LEGAL AND TAX ASPECTS OF ESOP

Cross-Jurisdictional Overview on Employee Participation Schemes

(December 2025)

INTRO

For many startups, attracting and retaining talented employees is just as important as securing funding or developing innovative/disruptive products. In competitive markets, employee participation schemes – often referred to as stock option plans, virtual/phantom share plans, or other equity-based incentivization schemes – have proven to be important tools for startups across jurisdictions to attract, retain, and incentivize key talent. By aligning the interests of employees/beneficiaries with those of founders and investors, such programs foster long-term commitment and engagement, while also enabling startups to remain competitive in the global market for skilled professionals.

The legal and tax frameworks governing employee participation schemes, however, may differ significantly from one country to another. Questions of corporate law, employment law, and taxation play a decisive role in shaping the structure, feasibility, and overall effectiveness of these schemes. Eligibility, vesting, transfer restrictions, taxation at grant or exit, and administrative requirements can differ in significant ways and may have a direct impact on how attractive an employee participation scheme is in practice. For startups, employees/beneficiaries, founders and investors, it is therefore crucial to understand both the opportunities and the pitfalls that arise when designing an employee participation scheme within a specific country.

The various articles contained in this e-paper, prepared in collaboration with renowned law firms from various countries, highlight the country-specific key legal and tax considerations, offering both startups, founders and investors as well as employees/beneficiaries practical insights into the opportunities and challenges they may face.

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WHAT WE COVERED

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

The proprietary company limited by shares ("**Pty Ltd**") is the overwhelmingly preferred corporate form for Australian startups in both the market entry and growth phases. This structure is governed by the *Corporations Act 2001* (Cth) and offers limited liability for shareholders, a separate legal personality, and a relatively straightforward and cost-effective incorporation process. A Pty Ltd company can be established with a single shareholder and director (a minimum of one director needs to have their ordinary place of residence in Australia), and there is no statutory minimum share capital (AUD 1 is sufficient). Shares in a proprietary company generally cannot be offered to the public, and are typically subject to transfer restrictions and pre-emptive rights, which are set out in the company's constitution and/or shareholders' agreement. The ongoing compliance obligations for a Pty Ltd are less onerous than for public companies, with no requirement for external audit unless the company meets the "large proprietary company" threshold. A Pty Ltd is a 'large' proprietary company where two of the following criteria are met: (i) revenue of $50m or more; (ii) gross asset value of $25m or more; (iii) 100 or more employees. This structure is well understood by founders, investors, and employees, and is compatible with venture capital investment, convertible securities, and employee share schemes.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

The most common forms of employee participation in Australian startups are:

- **Employee Share Option Plans ("ESOPs"):** Employees are granted options to acquire ordinary shares, subject to vesting conditions (typically based on time and/or performance). Until exercise, employees do not have shareholder rights. Upon exercise, they become shareholders with voting, dividend, and exit participation rights, subject to any class-specific terms and the shareholders' agreement.
- **Loan-Funded Share Plans:** Employees are issued fully paid shares, funded by a limited-recourse loan from the company. Employees acquire shareholder rights immediately, but the economic benefit is contingent on repayment of the loan, often from future sale proceeds.
- **Restricted Share Units ("RSUs"):** Employees receive a contractual right to be issued shares (or a cash equivalent) upon satisfaction of vesting conditions. No shareholder rights attach until conversion.
- **Phantom or Virtual Share Plans:** Employees receive a contractual right to a cash payment (or, less commonly, shares) on a liquidity event, calculated by reference to the increase in company value. No shareholder rights attach; the employee is an unsecured creditor for the entitlement.
- **Performance Rights/Profits Interests:** Nil-priced rights that convert into shares when specified performance or service hurdles are met. These are similar to options but do not require payment of an exercise price.

Across all forms, employees are typically subject to confidentiality obligations and must remain employed for vesting to occur. Good leaver and bad leaver provisions, as well as malus and claw-back clauses, are standard.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

It is standard practice for Australian startups to reserve a portion of fully diluted share capital for employee equity participation, commonly referred to as the "ESOP pool". The size of the pool varies by stage:

- Pre-seed/Seed: 10–15% of fully diluted share capital.
- Series A/Early Growth: 10–12%, with top-ups negotiated as part of new investment rounds.
- Later Growth (Series B and beyond): 5–10%, with grants more targeted to key executives or new hires.

In some cases, particularly where there is intense competition for talent or a significant portion of the pool is earmarked for future executive recruitment, the pool may be as large as 20%. The precise size and structure are typically negotiated between founders and investors at each financing round.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

The economic impact of issuing new shares or options under an employee participation plan is typically borne by existing shareholders, who are diluted pro rata according to their shareholdings. In early stages, this dilution is primarily absorbed by founders. After external investment, both founders and investors share the dilution unless otherwise agreed. It is common for investors to require that any increase to the ESOP pool immediately prior to or as part of a financing round is included in the pre-money valuation, ensuring that the dilution from the pool expansion is borne by the founders. For phantom share plans or other cash-settled rights, the economic cost is borne by the company itself, reducing the proceeds available to all shareholders.

In some cases, the equity can be satisfied by the transfer of existing shares. While satisfaction of the equity in this way avoids dilution of existing shareholders, it requires the divesting shareholder to dispose of shares which will trigger a taxing event.

