makes it all the more remarkable when lawyers, who work in a legal partnership with partner capital accounts or are well aware of the structure of the partner capital accounts, nevertheless advocate the current legal form of the “employee ownership trust” (EOT) that has a common ownership structure and is thus devoid of the capital accounts for the workers/partners. This paper is devoted to analyzing the problems in their reasoning and arguing instead for the European Coop-ESOP model as essentially an example of a worker partnership with both partner capital accounts and partner governance—instead of neither in the current EOT.

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⁵ Moreover, the whole idea of defining a legal form—trustee or steward ownership—according to the values and capabilities of the top people is odd to say the least. Can we define the legal form of a “genius corporation” where the top people are, by definition, genius-entrepreneurs?

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