



## Finally! Real ESOPs For New York Design Professionals Coming in July 2024

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There has been a growing interest in employee stock ownership plans (ESOP) including in the design professional sector. However, realistic thoughts of implementing an ESOP if you are a design professional in New York have usually been silenced by the severe limiting factor in the New York law that only permits an ESOP to own a sliver less than 25% of the ownership of a New York Design Professional Corporation (DPC). This limitation serves to strip most of the benefits of an ESOP structure from the DPC and consequently, the ESOP option isn't really an option for a DPC.

Better late than never, this will all change on July 21, 2024 when New York will allow 100% ownership of a New York DPC to be owned by an ESOP. For the first time, an ESOP structure will now be a viable alternative for design professionals in New York.

Now that an ESOP is a viable option for a DPC, the question is now if it makes sense for firms to implement. There is no simple answer, and each firm must carefully analyze the pros and cons of moving to an ESOP. The good news is that the decision of whether to implement an ESOP is now in the hands of the DPC.

### What you should know:

- The amendment will go into effect on **July 21, 2024**.
- This amendment is a significant change from current, strict ESOP ownership limitations of less than 25%. **ESOPs will now allow for ownership by all firm employees**, an attractive option to all design professional firms.
- Only ESOPs that **meet certain requirements will be permitted to reach 100 percent ownership**. Additional requirements of fully-owned ESOPs include:
  - more than 75% of the ESOP's voting trustees or committee members would need to be licensed design professionals;
  - the president, the chairperson of the board of directors and the chief executive officer or officers are all design professionals; and
  - the single largest shareholder is either a design professional or an ESOP with greater than 75% of the plan's voting trustees being design professionals and greater than 75% of the plan's committee members being design professionals.

The revised statute can be found [here](#).

## ATTORNEYS

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