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee equity awards such as options, RSUs, and phantom rights are generally non-transferable and cannot be encumbered or assigned, except in very limited circumstances (e.g., death or, occasionally, transfers to a family trust with board consent). This is to ensure that employee equity remains an incentive for the individual and to prevent a secondary market in unlisted company securities. • Shares acquired by employees are subject to the company's constitution and shareholders' agreement, which typically impose pre-emptive rights on share transfers (existing shareholders have the first right to purchase), as well as drag-along, tag-along, and lock-up or escrow provisions, especially in the lead-up to an IPO or sale. • Employee share plans typically address forced transfer or redemption scenarios. For "good leavers" (e.g., redundancy, retirement, death), vested awards may be retained or must be transferred to the company or a nominee at fair market value. For "bad leavers" (e.g., dismissal for cause, breach of restrictive covenants), all unvested awards typically lapse, and vested shares or options may be subject to buy-back or forfeiture, often at cost or a discounted value. On a change of control, IPO, or trade sale, plans usually provide for accelerated vesting and may require compulsory sale or cancellation of employee shares or options in accordance with transaction documents or plan rules.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	In proprietary companies, the board of directors is generally empowered to issue new shares or options, provided this authority is granted by the company's constitution or by a prior resolution of the shareholders. In practice, shareholder approval (by ordinary resolution) is usually obtained to establish an employee share plan and to authorise the board to issue shares or options up to a specified limit (the ESOP pool) without further shareholder approval. A company's shareholders' agreement (if there is one) may impose further approval obligations. For unlisted public companies, similar rules apply, but additional requirements may arise under section 208 of the Corporations Act, which regulates the provision of financial benefits to related parties (including directors and their associates). Unless an exemption applies (such as the "remuneration" exemption), shareholder approval may be required for grants to directors or related parties. Listed companies must comply with the ASX Listing Rules, which impose further requirements, including shareholder approval for the issue of securities to directors or their associates under an employee incentive scheme.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	The process typically begins with a board resolution approving the specific grants to employees. Where required, an ordinary resolution of shareholders is passed to approve or refresh the ESOP pool, authorising the board to make grants up to a specified limit. Offer documentation must comply with Division 1A of Part 7.12 of the Corporations Act (additional obligations may apply if the start-up is listed). Offers must be made in writing (hard copy or electronic), and must include prescribed information about the plan, the rights being offered, and the risks involved. Employees accept their grants by signing and returning the offer documentation, either in writing or electronically. There is no requirement for notarisation or qualified electronic signatures; standard electronic signatures are generally sufficient. Once shares or options are issued, the company must lodge an ASIC Form 484 within 28 days to update the company's records, and update the share or option register accordingly.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	Options and performance rights are typically granted for nil consideration, meaning the employee does not pay anything to receive the option or right. However, the exercise price for options is usually set at the fair market value (FMV) of the shares at the time of grant, or at a discount if permitted under the start-up ESS tax concessions. Once options vest, employees may choose to exercise the options during an exercise period (which is often up to 15 years from the date of issue of the options). Employees must pay the exercise price to acquire the underlying shares, unless the plan provides for a cashless exercise or net settlement. In loan-funded or restricted share plans, employees are issued shares at nominal value or at FMV, but the purchase price is funded by a limited-recourse loan from the company or, less commonly, by salary sacrifice. Phantom or virtual share rights are generally granted for nil consideration, and any benefit is paid out in cash by the company on a liquidity event.
What are the three most important topics to be covered/considered under an employee participation plan?	The three most important topics are: • Vesting and leaver provisions: The plan should clearly set out the vesting schedule and the treatment of vested and unvested awards in the event of resignation, dismissal, redundancy, death, or a change of control. The distinction between "good leaver" and "bad leaver" scenarios, and the consequences for each, should be unambiguous. • Tax structuring: The plan should be designed to maximise eligibility for the start-up ESS tax concessions where possible, and should address the valuation methodology for the underlying shares or options, the timing of the taxing point for employees, and the company's obligations for tax withholding and reporting. • Liquidity and exit mechanisms: The plan must address the process for exercising options or rights, the treatment of awards on a change of control or IPO, the company's rights or obligations to buy back shares or options, and any restrictions on transfer. The plan should be consistent with the company's constitution and shareholders' agreement.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Employees who acquire shares must be recorded in the company's share register, as required by section 169 of the Corporations Act 2001 (Cth). For proprietary companies, the share register is not generally available to the public, but certain details (such as the names and addresses of shareholders and directors) are lodged with ASIC and may be accessible upon request. For options, rights, or phantom equity, there is no requirement for public registration, but companies typically maintain an internal register for governance and reporting purposes. Australia does not currently have a public Ultimate Beneficial Ownership (UBO) register for private companies, although a beneficial ownership register regime has been announced.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	The tax treatment depends on the structure of the plan and whether it qualifies for concessional tax treatment under Division 83A of the *Income Tax Assessment Act 1997* ("**ITAA 97**"). For most employee share schemes that are structured with a risk of forfeiture prior to vesting or have disposal restrictions imposed on the equity, the default is "deferred taxation," where the discount (the difference between the market value of the shares or options and any amount paid by the employee to acquire or exercise the equity) is taxed as ordinary income at the employee's marginal tax rate (up to 47% including the Medicare levy). The deferred taxing point is generally on vesting or exercise, disposal of the shares or options, or 15 years after grant. Any subsequent gain on the shares after the deferred taxing point is subject to capital gains tax ("**CGT**"), with a 50% discount if the shares are held for more than 12 months. Dividends received on shares are assessable income, but franking credits may be available to offset tax. If the plan qualifies for the "start-up concession," no tax is payable on grant or vesting; instead, CGT applies on disposal, with the 50% discount available if held for at least 12 months. Phantom share plans and cash bonuses are taxed as ordinary employment income when paid, at the employee's marginal tax rate, and are not eligible for CGT treatment.
Are there any tax benefits available for employees under (virtual) participations?	Yes. The most notable is the "start-up ESS concession" under Division 83A of the ITAA 97. To qualify, in broad terms, the company must be unlisted, less than 10 years old, have an aggregated turnover of less than AUD 50 million, be an Australian resident, and the ESS interests must be issued at no more than a small discount to market value (for shares) or with an exercise price at least equal to market value (for options). If these conditions are met, employees are not taxed on grant or vesting; instead, tax is deferred until the shares or options are sold, at which point any gain is subject to CGT, with the potential for a 50% discount if held for more than 12 months. Another concession is the AUD 1,000 tax-exempt scheme, which applies to broad-based offers where employees are required to hold the shares for at least three years. Under this scheme, the first AUD 1,000 of the discount on shares is exempt from income tax each year.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	There are several taxes and statutory contributions that may be payable by the company as issuer of employee equity. The company is required to withhold and remit Pay As You Go ("**PAYG**") income tax on any cash payments made under phantom share plans, at the time the employee's taxing point is triggered. There is generally no employer withholding on the grant, vesting or exercise of employee equity. Statutory superannuation guarantee contributions are generally not required on the value of shares or options granted to employees, as these are not considered "ordinary time earnings," but are payable on cash bonuses, including cash-outs of phantom share plans, unless a specific exemption applies. Payroll tax is imposed by all Australian states and territories on the value of employee share scheme discounts or cash rights, which are included in wages for payroll tax purposes at the employee's taxing point. The applicable rates vary by jurisdiction, generally ranging from approximately 4.75% to 6.85%. Fringe Benefits Tax ("**FBT**") does not apply to employee share scheme interests that qualify for concessional treatment under Division 83A of the ITAA 97. If the scheme does not qualify, FBT may be payable by the employer at a rate of 47% on the taxable value of the benefit.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	1. A limited liability company ("**GmbH**") is the most common corporate form in Austria and, in short, a separate legal entity established by one or more shareholders (either individuals or entities) who contribute capital (cash or assets) to the company against receipt of shares. Shareholders are generally not personally liable for company debts. The minimum share capital is EUR 10,000, with at least half payable in cash. The company is represented by its managing director(s) (one MD would be sufficient; such person may also be shareholder). 2. The flexible company ("**FlexCo**") is a new start-up-friendly company type (available since 1.1.2024) similar to a GmbH but with greater flexibility. For example, company value shares (as a second share class compared to ordinary shares) allow employees to participate in the company's success, without voting rights attached. Flexibility is achieved, e.g., by simplified formal requirements for share transfers and the passing of shareholders' resolutions.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	GmbH: A Virtual Employee/Phantom Share Option Plan ("**VESOP**" or "**PSOP**") is an employee participation program that allows employees to benefit from the company's success without receiving ordinary shares or ownership stakes. The employer/company grants employees a certain number of virtual shares, entitling to claim pro rata payment upon occurrence of an exit, asset deal, IPO, a dividend distribution or liquidation. VESOPs are contractual agreements mainly governed by labor law and civil law. In order to incentivize long-term commitments, VESOPs often include vesting clauses, stating that only after lapse of a certain period of time the holder of virtual shares is entitled to exercise the attached monetary rights in full. Additionally, leaver provisions determine what happens to the (un)vested virtual shares if an employee leaves the company. FlexCo: Company value shares ("**CVS**") carry specific rights. Holders are entitled to a pro rata share of the company's profits and liquidation proceeds. Further, a holder of CVS is entitled (i) to access financial records and company documents and (ii) to participate and pose questions in general meetings (including being informed about resolutions passed). Additionally, they have a statutory tag-along right if the founders sell a majority stake in their company and, in case of an employee being the holder of CVS, they shall also be entitled to sell their CVS in case they leave the company (in order to be able to cut all ties to the company). CVS may also be governed by commonly used provisions under VESOP (e.g., as for vesting and leaver cases). GmbH and FlexCo: Other available forms are profit participation rights, which may carry similar rights compared to virtual shares, but are more favorable for the holder in terms of taxes. Option rights in ordinary shares are typically not granted under employee participation programs (mainly due to tax disadvantages for the employee).
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	GmbH: Common practice is to allocate around 10% of the company's share capital for this purpose, although there are no legal restrictions. FlexCo: By law, only less than 25% of the company's entire share capital may be represented by CVS.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	GmbH and FlexCo: It usually depends on the current company's phase of development and whether investment rounds have already taken place. Usually, the economic burden lies with the founders in case of early stage investments (i.e., only founders shall be diluted by the amount of issued virtual sharers or CVS in case of seed or series A investments).

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	GmbH: Under a VESOP, virtual shares are typically not freely disposable. Based on the agreed vesting scheme, virtual shares may also forfeit after completed vesting or the occurrence of a leaver event (subject to good or bad leaver scenarios). FlexCo: Each CVS may be inherited, transferred inter vivo and encumbered. However, the articles of association as well as CVS plans may include certain transfer restrictions (e.g., such as vesting and leaver provisions, put options, co-sale rights, rights of first refusal, rights of recourse, as well as co-sale obligations).
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	GmbH: The general meeting (resolution requires a simple majority of the votes cast, unless stricter rules are set out in the articles of association) is typically responsible for authorizing the managing directors to conclude a VESOP. An issuance of CVS requires the approval of the general meeting with at least 75% of affirmative votes. In addition, for a period of up to 5 years the managing director(s) may be authorized under the articles of association to issue CVS (in such case a general meeting is not required).
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	GmbH: The issuance of virtual shares under a VESOP do not require notarization. A written agreement is typically sufficient (oral agreements are not recommended), with simple electronic signatures being usually accepted. FlexCo: If the issuance of CVS is provided for in the articles of association (see above), CVS may be issued either (i) based on a resolution of the general meeting (notarial record of the minutes required) with a majority of at least 75% of affirmative votes or (ii) a decision of the managing director(s) based on a resolution passed with simple majority (in case of authorized CVS capital – see previous question). Each entitled assignee of a CVS shall execute an accession and subscription declaration in written form (handwritten signatures or qualified e-signatures required). In case an employee intends to assume CVS, information about the nature of the CVS and key points of the articles of association (from a legal and economical perspective) must be demonstrably provided at least two weeks before subscription. Further, the articles of association of a FlexCo shall also specify to whom and on what terms employees may sell their CVS if their employment relationship with the company is terminated. Finally, the managing directors are obliged to annually submit a list of names of CVS holders to the commercial register after the first issuance and then continuously on an annual basis and apply for registration of the exact number of CVS issued in total (such information will be shown in the publicly available commercial register).
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	GmbH/FlexCo: No, not in case of virtual shares. FlexCo: A minimum share capital contribution in the nominal amount of EUR 0.01 per CVS shall be made by the employee to the company. Such contributions have to be made in full (contrary, ordinary shareholders may only pay in half of the nominal amount for assumed ordinary shares).

What are the three most important topics to be covered/considered under an employee participation plan?	• Nature, procedure and total amount of shares to be issued. • Vesting, acceleration of vesting, forfeiture of vested shares as well as related leaver scenarios and their consequences. • Trigger events for participation rights.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	GmbH/FlexCo: No, not in case of virtual shares. FlexCo: Yes, a share ledger for CVS (including in particular the name of each holder of CVS and the respective amount of CVS held) must be maintained internally and reported annually to the competent register court, whereas CVS holders are not listed in the commercial register with their amount of CVS held (contrary, ordinary shareholders are listed by name and amount of shares held).
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	In general, Austrian employers are obliged to deduct wage tax from the wages paid to its employees, so that the employer can transfer such amounts to the tax office. Not only the regular (monthly) monetary payments to an employee are subject to wage taxation, but also all other non-monetary benefits granted to employees. For example, the granting of shares in a company at nominal value or par value is subject to wage taxation, whereas the taxable event occurs upon receiving the shares, although at such moment the employee does not generate cash flow. This not a favourable tax effect which (i) is often referred to as the "dry income taxation", and (ii) is the main reason why the issuance of ordinary shares as a form of employee participation hardly occurs. "Dry income taxation" can also occur upon granting CVS to an employee, provided that these CVS do not qualify as a start-up employee shareholding (see below for further information on start-up employee shareholdings). VESOP: At the time of granting virtual shares under a VESOP, no taxable non-cash benefit occurs on the level of the receiving employee. A taxable event only occurs if, e.g., dividends are distributed or an exit event occurs under the VESOP. In both cases, the proceeds would be subject to wage taxation and be taxed with the progressive income tax rates applicable for such employee (maximum tax rate for income above EUR 103,072 is 50% and 55% for income above EUR 1,000,000 [whereby the application of such 55%-tax rate is currently limited to income earned in calendar years 2016 until 2029]). CVS: If a CVS is granted to an employee, it may result in a taxable non-cash benefit on the level of the receiving employee, if the CVS is granted at nominal value and cannot be qualified as start-up employee shareholding (see below). If taxes are triggered upon granting CVS ("dry income taxation") to an employee, the taxable non-cash benefit is subject to wage taxation and is taxed with the progressive income tax rates. Dividends paid on CVS to employees are subject to a final 27.5% withholding/capital gains tax. The company distributing the dividends is obliged to deduct such withholding tax. Dividends paid on CVS to foreign employees are subject to income taxation at a tax rate of 27.5%, while such income must be reported in the employee's yearly income tax return. Capital gains resulting from a sale of CVS are subject to income taxation at a final tax rate of 27.5%. If CVS qualify as a start-up employee shareholding, a preferential tax regime may apply (see next page).

