

FINANCIAL PARTICIPATION OF EMPLOYEES IN THE EUROPEAN UNION

UNICE POSITION

INTRODUCTION

1. UNICE has noted the Commission working paper on financial participation of employees in the European Union, and hereby submits its contribution to the discussion.
2. The Commission wishes to relaunch the debate on financial participation of employees with a view to preparing a communication and an action plan at the end of 2001. It invites interested parties
 - to identify major obstacles to greater encouragement at EU level of profit-sharing and employee share ownership schemes;
 - to comment on the need for and content of a possible Community initiative and, more specifically, to provide it with views on the necessity to lay down general principles at Community level, based on the PEPPER reports and Council Recommendation 92/443/EEC, and to express views on the need for other specific measures.

GENERAL COMMENTS

3. In recent years, employee share ownership and profit-sharing schemes have developed and such instruments could become an important part of company remuneration policies. However, strong differences can be observed in the use of such schemes, which is more developed in some EU countries and sectors.
4. Companies recognise that financial participation schemes can be important tools to motivate employees by allowing them to share in the success of their company, to involve employees more closely in the life of the business, to align employees' interests with those of the company's shareholders and, thus, to link employees to the company over the longer term. In addition, worker participation models in the form of share purchase or share savings schemes also have the advantage that they make share ownership accessible to wider sections of the workforce and support wealth creation.
5. The business community broadly recognises the benefits of financial participation schemes and welcomes wider use of share ownership and profit-sharing schemes for both its economic and social benefits.
6. However important obstacles to wider use remain. These are essentially of a legal and tax nature. Not all EU Member States provide a legal and tax environment that sufficiently encourages companies to introduce such schemes.

7. Moreover, UNICE is preoccupied by the problems arising in a cross-border/transnational context. Different legal provisions, tax schemes and differences with regard to social security contributions generally prevent companies operating in two or more EU Member States from being able to apply one single corporate financial participation model to employees in different Member States. This generates high administrative costs.
8. In addition, the divergent and complicated fiscal treatment of financial participation models in cross-border situations has become an obstacle to the free movement of employees and a source of distortion within the Single Market for employers. As regards, for example, stock options, major problems for employees arise from the difference in timing of taxation and from the risk of double taxation. Distortions for employers may arise from no or double deductibility of related costs for corporate taxes.
9. As regards the “cultural barriers” identified by the Commission, UNICE is convinced that these are less predominant and will vanish progressively, due to a wide recognition in the business community of the usefulness of financial participation schemes and the need for a company to be a “competitive employer”. At the same time, in this context, the importance of providing the right legal and fiscal framework conditions should not be neglected. These framework conditions will finally determine how and to what extent financial participation schemes are more widely used.

SPECIFIC COMMENTS

Basic principles supported by UNICE

10. UNICE is attached to wider use of financial participation schemes at EU level, but recalls that such schemes must be voluntary for both employers and employees. It needs to be recalled that the introduction of financial participation schemes is a decision for the individual company/employer, in the light of existing national law and practice.
11. A large number of SMEs have introduced financial participation schemes, fully conscious of their potential and usefulness. But whereas wider use of financial participation schemes at SME level would be welcome, account needs to be taken of the fact that many SMEs are not in a position to generate the financial resources for worker equity participation or broad profit-sharing schemes, over and above already high wage costs.
12. As stated above, through financial participation schemes employers wish to motivate employees, create a close link between employees and the company and attract and retain qualified staff. Providing broad access to financial participation schemes may therefore be favoured, but no restrictions can be accepted on the employers’ freedom to decide the eligibility criteria for such schemes, in accordance with national law and practices and depending on the financial situation of the company.
13. Companies make use of both broadly and narrowly based financial participation schemes depending on their specific circumstances. Sometimes these two forms may even co-exist within the same company. Employers will choose the schemes deemed to be best suited for the pursuit of their human-resource-oriented goals and in that respect differentiation between groups of employees based on legitimate criteria such as qualification/responsibility may be necessary, and require different responses.
14. In particular, the Commission suggests that financial participation schemes should also be applied to fixed-term and temporary employees. It should however be noted

that, when an employer decides to make such incentives available to employees, this stems from the perspective of motivating and linking the employees to the company over the longer term. That companies would consequently see little benefit in including these categories of employees in such schemes who will only be affiliated to the company over a short period of time seems evident. It can also be assumed that fixed-term and temporary employees attach more importance to the actual salary than to additional forms of remuneration that may often only be interesting in the case of longer-term affiliation to a company.

15. The role of the social partners, and whether financial participation will be an issue for collective bargaining, will depend on national practice. Where this corresponds to national practice, financial participation schemes may allow for greater flexibility in collectively agreed remuneration systems, with fixed wage levels supplemented by pay components to reflect the success and performance of the company. This flexibility, beneficial to both employees and companies, should be promoted.
16. UNICE agrees that employers need to provide clear information on the nature and functioning of financial participation schemes and calculation formulas to employees who would be entitled to benefit from them.

Need for action at Member State and Community level

17. UNICE invites Member States to provide for a favourable fiscal and legal framework that further encourages equity participation and profit-sharing schemes and avoids putting financial and administrative burdens on companies that wish to introduce such schemes.
18. With regard to tax systems, the main responsibility remains at Member-State level. However, UNICE would welcome a process moving towards a certain degree of coordination of tax arrangements applying to financial participation schemes in a cross-border/trans-national context, which could help to reduce existing obstacles and distortions.
19. More specifically, as regards the treatment of stock options in cross-border situations, UNICE would be in favour of treating mobile workers in the same way as resident workers. This could be achieved through taxation exclusively by the Member State where the employee pays income tax when the stock options are granted, be it conditionally or unconditionally, regardless of where and when the exercise takes place. Even though other approaches such as exercise-based taxation exist, a common method of avoidance and proportional taxation could be considered. The approach suggested by UNICE could offer a robust and simple solution¹ for dealing with stock options in cross-border situations.
20. The Commission could in its forthcoming Communication present the current fiscal and legal framework in the different EU Member States, start a benchmarking exercise, and, via a follow-up report to its action plan, monitor progress in this field. An interesting element in a benchmarking exercise could also be a comparison between performances and practice/systems at EU level in relation to the USA, where a more developed financial participation culture exists.
21. Moreover, the Commission, in its future Communication, should also identify and examine the tax obstacles arising in a cross-border/trans-national context and, together with the EU Member States, explore ways of reducing these obstacles.

¹ More detailed arguments and an overview of the current tax treatment of stock options in the different EU Member States can be found in the UNICE working paper "Stock Options in the EU – Tax obstacles to cross-border mobility of employees in the Single Market" that will be published soon.

CONCLUSION

22. UNICE broadly recognises the benefits of financial participation schemes and welcomes wider use of share ownership and profit-sharing schemes for both its economic and social benefits.
23. It recalls at the same time that these schemes must be voluntary for both employers and employees.
24. UNICE notes that important obstacles to broader use of financial participation schemes remain. These are essentially of a legal and tax nature.
25. UNICE therefore calls on Member States to provide for a tax and legal environment that will favour the gradual development of a financial participation culture in the EU.
26. UNICE invites the Commission to examine in its forthcoming Communication the current fiscal and legal framework in the different EU Member States and to start a benchmarking exercise. It would also welcome an identification and examination of tax obstacles arising in a cross-border/trans-national context and the launch of a reflection process at EU level concerning possible ways to reduce these obstacles.

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