Are there any tax benefits available for employees under (virtual) participations?	As of 1.1.2024, employees of start-ups and young companies can benefit from a preferable tax regime, if a "start-up employee shareholding" meets the following conditions: An employer (i.e., not a third party) grants for objective, business-related reasons – within ten years of the end of the calendar year in which such company was founded – to one or more employees (i.e., not necessarily all employees or a certain group of employees) shares (including ordinary shares, profit participation rights or CVS) in its company free of charge or at par value. Furthermore, the employer's company must fulfil in particular the following requirements in relation to the financial year preceding the date of the granting of the shares: (i) no more than 100 employees, (ii) no more than EUR 40 million in turnover, (iii) no full inclusion in consolidated financial statements, (iv) no holding of more than 25% in the capital or voting rights by companies that are to be included in consolidated financial statements, (v) the employee must not directly or indirectly hold a share in the employer's company of 10% or more (or has held such a share in the years before), and (vi) a sale or transfer of the granted shares requires the employer's consent. If a start-up employee shareholding is granted to an employee, in deviation from general Austrian income taxation rules, such granting is not qualified as a taxable non-cash benefit at the time the start-up employee shareholding is issued to the employee (i.e., no "dry income taxation"). A taxable event only occurs, if (i) the employee sells the start-up employee shareholding (to the employer or to a third party), (ii) the employment relationship is terminated (unless certain exceptions apply), (iii) the restriction on transferability is lifted (transfer shall require prior approval of the shareholders), (iv) the employee's shareholding directly or indirectly exceeds 10% of the entire share capital, (v) the employer is liquidated, (vi) the employee dies, or (vii) circumstances arise that would lead to a restriction of Austria's taxing right (e.g., a relocation of the employee). The issuance of CVS can have tax advantages for employees, provided that from tax perspective, the issued CVS do qualify as a start-up employee shareholding. If the latter is the case, a taxable event occurs, in particular, if the employee sells the start-up employee shareholding (e.g. the CVS), receives proceeds from an exit, or leaves the issuing company, and, consequently 75% of the non-cash benefit may be taxed at a fixed tax rate of 27.5%, while the remaining 25% portion is still subject to progressive income taxation. In case 75% of the proceeds is taxed at the flat tax rate of 27.5%, such 75% portion is exempt from being subject to ancillary wage taxation (municipal tax, employer's contribution).
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	VESOP: If a company distributes dividends or an exit event occurs, wage tax falls to due on the proceeds received by an employee out of such events under a VESOP. While in both cases, the employee is subject to income taxation (in form of wage taxation), the employer is liable for deducting and transferring the wage tax to the tax administration in the month, in which the employee has received the proceeds. CVS: If wage tax falls due upon granting CVS ("dry income taxation") to an employee, the employer is liable for deducting and transferring the wage tax to the tax administration in the month in which the CVS are granted. If dividends are paid to an Austrian employee on basis of CVS, the employer is immediately responsible for deducting and transferring the 27.5% withholding tax on such payment. The same dates are also relevant for payments of social security contributions and of ancillary wage taxes. If CVS do qualify as start-up employee shareholding, the employer is liable for deducting and transferring the flat tax (27.5% on 75% portion of proceeds) and the wage tax (progressive income taxation on 25% portion of proceeds) in the month in which the taxable event occurs. The same dates are also relevant for payments of social security contributions and of ancillary wage taxes.

ALTIUS

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

1. Startups typically adopt the legal form of a private limited liability company, known as a "**BV/SRL**" ("*Besloten vennootschap/ Société a responsabilité limitée*"). The BV/SRL is a distinct legal entity that may be incorporated by one or more shareholders, who may be either natural persons or legal entities. Shareholders' liability is generally limited to the amount of their respective equity contributions. However, under certain circumstances, founders may incur joint or personal liability. There is no minimum share capital requirement in a BV/SRL. However, the initial equity must be sufficient in view of the company's intended activities. The default governance structure consists of one or more directors, whereby each director is authorized to act independently unless the articles of association provide otherwise (e.g., the articles may stipulate that the directors act as a board, with collegial decision-making, or act jointly).

2. A public limited liability company, or "**NV/SA**" ("*Naamloze Vennootschap/Société Anonyme"*), is less commonly used by startups at the initial stage. However, some startups transition to an NV/SA following one or more investment rounds. This shift is often motivated by legal provisions that facilitate the transfer of shares, the issuance of shares to employees, and the structuring of share classes—mechanisms that require specific provisions in the articles of association if implemented within a BV/SRL.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

The most commonly used participation scheme is the Employee Stock Option Plan ("**ESOP**"). The term ESOP plan is used to designate both option plans and subscription right ('warrant') plans. The provisions of the plan in respect of duration, vesting, transferability, exercise periods, and other rights and obligations of the company and the beneficiaries can generally be quite freely adapted to the needs of the company.

1. An ESOP stock option plan grants an employee (or self-employed collaborator) the right to acquire a specified number of existing shares within a defined period and under certain conditions against a pre-determined purchase price (generally the value of the share at the time the option is granted) from the option grantor(s) (often the founder(s), but this may also be the company itself). An option plan is a contractual mechanism pursuant to which the option holder may oblige the option grantor to sell the pre-determined number of shares against payment of the pre-determined price (under the conditions of the plan).

2. An ESOP subscription right plan grants an employee (or self-employed collaborator) the right, upon exercise of the subscription right, to subscribe to a specified number of new shares to be issued by the company within a defined period and under certain conditions against a pre-determined subscription price (generally the value of the share at the time the option is granted). Subscription rights are securities of the company granting the subscription right holder the right to subscribe to new shares to be issued by the company upon exercise of the subscription right (under the conditions of the option plan).

Other (less common) incentive mechanisms include virtual/phantom shares (entitling the beneficiary to a cash bonus based on the equity upside between the 'granting' of the phantom shares and certain exit events) and profit participation rights (for example through non-voting shares or, in the NV/SA specifically, through profit certificates.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

Earlier stage start-ups typically reserve up to 5-10% of the shares on a fully diluted basis to the ESOP pool. At later stages, the ESOP pool may grow to 15-20%, but ESOP pools larger than that are not common.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

It usually depends on the company's phase of development and whether investment rounds have already occurred. With an ESOP option plan, the economic burden lies with the option grantors (or with the shareholders agreeing to deliver shares to the company if the company is the option grantor), which are typically the founders. With ESOP subscription right plans whereby new shares are issued by the company, the economic dilution is borne by all shareholders pro rata their stake in the company. Hence, ESOP option plans are more common at early stage start-ups, as the economic burden can be imposed on the founders, and ESOP option plans also avoid the more burdensome (and thus costlier) process of ESOP subscription right plans.

The economic burden of contractual virtual/phantom shares mechanisms is generally borne by the company paying the cash bonus (and thus, indirectly, by all shareholders proportionally).

Transfer restrictions/obligations: • *May (virtual) participations be freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	The terms of an ESOP plan typically provide that the options or subscription rights are non-transferrable and may not be encumbered. Upon exercise, restrictions on the shares obtained by the option or subscription right holder may – and typically do – result from the articles of association (and/or possible shareholders' agreement to which the ESOP beneficiary may have to adhere in the case of becoming a shareholder), such as pre-emption rights, drag-along and tag-along rights, good and bad leaver provisions, etc. ESOP plans typically provide for mandatory transfers (drag-along) of the shares obtained upon exercise in the case of certain exit events. Other transfer restrictions/obligations in respect of the options/subscription rights may result from the terms of the specific ESOP plan (e.g. in the case of leaver events). Virtual/phantom shares are contractual mechanisms which are typically non-transferable. The cash bonus resulting from them is triggered by the exit events provided in the agreement with the beneficiary. The agreement may provide for the lapsing or reduction of the bonus in certain conditions (e.g. bad/good/early leaver events).
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	1. An ESOP option plan requires the approval of the option grantor(s). If the company is the option grantor, the ESOP plan requires the approval of the management body of the company, however, back-to-back agreements should be made with the shareholders (typically the founders) who will 'deliver' the option shares to the company upon exercise of the options by the ESOP option holders. 2. The issuance of subscription rights under an ESOP subscription right plan requires the approval of the extraordinary general meeting of shareholders of the company. The management body must establish a report justifying the issuance. A report from the BV/SRL's statutory auditor (if there is one) is also required. In an NV/SA, if there is no statutory auditor, a report from a company auditor or certified accountant is required. 3. The management body of the company is entitled to enter into contractual incentive mechanisms such as virtual/phantom shares entitling the beneficiary to a cash bonus.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	The formal requirements and mandatory steps depend on the chosen form of employee participation. The most common structure, the ESOP subscription right plan, implies the most burdensome procedure: an extraordinary general meeting of the shareholders must be held before a notary public (which can be held based on proxies, which can generally be signed electronically), with a 50% quorum and 75% approval requirement. Board and audit reporting obligations apply. In practice, the granting of subscription rights or options under the ESOP plan to the participants follows a process of offer and acceptance letters to be exchanged between the company and the selected ESOP participants. Such letters may be signed by hand or electronically. The management body must keep a register of subscription rights holders at the registered office of the company, in which all subscription right holders and the number of subscription rights held by them is recorded. The issuance of non-voting shares (BV/SRL or NV/SA) or profit certificates (NV/SA) for purposes of profit participation also require an extraordinary general meeting of shareholders to be held before a notary public. ESOP option plans and contractual phantom share mechanisms do not require notarization.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	The issuance of options or subscription rights under the ESOP plan typically occurs free of charge. If an issuance price is to be paid, it is generally payable to the option grantor or the company. Upon exercise of the option/subscription right, the exercise price, which is set at the granting of the option/subscription right, must be paid to the option grantor or to the company. Phantom shares (which, for the avoidance of doubt, are not shares) typically are granted free of charge.

What are the three most important topics to be covered/considered under an employee participation plan?	• Nature, procedure and total number of shares under the plan. • Vesting, acceleration of vesting, forfeiture of vested shares as well as related leaver scenarios and their consequences. • Trigger events for the exercise of the options/subscription rights and subsequent rights and obligations as a shareholder (in particular, drag-along and other share transfer restrictions/obligations).
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Participants under an ESOP subscription right plan must be recorded in the subscription rights register of the company. This is an internal register that must be kept at the registered office of the company. No registration formalities apply in respect of participants under ESOP option plans (except upon exercise of the option and obtaining shares, see below) or virtual/phantom share plans. If an employee becomes a shareholder of a company through an ESOP plan, they must be recorded in the share register of the company. This is an internal register that must be kept at the registered office of the company. Generally, no UBO registration will be required as the shareholding resulting from the ESOP plan will not reach the threshold.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	The granting of the option/subscription right following the acceptance (within 60 days of the offer) by the beneficiary of the options/subscription rights granted under an ESOP plan triggers immediate taxation. The taxable benefit is calculated as 18% (plus 1% per year the exercise period exceeds 5 years), or a reduced rate of 9% (plus 0.5% per year the exercise period exceeds 5 years) if certain (cumulative) conditions are fulfilled), of the value of the underlying shares. The taxable benefit is taxed at the progressive tax rates (generally >50%). No taxes are due upon exercise of the options/subscription rights. In principle, no taxes are due upon sale of the shares to the extent the capital gain is to be considered as realized within the normal management of one's private patrimony. If the option/subscription right holder exercises the options/subscription rights and becomes a shareholder, any dividends received are subject to a withholding tax, generally at a rate of 30%, applicable at the time the dividend is distributed. Payouts under virtual/phantom share plans are taxed at the moment of the payout as ordinary income (effective tax rate generally >50%). The company may offer to gross up the payouts to 'cover' (part of) the taxes.
Are there any tax benefits available for employees under (virtual) participations?	ESOP option/subscription right grants enjoy a reduced tax rate (see above) and are generally exempt from social security contributions for employees (but not for self-employed individuals). However, the taxation is final and there is no refund if the options/subscription rights are eventually not exercised. The company may offer to compensate the participants in such events. No tax benefits and no social security exemptions apply with respect to virtual/phantom share mechanisms.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	The taxation of the ESOP options/subscription rights is a withholding tax to be withheld by the company upon granting of the options/subscription rights. Generally, no social security contributions apply (except if the beneficiary is a self-employed individual or management company). Ordinary withholding and social security contributions apply with respect to virtual/phantom share mechanisms, triggered upon payment of the cash bonus resulting from them.

BULGARIA

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

1. A limited liability company ("**OOD**") is the most common corporate form in Bulgaria and, in short, a separate legal entity established by one or more shareholders (either individuals or entities) who contribute capital (cash or assets) to the company against receipt of shares. Shareholders are not personally liable for company debts. The minimum share capital is EUR 1. The company is represented by its managing director(s) (one MD would be sufficient; such person may also be shareholder).

2. The variable capital company ("**VCC**") is a new start-up-friendly company type (available since December 2024) similar to a OOD but with greater flexibility. For example, the company capital is not registered in the Commercial Register and may be subject to changes throughout the financial year. It is checked once a year at the annual general assembly. Certain restrictions apply in terms of company size (e.g. up to 50 employees and a turnover of max EUR 2 mil. or net asset value of max EUR 2 mil.). Flexibility is achieved through simplified rules for share transfers and the possibility for employees' options.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

OOD: A Virtual Employee/Phantom Share Option Plan ("**VESOP**" or "**PSOP**") is an employee participation program that allows employees to benefit from the company's success without receiving ordinary shares or ownership stakes. The employer/company grants employees a certain number of virtual shares, only entitling to claim pro rata payment upon occurrence of an exit, asset deal, IPO, a dividend distribution or liquidation. VESOPs are contractual agreements mainly governed by labor law and civil law. In order to incentivize long-term commitments, VESOPs often include vesting clauses, stating that only after lapse of a certain period of time the holder of virtual shares is entitled to exercise the attached monetary rights in full. Additionally, leaver provisions determine what happens to the (un)vested virtual shares if an employee leaves the company.

VCC: The rules on Employee Shares ("**ES**") are to be adopted by the founders and shall be laid down in the VCC articles of association. These shares carry specific rights – equivalent or similar to the founders' shares. Usually, ES holders are entitled to (i) a voting right in the general assembly; (ii) a pro rata share of the company's profits and liquidation proceeds; (iii) information rights (access to financial records, documents). Any further specific rights, e.g. tag-along, put option, leaver provisions, etc., shall be explicitly laid down in the VCC articles of association.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

OOD: No statutory limit, but commonly 10% of the share capital.

VCC: Statutory limit of 15% of the share capital.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

OOD and VCC: It usually depends on the current company's phase of development and whether investment rounds have already taken place. Usually, the economic burden lies with the founders in case of early stage investments (i.e., only founders are diluted by the amount of issued virtual sharers or ES in case of seed or series A investments).

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	OOD: Under a VESOP, virtual shares are typically not freely disposable. Based on the agreed vesting scheme, virtual shares may also forfeit after completed vesting or the occurrence of a leaver event (subject to good or bad leaver scenarios). Usually, VESOPs are not inherited. Depending on the vesting scheme, some financial proceeds may be paid out to the heirs of the deceased employee. VCC: ES may be transferred, encumbered or inherited. However, the right over vesting ES is not transferable, but may be inherited and exercised (if the prerequisites for this were present at the time of death). VCC articles of association may include further transfer restrictions or implications (e.g., such as vesting and leaver provisions, preferences, put options, co-sale rights, rights of first refusal, as well as co-sale obligations, redemption rights).
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	*OOD: As this is not fixed in the law, this depends on the company articles of association. In the majority of cases, the general assembly (resolution requires a simple majority of the votes cast, unless stricter rules are set out in the articles of association) is typically responsible for adoption of VESOP and for authorizing the managing directors to conclude a VESOP.* *VCC: The general assembly (resolution requires a simple majority of the votes cast, unless stricter rules are set out in the articles of association) is responsible for the approval of issuing ES. In addition, for a period of up to 3 years the managing director(s) may be authorized under the articles of association to issue ES (in such case a general assembly is not required).*
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	*OOD: The issuance of virtual shares under a VESOP does not require notarization. A written agreement is typically sufficient (oral agreements are not recommended), with handwritten signatures. Simple e-signatures are also recognized, but qualified e-signatures are recommended.* *VCC: If the issuance of VCC is provided for in the articles of association (see above), ES may be issued either (i) based on a resolution of the general assembly or (ii) a decision of the managing director(s) based on a resolution passed with simple majority (in both cases). A written agreement is signed between the VCC and the entitled assignee with handwritten signatures. Simple e-signatures are also recognized, but qualified e-signatures are recommended.* *The managing director(s) is obliged to provide information on the number and value of issued ES to the general assembly. This is done on an annual basis together with the annual financial statement reporting.*
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	OOD: No, not in case of virtual shares. VCC: A minimum share capital contribution in the nominal amount of the shares (depends on each entity).
What are the three most important topics to be covered/considered under an employee participation plan?	• Vesting scheme and entitlements • Share transfers and redemptions rules and restrictions • Inheritance rules

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	OOD: No, not in case of virtual shares. VCC: Yes, a shareholders' book must be maintained internally and all shareholders are identified therein (both founders/ordinary shareholders and ES holders). Only holders of more than 25% of the share capital are registered in the commercial register as UBOs.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	OOD: The acquisition of virtual shares itself does not trigger tax implications. Generally, proceeds from virtual shares arise where certain actions with the founders' shares take place – e.g. exit/transfer of shares, payment of dividends, liquidation. In such cases, the virtual share holders (i.e. employees) receive monetary payments, which will be subject to personal income tax. The applicable tax rate is flat and is fixed at 10%. The company (employer) shall withhold and pay the due tax. VCC: ES are treated as any other types of shares – i.e. as stocks. If upon exercise of the option, the ES are provided to the employee at fair value (i.e. the ES are sold to the employee at market conditions), no tax implications are triggered. If the ES are provided at a discount (incl. free of charge), the amount of the discount is considered taxable employment income and taxed accordingly with 10% income tax. The tax is due by the company (the employer). The proceeds from ES, such as proceeds from transfer of shares, liquidation, payment of dividends, are subject to the respective income tax rates, as follows: • Transfers of shares: effective tax rate of 9% on capital gains from the share transfer. • Liquidation quota: tax rate of 5% on the capital gains from the liquidation proceeds. • Dividend payment: tax rate of 5% on the dividend sum.
Are there any tax benefits available for employees under (virtual) participations?	No.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	OOD: Yes, see above regarding due taxes in cases of virtual shares. Additionally, the employer pays the due social security contributions (if any) depending on the employee's monthly income. VCC: Generally, no. ES are treated as any other types of shares – i.e. as stocks (see above). Social security contributions may apply only at the time of share grant, if provided at a discount - on the amount of the discount. Capital gains, dividends, or liquidation proceeds are exempt from social security contributions.

1 Under the Bulgarian legislation capital gains from dispositions with company shares are taxed with a flat tax rate of 10%. However, the tax base is determined as 90% of the capital gains. Therefore, the effective tax rate is 9% (10% tax on 90% capital gains).

KINGSLEY NAPLEY
WHEN IT MATTERS MOST

Kingsley Napley LLP

Kingsley Napley is a law firm with a distinguished history, distinctive values and a unique culture. For over 85 years our lawyers have enjoyed a reputation for being innovative, creative and sensitive in their approach to complex legal issues, and we have played a central role in many cases which have had a profound impact on our legal system.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

Startups are commonly set up as private companies limited by shares, a structure well suited for both market entry and growth given its flexibility in structuring equity and shareholding arrangements, limited liability protection for shareholders and relatively straightforward incorporation and governance requirements. A private company limited by shares is owned by shareholders who contribute capital in exchange for shares. Shareholders' liability is generally limited to any unpaid amount on their shares. The company is managed on a day-to-day basis by directors, who may or may not be shareholders themselves. A company must have at least one natural person as director and at least one shareholder (though there is no minimum share capital requirement). There are no nationality or residency requirements for directors or shareholders but in practice, for the company to get a bank account in the UK, one of the directors must be UK resident.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

Tax-advantaged share option schemes: Several tax-efficient employee share schemes are available including Company Share Option Plans (CSOPs), Save As You Earn (SAYE), Enterprise Management Incentives (EMI) and Share Incentive Plans (SIPs). Among these, EMI options are commonly used by startups, as they are specifically designed for smaller, higher-risk trading companies. Under an EMI scheme, employees are granted options to acquire shares at a fixed price, exercisable upon certain trigger events which can be exit or time/performance based. To benefit from the associated tax advantages, both the company and the employee must meet certain eligibility criteria. When all conditions are satisfied, the exercise of EMI options can result in favorable tax treatment for both parties, including potential relief from income tax and National Insurance Contributions (NICs) and access to capital gains tax treatment on disposal of the shares.

Non-tax-advantaged share schemes: If a company or its employees do not meet the eligibility requirements for tax-advantaged schemes (often due to the strict qualifying conditions) startups may adopt alternative incentive arrangements. Common options include:

- Unapproved share options: These operate similarly to EMI options but without the associated tax benefits. Employees are granted the right to acquire shares at a future date, typically subject to vesting or performance conditions.
- Growth shares: A special class of shares that entitle the holder to benefit from any increase in company value above a pre-set hurdle. These shares typically carry no voting or dividend rights and are designed to deliver a financial upside on an exit event.

Phantom (virtual) shares: These are cash-based incentives replicating the economic value of equity without issuing actual shares. Employees receive a bonus linked to the company's valuation or exit proceeds but do not acquire ownership or shareholder rights.

In practice, startups and scale ups tend to put in place both an (often exit only) EMI scheme to reward employees and an unapproved share option scheme to reward consultants and advisors (who are not full time employees of the company).

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

At seed stage, startups typically reserve 10-15% of the fully diluted share capital for employee equity. As the company progresses to Series A or B funding rounds, the allocation may increase to 15-20% to accommodate a growing team and attract talent. However, by the later growth or pre-exit stages, the reserved equity pool often stabilises at 10-15%, reflecting a more mature cap table and strategic equity planning.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

When employees are granted shares or options, the value of their participation typically dilutes existing shareholders proportionately and any economic impact is thereby borne by those shareholders. On an investment round, who the option pool dilutes is often a negotiation point and feeds into discussions on valuation.

Costs in acquiring shares or exercising options will primarily be the responsibility of the employee, but the company may offer financial support (by way of a bonus or loan) to facilitate participation.

The company usually covers the administrative and legal costs in setting up and managing the scheme.

For phantom shares or cash-settled incentives, the company bears the direct financial cost of paying bonuses. Whilst these arrangements do not dilute shareholder equity, they can affect overall shareholder returns by reducing company profit.

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee participations (whether in the form of shares, options or virtual incentives) will generally be subject to contractual and constitutional restrictions. These restrictions are designed to maintain control over the company's ownership structure and protect shareholders' interests. Tax-advantaged options (e.g. EMI) are generally not freely transferable, with strict conditions restricting transfer without company approval. Phantom shares are non-transferable by design as they represent a personal contractual right to a cash payment rather than equity. Participations may be subject to mandatory transfer, redemption or lapse in specific scenarios e.g. termination of employment, death or incapacity, exit events, breach of contract or gross misconduct. The transferability of actual shares is governed by the company's constitutional rules which may often include restrictions on the transferability of shares, pricing conditions, rights of first refusal for existing shareholders or the company and compulsory transfer provisions with valuation adjustments based on the nature of the employee's departure (e.g. "good leaver" and "bad leaver" provisions). More often than not, employees are restricted from transferring their shares freely as the company's constitutional documents will almost always include pre-emption (i.e. right of first refusal) rights on transfer of shares and often compulsory transfers on ceasing to be employed by the company.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	The board of directors will typically be responsible for approving and implementing employee participation schemes and will determine the terms of the scheme and ensure it complies with legal and tax requirements. Shareholder approval (in a general meeting or by written resolution) may be required for the grant of participations to employees. This is more likely to be the case where the participations are satisfied by the grant or options or the issue of shares. Contractual arrangements, such as any shareholders' agreement or financing agreements, should also be reviewed to determine whether further consents or approvals are needed before implementing the scheme.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	Employee share schemes are typically documented through written agreements, which may be signed using either wet-ink or electronic signatures. Witnessed signatures are not usually required unless any document is to be executed as a deed (for share option documents, witnessed signatures can be in wet-ink or electronic). Notarisation is not required for these agreements. For share issuances, directors will need appropriate authority to allot the shares (either granted under statute or via shareholder approval). Once shares are allotted, the company must update its internal register of members to reflect the new shareholders, prepare and sign share certificates (which can be executed in wet-ink or electronically by either two directors, a director and a company secretary or a director in the presence of a witness) to be issued to the new shareholders. Cash-based or virtual incentive schemes do not involve the issuance of actual shares so will fall outside the scope of formal company law requirements. These arrangements are instead governed by contract law, making implementation more flexible. No notarisation, register updates or share certificates are needed. Agreements are typically executed via simple written contracts, signed using wet-ink or electronically, with no requirements for witnesses. In England and Wales, e-signatures such as DocuSign are commonplace and there is no need for notarization.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	No purchase price is mandatorily payable for cash-based or virtual participations as the employee is not acquiring actual shares. Instead, they are entering into a contractual arrangement that entitles them to future payment. For share options or actual share awards, any amount payable by the employee will be determined by the terms of the specific scheme. This is usually determined by reference to the company's valuation (which itself may be based on the last funding round or agreed with the tax authority) or a notional share price. Where payment is required, it is made to the company in exchange for the issue of new shares to the participating employee.

What are the three most important topics to be covered/considered under an employee participation plan?	• Eligibility and participation criteria – conditions, exercise/payout triggers, treatment of leavers. • Structure and mechanics of participation – type of participation (option, shares, bonuses, etc.), vesting schedules and restrictions on transfer, class of share and valuation methods. • Governance, communication and legal compliance – regulatory, employment and tax rules requirements for plans compliant with certain approved schemes e.g. EMI, communication protocols for exercise, variations to or cessation of the plan.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Employees holding virtual shares or options are not shareholders and as such do not need to be listed in the company's internal register of members or the publicly-accessible register of persons who are deemed to exercise significant control of a company. Employees holding shares (e.g. following the exercise of share options) will be members of the company and need to be recorded in the company's internal register of members. If they meet the criteria to be a person with significant control in relation to the company (which includes holding more than 25% of the shares or voting rights), they will also need to be listed in the company's public register of persons with significant control. For transparency and internal tracking, it is common practice and good practice to include option holders in the company's cap table. While maintaining a cap table is not legally required, it is a useful record-keeping tool, especially when preparing for investment rounds, as it provides visibility into shareholdings, potential dilution and control, and investors expect it.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Cash-based or virtual participations are treated as employment income, not capital gains. As such, these will be subject to income tax at the applicable marginal tax rates (currently 20%, 40% or 45% depending on the employee's income level) and NICs (ranging from 1.85% to 8% for employee NICs depending on category and earnings and 15% for employee NICs for certain categories). Tax is triggered when the cash payment is made to the employee. Tax-advantaged share option plans benefit from preferential tax treatment but the type of treatment may vary across the plans. For example, in relation to a EMI scheme, no tax is payable on the grant of the options, no income tax or NICs arise on exercise if the options are exercised at or above market value at the grant date and capital gains tax applies on the sale of EMI shares (18% or 24%, depending on income level, but certain reductions and relief may also apply). Non-tax-advantaged schemes are taxed differently. Employment income tax crystallises upon exercise of the options and the sale of shares is subject to capital gains tax on the gain. Dividends received by employees are taxed as dividend income (8.75%, 33.75% or 39.35% depending on income level) though an annual allowance of £500 applies. Later in a company's life cycle, growth shares might be put in place whereby senior employees or directors participate in the future growth of the company. These are tax efficient, provided they are structured correctly, and gains on the same are generally subject to capital gains (rather than treated as income). All tax rates are based on the 2025/2026 tax year and may be subject to change.
Are there any tax benefits available for employees under (virtual) participations?	Receipts of value and gains in respect of virtual or cash-based participations are generally treated as employment income and do not benefit from preferential tax treatment. They are subject to income tax and NICs at the time payment is made. There may be tax benefits for employees participating under certain share option schemes, particularly those that are tax-advantaged, as described above. Employees participating in non-tax-advantaged schemes may be subject to income tax and NICs on exercise, and capital gains tax on any subsequent disposal of shares.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	For virtual or cash-based participations, which are treated as employment income, the company is typically liable for employer NICs. The employee's income tax and NICs are usually deducted at source by the company through the "pay-as-you-earn" (PAYE) system. These liabilities arise when a cash payment is made. For tax-advantaged share schemes, companies may benefit from a corporation tax deduction equal to the difference between the market value of the shares at exercise and the amount paid by the employee. No employer NICs on the gain between grant and exercise may arise provided certain conditions are met (particularly in relation to EMI and CSOP schemes). For non-tax-advantaged schemes, the company may still be eligible for a corporation tax deduction based on the gain realised by the employee (market value at exercise minus the option price paid) and will generally be liable for employer NICs, which may also deductible for corporation tax purposes provided the relevant conditions are met.

Law Firm TEGOS

TEGOS (formerly TGS Baltic) is one of the largest commercial law firms in the Baltics with over 30 years of experience in the market. We have long standing experience in advising the companies in their option programs, both in Estonia and when such programs cross the boarders. Our professional approach, qualification, experience, service delivery principles, quality assurance system and resources ensure our abilities to properly understand your needs and offer the highest quality solutions. We believe lawyers should be more than just experts in the law: the real added value for our clients comes from our ability to understand their businesses and help them succeed in their objectives. We aim to use our expertise, experience, and skills to support the development of our clients' businesses.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	The typical corporate form is a private limited liability company (*Osaühing* or *OÜ*), which has a minimum capital requirement of €0.01. A private limited liability company can be established electronically, and the establishment process takes approximately 24 hours. Each shareholder may hold one or more shares, with the nominal value of each share determining the percentage of shareholding that each shareholder holds.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc.) and what are the general rights/obligations of an employee deriving from such form of a participation?	The most common form of employee equity participation is shareholding through stock options (contractual rights that grant the holder the ability to acquire underlying shares). The shares may be ordinary shares or shares with specific rights as defined in the articles of association (e.g., non-voting shares). To attach specific rights to shares, these must be specified in the articles of association. Virtual shares do not exist under Estonian law, and other forms of participation are uncommon. To obtain shareholder rights, an individual must hold actual shares. In rare instances, shares may be leased, which provides the lessee with a position similar to that of a shareholder.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	Typically, around 10% - 20% of the share capital, but the option pool is often re-established/increased once it is used up.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	Typically, all existing shareholders bear the economic burden through dilution (initially the founders, but in later financing rounds also investors), unless certain shareholders (usually investors) have negotiated anti-dilution provisions that protect them from dilution when shares are issued under employee option programs (though such provisions are uncommon).
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Participation rights (options to acquire shares) are typically non-transferable, and the establishment of encumbrances is generally prohibited, with such restrictions stated in the option agreement. As options constitute contractual rights, these restrictions can be established contractually, and violation results in termination of the option. Once an option has been exercised and shares have been issued, the shares may be freely transferred or encumbered, but restrictions (such as prior consent requirements, rights of first refusal, or tag-along rights) can be established through the articles of association. Violation of such restrictions renders the relevant transactions void. The existence of transfer restrictions is typical. To redeem shares, separate contractual arrangements must be in place, as no statutory instruments are available for share redemption.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	The issue of shares is decided upon by the shareholders, but such a right (to a limited extent) can be provided to the management or supervisory board of the company under the articles of association.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	To benefit from the special tax regime applicable to employee share options (which also applies to management board members and other natural person service providers), the option agreement must be signed either in digital form or in written form. If the agreement is in written form, it must be submitted to the Estonian Tax and Customs Board for registration. To exercise the options (i.e., acquire the underlying shares), the option issuer must either increase the share capital (with all regular share capital increase rules applying) or transfer its own shares to the participant. Alternatively, the option pool shares may be held by a third party, in which case such party must transfer the shares to the participant.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	A purchase price (commonly referred to as the strike price or exercise price) is typically payable and is often set at a symbolic amount due to the special tax regime (see below), which permits the issuance of shares at below fair market value. When shares are issued to employees through a share capital increase, the price is generally set at the nominal value of the shares without any premium.
What are the three most important topics to be covered/considered under an employee participation plan?	The three most important topics are: (i) leaver provisions, particularly the circumstances under which a person is considered a bad leaver; (ii) vesting provisions; and (iii) restrictions on option exercise, including any obligation to indemnify the issuer for tax liabilities.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	During the option phase, when an employee holds options, such participation rights constitute contractual claims and are not recorded in public registers. The issuer typically maintains a capitalization table where such options are documented. Once options are exercised, the employee becomes a shareholder and must be registered in the shareholders' register (maintained by management, the Commercial Register, or the Estonian Register of Securities, depending on the applicable regime for share transfers).
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	In Estonia, dividends are taxed only at the company level with income tax at the rate of 22/78. Generally, there is no withholding tax on dividend income (an exception applies to dividends taxed at a lower rate until 31 December 2024; if the dividend is taxed at a rate of 14/86 until 31 December 2024, then to the extent of any unused balance, the dividend may be redistributed to a natural person shareholder, but income tax of 7% must be withheld). The obligation to declare and pay tax lies with the Estonian company distributing the profit. For resident individuals, capital gains resulting from the sale of shares (exit proceeds) are taxed at 22%, and they must declare the gains in their annual income tax returns. Employees' gains from the transfer of securities are calculated as the difference between the selling price and the acquisition cost. For non-resident individuals, capital gains from the transfer of a holding are not generally subject to Estonian tax, unless the gains are derived from a transfer of shares of an Estonian real estate-rich entity (i.e., more than 50% of the company's assets derive from Estonian real estate), in which the non-resident had a holding of at least 10% at the time of conclusion of the specified transaction. In such case, the capital gain is taxed at a rate of 22%.

Are there any tax benefits available for employees under (virtual) participations?	Employees of startups can benefit from a preferential tax regime (see below), which permits the issuance of shares at below fair market value. If share options are exercised after three years have passed since the option was granted, the employee may acquire the shares at the purchase price or strike price specified in the option agreement.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Share options are subject to taxation either upon transfer of the option before exercise or upon exercising the option (i.e., acquiring the underlying shares) before three years have passed since the option was granted. The transfer of a share option before exercise is considered a fringe benefit, regardless of the three-year term or the timing of transfer. Similarly, exercising a share option to acquire the underlying shares before three years have passed since the option was granted is also considered a fringe benefit. The employer incurs tax liability from providing such fringe benefits, which are subject to income tax at the rate of 22/78 and social tax. However, exercising a share option after three years have passed since the option was granted is not considered a fringe benefit and does not create tax liability for the employer. In such cases, employees incur income tax liability only on gains from the transfer of securities and may use the purchase price or strike price specified in the option agreement as the acquisition cost. Certain exceptions apply during the three-year option term. In full exit situations (transfer of entire holding in employer or group company) or upon employee incapacity/death, acquiring shares proportional to the time held is not considered a fringe benefit and creates no employer tax liability. In full exits, employees incur tax liability only on cash compensation received. When compensation exceeds the proportional amount, the employer incurs tax liability on the excess (taxable as fringe benefit), while this excess is not taxable as personal income for the employee.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	A limited liability company (Finnish: *osakeyhtiö*; abbreviated as "**Oy**") is the predominant corporate form in Finland generally and among startup companies specifically. It is a separate legal entity established by one or more shareholders (individuals or entities). Shareholders are not generally personally liable for company debts beyond their capital contributions. There is no minimum share capital requirement under the Finnish Limited Liability Companies Act (Finnish: *Osakeyhtiölaki (624/2006);* the "**Finnish Companies Act**"). A limited liability company is generally represented by the board of directors and the managing director, if elected. The board of directors may also decide on other representation rights of the company.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	Finnish startups most commonly implement employee participation through employee stock option plans (ESOPs) through which selected employees are granted rights to subscribe for shares in the company (hereinafter "**options**"). Cash-settled incentives, such as synthetic options, are used occasionally but remain less prevalent in the startup context. Pure share-based incentive plans, such as management incentive plans (MIPs), are not frequently used by early-stage companies due to tax considerations. Special regimes exist, such as the employee share issues (Finnish: *työsuhteeseen perustuva osakeanti*), but their adoption has been limited given the accompanying restrictions. Options: Governed by the Finnish Companies Act, options allow their holders (ESOP participants) to acquire company shares following a vesting period (typically 4-5 years, including a one-year cliff period) at a predetermined price (the strike price). The rights and obligations of participants are typically set out in the option plan and/or individual option agreements. The options themselves do not grant any voting rights and normally the option holders are not entitled to dividends. Upon exercise, the option holder becomes a shareholder with voting and economic rights attributed to the shares, typically subject to the terms of the shareholders' agreement. Synthetic options: Synthetic options are contractual agreements between the company and the employee under which the employee is granted a cash-based benefit, the amount of which is based on the development of the value of the relevant company shares during a vesting period. The vesting period may be a predetermined time period or may run until a predefined event (typically an exit event). Synthetic options mirror regular option structures with vesting periods, but the participant receives the benefit in cash and does not have a right to actual company shares. Employee share issue (Finnish: *työsuhteeseen perustuva osakeanti*): The Finnish Income Tax Act (Finnish: *Tuloverolaki (1535/1992)*) allows non-listed companies to issue shares to employees at a price below their fair market value if certain statutory conditions are met, including allowing a majority of employees to participate in the share issue, which effectively prevents targeting a group of selected employees. While the regime can reduce taxable income for the employee versus using fair market value as the issue price, adoption has been limited in practice due to these constraints.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	Finnish startups commonly reserve approximately 10-15% of fully diluted share capital for employee incentive schemes, depending on the company's development phase and the composition of the founder team. If a company has recruited senior executives who are not original founders, the ESOP may be higher.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	The size of the ESOP is typically negotiated in connection with a financing round. A key negotiation point is whether the ESOP increase is made economically pre-closing or post-closing. If the ESOP is increased pre-closing, dilution is borne by the existing (pre-financing round) shareholders, whereas if the increase is deemed to made post-closing, dilution is borne by all shareholders, including the new investors. Synthetic options have the same economic effect as dilution, but instead of diluting the shareholdings, the cost is borne by the shareholders through a lower equity value at exit (because the company must record and eventually settle the liability towards the option holders).

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Options are generally non-transferable and non-pledgeable under the option terms, and shares issued to employees are typically subject to transfer restrictions both under the articles of association as well as under the shareholders' agreement. Key contractual transfer restrictions include lock-ups and rights of first refusal. Options are subject to leaver provisions under the option terms under which options may be forfeited by or repurchased from leavers at pre-determined price varying between good and bad leaver events. Sometimes the ESOP participants are also allowed to retain their options until exit. Option terms also include provisions concerning the exit events. Such drag-along provisions allow the key shareholders to require the ESOP participants to sell their options at an exit. Sometimes the option terms also include sanction-like redemption provisions applicable, e.g., if an ESOP participant breaches the option terms.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	The primary decision-making authority for issuing options lies with the company's shareholders and such resolution on issuance of options requires a qualified majority of two-thirds (unless stricter rules are set out in the articles of association or shareholders' agreement). In practice, shareholders commonly authorize the board of directors to make such decisions within certain statutory and agreed limits, and the board of directors then resolves on individual option grants, the option terms, and practical implementation of the ESOP. By contrast, cash-based synthetic options are contractual remuneration arrangements. Absent special provisions in the articles of association or shareholders' agreement, the board of directors typically has competence to approve and administer these plans.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	The corporate resolution regarding the option grant, including certain statutory terms of the options, must be recorded in meeting minutes of the board of directors (see above on the board of directors typically granting the options). No notarization is required for the resolution, though minutes must be properly documented. Electronic signatures (e.g., Docusign and Visma Sign) are generally accepted, provided it is clear that the document has been signed and the electronic system used can be identified. Option grants and subsequent share subscriptions (i.e., the option exercises) must be registered with the Finnish Trade Register. There is no statutory duty to maintain an internal option holder register, but in practice options are typically recorded in a capitalization table of the company. When options are exercised and shares subscribed, the subscription must be recorded in the statutory share register of the company and new shares must be registered with the Finnish Trade Register. Share certificates are not mandatory in Finland. Synthetic options are not subject to formal registration requirements, but the company should maintain internal records for administrative and tax compliance purposes.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	Options and synthetic options are generally granted to employees for free, and upon exercise, the participant pays the agreed exercise price to the company. Use of exercise price is in practice mandatory to ensure that the payment is treated as an option eligible for the social security contribution exemption (as explained below), but so-called "penny options" (options with an exercise (strike) price of EUR 0.01) are available subject to compliance with certain tax rules and commonly used. Some companies apply fair market value strike price in their ESOPs.
What are the three most important topics to be covered/considered under an employee participation plan?	1. Vesting and leaver terms: Clear rules for vesting schedules, cliff periods and leaver classifications. 2. Exit and liquidity events: Treatment of options in M&A or IPOs, including drag-along rights and possible acceleration clauses. 3. Tax and social security structuring: Particularly ensuring that the ESOP qualifies for the exemption from social security contributions.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Option grants and subsequent share subscriptions (i.e., the option exercises) must be registered with the Finnish Trade Register. There is no statutory duty to maintain an internal option holder register, but in practice options are typically recorded in a capitalization table of the company. When options are exercised and shares subscribed, the subscription must be recorded in the statutory share register of the company and new shares must be registered with the Finnish Trade Register. Shareholders need to be registered in the UBO register if they meet the ownership thresholds (generally 25% or more of shares or voting rights or otherwise exercising control). The register is maintained by the Finnish Trade Register.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Options: The option benefit is taxed as the participant's earned income subject to individual progressive taxation (with tax rate up to 58%) and the taxation is triggered by the option exercise or transfer of the option. The taxable benefit is calculated as the difference between the share's fair market value at the time of transfer / exercise and the strike price. Synthetic Options: The benefit is taxed as the participant's earned income subject to progressive income taxation (with tax rate of up to 58%) and the taxation is triggered when the synthetic option benefit is paid to the participant. The taxable benefit is the amount paid to the participant reduced by the synthetic strike price. Sale of shares: Any gain realized from sale of shares is taxed as capital income at 30% for gains up to EUR 30,000 and 34% for gains exceeding EUR 30,000. Individual taxpayers may utilize deemed acquisition cost (Finnish: *hankintameno-olettama)* of 20% of the sale price for shares held less than 10 years, or 40% for shares held 10 years or more, or apply the actual acquisition cost. Deemed acquisition cost is especially beneficial for founders of startup companies as their actual acquisition cost for the company shares is often zero given there is no minimum share capital requirement in Finland. Dividends: Dividends received on shares and paid to an individual shareholder are generally taxed as capital income at 30% for capital income of up to EUR 30,000 and 34% for capital income exceeding EUR 30,000. Dividends paid from unlisted companies of up to EUR 150,000 per year (per shareholder) benefit from reduced taxation (75% tax-exempt income, 25% taxable capital income) provided that certain net asset requirements for the company are met. Dividends payable to companies (including a shareholder's personal holding company) are generally tax exempt.
Are there any tax benefits available for employees under (virtual) participations?	Finland does not have a comprehensive preferential tax regime specifically for startup employee participants. As explained above, the adoption of the special employee share issue regime (Finnish: *työsuhteeseen perustuva osakeanti)* has been limited among startups. Instead, tax benefits are primarily limited to the general capital gains treatment of realized share sale proceeds and dividends (as explained above), social security exemptions applicable to options and synthetic options. Social security exemption: Options and synthetic options are generally exempt from social security contributions (except the employee's increased health insurance contribution, which was 1.45% in 2025) when: (i) at least one year elapses between option grant and exercise or sale (the "one-year cliff"); or (ii) the option is not granted at a significant discount (generally the strike price or synthetic strike price being less than 50% of fair value of the underlying benefit at grant). The exemption applies also to so-called "penny options" (see above) provided that the one-year cliff requirement is met and provides a considerable reduction of social security contributions (which is generally approximately 30%, including both employer and employee part).
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Companies have a general obligation to make statutory withholdings of tax and social security contributions (as applicable) on all payments made to their employees and remit these withholdings to the relevant authorities and report them to the Incomes Register (Finnish: *Tulorekisteri*). Upon option exercise, the company must withhold the income tax on the option or synthetic option benefit (based on the participant's tax card) and social security contributions (if any) as with salary payments. Pursuant to the social security exemption discussed above, options and synthetic options are generally exempt from social security contributions (except for the employee's increased health insurance contribution, which was 1.45% in 2025). However, options and synthetic options may become subject to social security contributions if they are granted at a significant discount and exercised or sold within 12 months of grant, in which case the company must make the statutory withholdings of social security contributions as well. Withholding tax and social security contributions must be reported to the Incomes Register within five days of the payment date. Share issues of new company shares are not subject to transfer tax, but if the company acquires its own shares from the shareholders, such transfer is subject to transfer tax (generally at the rate of 1.5%).

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	The simplified joint-stock company (*société par actions simplifiée* or "**SAS**") is the most common corporate form in France and, in short, a legal entity incorporated by one or more shareholders (natural or legal persons) who contribute capital (in cash or in kind) to the company in exchange for shares. Shareholders are liable for the company's debts only up to the amount of their contributions and generally not personally liable. There is no minimum share capital. The SAS – through its by-laws – is characterized by a high degree of flexibility in its organization. It is managed by a President (legal entity or individual) and any other governing bodies provided for in the by-laws (a sole President is sufficient, and he/she may also be a shareholder).
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	Free shares ("**Free Shares**"), stock options ("**SO**") and share warrants for company founders ("**BSPCE**") may be granted to employees and corporate officers (President, Managing Directors) of the company, its subsidiaries or its sister companies (for Free Shares and SO only), or board members (BSPCE only). <u>Free Shares</u>: Free Shares are only issued at the expiry of a 1 year-period as of the decision to grant them, the plans often providing that the holder must still be an employee/corporate officer at that time. Preferred Free Shares are generally used as management package in late stage transactions. <u>SO</u>: SO are options which must be exercised to purchase existing or newly issued shares at a strike price matching the company's valuation. SO plans often include vesting clauses and might include targets/milestones, at the company/group level or at the holder's level. <u>BSPCE</u>: BSPCE are options which must be exercised to purchase newly issued shares at a strike price matching the company's valuation, a discount being allowed (10-15%). BSPCE plans often include vesting clauses and might include targets/milestones, at the company/group level or at the holder's level.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	<u>Free Shares</u> : Common practice is to allocate around 10-15% of the company's share capital for this purpose. Beneficiaries must each hold less than 10% of the company's share capital and must not exceed 10% ownership because of the allocation of Free Shares. Total number of Free Shares must not exceed 15% or 20% for SMEs. <u>SO</u>: Beneficiaries must each hold less than 10% of the company's share capital. French law allows to grant until 1/3 of the share capital in SO, even if market practice is much lower. <u>BSPCE</u>: Common practice is to allocate around 10-15% of the company's share capital for this purpose, although there are no legal restrictions. BSPCE are also used as a way to increase the founders' capital in case of over performance of the business plan.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	Free Shares, SO and BSPCE: The economic burden usually lies with (i) the founders in case of pre-seed investments, and (ii) all shareholders in case of seed/series A/series B investments.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	<u>Free Shares</u>: There is a minimum one-year vesting period, as well as an optional lock-up period during which the holder agrees to retain the shares for a specified duration. The total lock-up period between the allocation and the sale of the shares must not be less than two years. The company's shareholders' agreement usually provides for transfer restrictions (ROFR, tag/drag along clauses) as well as good leaver/bad leaver provisions. <u>SO</u>: SO are strictly non-transferable. SO plans typically include a vesting schedule, with an acceleration clause upon exit. After exercise, the company's shareholders' agreement generally imposes transfer restrictions (ROFR, tag/drag along clauses) and good leaver/bad leaver clauses. <u>BSPCE</u>: BSPCE are strictly non-transferable. BSPCE plans typically include a vesting schedule, with an acceleration clause upon exit. After exercise, the company's shareholders' agreement generally imposes transfer restrictions (ROFR, tag/drag along clauses) and good leaver/bad leaver clauses.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	Free Shares, SO and BSPCE: The shareholders' general meeting (usually requiring a two-thirds majority as per the Articles of Association) authorizes the issuance of Free Shares, Stock Options (SO), and BSPCE. Typically, the shareholders' general meeting (i) approves an overall allocation ("basket") and (ii) delegates authority to the company's president (with prior board approval) to grant these instruments. Delegation period: up to 38 months for Free Shares and SO; up to 18 months for BSPCE.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	Free Shares, SO and BSPCE: There is no legally prescribed formality for any of these plans. They only need to be documented in writing, detailing the vesting, strike price (for SO and BSPCE), lock-up periods, eligibility conditions. E-signature is allowed. Notarization is not required.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	<u>Free Shares</u>: totally free, no purchase price. <u>SO</u>: The strike price of the shares must reflect the company's valuation. <u>BSPCE</u>: The strike price of the shares must reflect the company's valuation. If a share capital increase occurred within the past six months, the strike price should be at least equal to the price of that increase. Discounts (typically 10-15%) may be applied if justified by factors such as different categories of shares, minority position or illiquidity.
What are the three most important topics to be covered/considered under an employee participation plan?	• Nature and total amount of shares to be issued. • Vesting, acceleration of vesting, forfeiture of vested shares, good/bad leaver clauses. • Milestones/targets to be reached (less common).
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Free Shares, SO and BSPCE: Yes, once the shares are granted or the SO/BSPCE exercised, a share transfer register must be maintained internally only (no publicity).

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?

As a general rule, dividends received by individuals are subject to the "flat tax" ("*Prélèvement Forfaitaire Unique*" – the "**PFU**") at an overall rate of 30%, which includes 12.8% income tax and 17.2% social contributions.

Taxpayers may, however, elect to apply the progressive income tax scale (with a maximum rate of 45%) instead of the PFU. This option is global and annual, meaning it applies to all investment income received during the relevant tax year. If this option is exercised, a 40% allowance applies to the gross amount of the dividends. It is also subject to social contributions applicable to investment income at a rate of 17.2%, of which 6.8% of CSG is deductible from taxable income.

Taxation occurs in two steps:

(i) year of payment: a non-final withholding tax is applied at source as a prepayment of income tax;

(ii) following year: income is reported in the annual income tax return and subject to income tax, with the withholding tax credited against the final liability.

Nota: dividends received by non-residents individuals are subject to a withholding tax at a rate of 12.8%, subject to the provisions of applicable tax treaties.

Capital gains taxation:

(i) Gains on share disposals are generally subject to the PFU at an overall rate of 30%.

(ii) Taxpayers may opt for the progressive income tax scale (up to 45%):

Election is annual, irrevocable, and applies to all investment income for that year.

(i) Social contributions apply at 17.2%, of which 6.8% CSG is deductible from taxable income.

Taxation is triggered in the year of disposal.

Nota : The net gain on shares subscribed, acquired or granted to the company's employees or officers is treated as employment income (subject to the progressive income tax scale), insofar as it constitutes the direct or indirect consideration for their functions.

Both, the acquisition gain and the capital gain may also be subject to the Exceptional Contribution on High Income ("*Contribution Exceptionnelle sur les Hauts Revenus – CEHR*") if the beneficiary's reference taxable income exceeds certain thresholds (maximum rate of 4%).

Are there any tax benefits available for employees under (virtual) participations?

Free Shares: Taxation occurs in two steps:

- The acquisition gain is equal to the value of the shares on the vesting date.

  If this gain:

  - does not exceed €300,000: it is taxed under the progressive income tax scale (at a maximum rate of 45%) after applying a 50% allowance, and it is also subject to social contributions applicable to investment income at a rate of 17.2%, of which 6.8% of CSG is deductible from taxable income (in the proportion to the aforementioned allowance);
  - exceeds €300,000: the acquisition gain is taxed under the progressive income tax scale (at a maximum rate of 45%) without any allowance, in the same way as salary income. In this case, social contributions are those applicable to employment income at a rate of 9.7%, including 6.8% of CSG deductible from taxable income and a specific employee contribution of 10% is also due.

  Tax liability arises in the year the holder disposes of the shares, whether through a sale, conversion to bearer form, or lending.

- The capital gain on disposal is equal to the difference between the sale price and the fair market value of the shares on the vesting date.

  This gain is subject to the standard capital gain tax regime described above.

Both, the acquisition gain and the capital gain may also be subject to the Exceptional Contribution on High Income ("*Contribution Exceptionnelle sur les Hauts Revenus – CEHR*") if the beneficiary's reference taxable income exceeds certain thresholds (maximum rate of 4%).

SO: Taxation occurs in two steps:

- the exercise gain, which is equal to the difference between the fair market value of the shares on the exercise date and the exercise price. This gain is taxed under the progressive income tax scale in the employment income category (maximum rate of 45%) and is subject to social contributions applicable to employment income at a rate of 9.7%, including 6.8% of CSG deductible from taxable income and a specific employee contribution of 10% is also levied.

  Tax liability arises in the year the holder disposes of the shares, whether through a sale, conversion to bearer form, or lending.

- The capital gain on disposal, which is equal to the difference between the sale price and the fair market value of the shares on the exercise date, is subject to the standard capital gain tax regime described above.

Both, the exercise gain and the capital gain may also be subject to the Exceptional Contribution on High Income ("*Contribution Exceptionnelle sur les Hauts Revenus – CEHR*") if the holder's reference taxable income exceeds certain thresholds (maximum rate of 4%).

BSPCE: Taxation occurs in two steps:

- The exercise gain, equal to the difference between the fair market value of the shares on the exercise date and the exercise price set at grant:
  - when the beneficiary has been performing their functions into the company for at least three years: this benefit is subject to the standard capital gain tax regime described above.
  - when the beneficiary has been employed into the company for less than three years, the benefit is taxed at a flat rate of 30% without the option to elect for the progressive income tax scale. This 30% rate also applies when the beneficiary is no longer employed by the company at the time of exercise. The gain is also subject to social contributions applicable to investment income at a rate of 17.2%.

  Tax liability arises in the year the holder disposes of the shares, whether through a sale, conversion to bearer form, or lending.

- The net capital gain on disposal, equal to the difference between the sale price of the shares and their fair market value at the time of exercise, is subject to the standard capital gain tax regime described above.

  This gain may benefit from certain deferral regimes, such as roll-over relief for specific share exchange transactions or deferral upon contribution of the shares to a company subject to corporate income tax (under articles 150-0-B or 150-0-B-ter of the French Tax Code).

  Taxation liability arises when the shares subscribed upon exercise of the BSPCE are sold.

Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?

Free Shares: The company is liable for a 30% employer social contribution, calculated on the fair market value of the shares at the vesting date. Certain companies qualifying as SMEs under French law may benefit from an exemption, subject to specific conditions (including value thresholds and SME status at grant date). Contribution becomes payable in the month following vesting.

SO: The company is liable for a 30% employer social contribution, calculated either on (i) the fair market value of the options at grant, or on (ii) 25% of the value of the underlying shares at grant (limited to the acquisition gain). The contribution is due in the month following the grant decision.

BSPCE: The grant of BSPCE does not trigger any employer social contribution. This regime is therefore particularly attractive for startups, as it allows them to incentivize employees without incurring employer social charges at grant.

GERMANY

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

In Germany, the most common corporate form used by startups for both market entry and growth phases is the limited liability company *(Gesellschaft mit beschränkter Haftung)* ("**GmbH**").

The GmbH is preferred because it combines limited liability protection with a manageable corporate structure and relatively low minimum share capital requirements (EUR 25,000, of which at least half must be paid in upon incorporation). It also offers flexibility in allocating equity and designing shareholder agreements, which makes it suitable for early stage investors and employee participation schemes.

Some startups initially opt for the UG *(haftungsbeschränkt*), a "mini-GmbH" that allows incorporation with as little as EUR 1 in share capital. However, this form is usually transitional, as it can limit credibility with investors and partners. Companies typically convert to a GmbH (which is a simple administrative matter) once they attract outside investment.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

German startups traditionally use three main forms of employee participation: virtual stock option plans ("**VSOPs**"), employee stock option plans ("**ESOPs**") (together with VSOPs ("**V(E)SOPs**"), and real equity participations. Each model has distinct legal, tax, and administrative characteristics that determine their suitability for different company stages and employee groups.

VSOPs (i.e. virtual shares) are purely contractual arrangements granting employees claims to cash payments upon defined liquidity events (company sale, IPO). Participants do not become shareholders and have no voting, dividend, or information rights. VSOPs are governed by civil law rather than corporate law, making them flexible and easy to administer without notarial formalities. However, payouts are subject to income taxation at rates up to 47.48% including solidarity surcharge.

ESOPs grant employees options to acquire actual company shares, typically exercisable upon liquidity events. Unlike VSOPs, ESOPs involve real equity participation. However, when structured as options that convert upon exit events, the entire realized value is treated as employment income and subject to income taxation at rates up to 47.48% including solidarity surcharge. ESOPs typically may be settled in cash at the company’s election which, in practice, means that in case of a trade sale exit, employees rarely receive actual shares but only a cash payment.

New forms of employee participation have developed in recent years due to changes in German tax law. The introduction of section 19a German Income Tax Act (*Einkommenssteuergesetz;* "**EStG**") in July 2021 marked a turning point for employee participation in Germany. This provision, substantially revised by the Future Financing Act in January 2024 and supplemented by technical amendments including the group clause in July 2024, enables tax deferral for genuine employee share participations for the first time (the "**19a Regime**").

Section 19a EStG aims to avoid dry income taxation upon the grant of an (equity) participation to employees of startups and scale-ups by introducing a tax deferral regime under which taxation becomes due only upon certain tax trigger events, such as the sale or transfer of shares. Under the 19a Regime, employees can participate directly in their shares' value increase and, upon receiving proceeds, benefit from the preferential capital gains tax regime (*Abgeltungsteuer*) rather than ordinary income taxation. While the fair value of the participation at the time of grant remains subject to full income tax which is only deferred until the tax trigger event, capital gains tax is levied on any increase in value realized upon a sale of the shares (e.g., in an exit event) at a flat rate of 25% plus 5.5% solidarity surcharge (approximately 26.375%) - substantially lower than the top marginal income tax rate of about 47.48%. This constitutes a significant tax advantage for employees, aligning their economic outcome with true shareholders and strengthening the attractiveness of real equity-based participation models under the 19a Regime.

The 19a Regime has fundamentally transformed the German employee participation landscape. While VSOPs remain common due to their flexibility and established market practice, startups are increasingly adopting the 19a Regime. This, however, requires the grant of actual shares or certain profit participation rights (*Genussrechte*) to the employees. For governance and practicability reasons, shares are typically not granted to employees directly but via a pooling vehicle (limited partnership) and sometimes an additional trusteeship. Profit participation rights (*Genussrechte*) do not require such complex additional structures, but to date significant uncertainty remains regarding the specific legal and tax requirements pertaining to them.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

In Germany, startups typically reserve 10–15% of their share capital for employee participation programs during early stages to attract and retain key talent. As companies mature and previous grants are issued, this pool is often reduced to approximately 5–10% in later financing rounds.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

The economic burden of employee participations typically depends on the company's development phase and whether investment rounds have already taken place. In early-stage investments (seed or Series A rounds), the economic burden usually lies with the founders. As companies progress through later financing rounds, the economic burden may also be shared among all shareholders (founders and investors).

Transfer restrictions/obligations:

- *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?*
- *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*

In Germany, employee participations are generally not freely transferable. The legal and contractual framework aims to bind participation to the individual employment relationship and prevent transfer of employee interests to third parties.

1. Transferability and Encumbrance

For V(E)SOPs, transfer to third parties is typically excluded by contract. Rights under V(E)SOPs are personal to the employee and may not be assigned, pledged, or otherwise disposed of without the company's prior written consent. This ensures the incentive structure remains tied to individual participant performance and retention.

Similarly, in the case of real equity participations, transfer restrictions are standard practice and are usually set out in the company's articles of association or the shareholders' agreement. Common mechanisms include vesting provisions, right-of-first-refusal clauses, and drag-along/tag-along arrangements, ensuring that employees cannot freely sell or encumber their shares without the company's or investors' approval.

2. Mandatory Transfer or Redemption Scenarios

In both V(E)SOP and 19a Regime structures, mandatory transfer or redemption obligations typically arise in connection with the termination of employment or specific corporate events:

- Termination of employment:

  Upon the end of the employment relationship, vested options, virtual or real participations may either (i) remain outstanding until an exit event, or (ii) be redeemed or repurchased by the company, depending on the plan terms. Unvested participations are usually forfeited without compensation.

- Bad Leaver / Good Leaver provisions:

  Plans typically differentiate between "good leavers" (e.g., termination without cause, retirement, death) and "bad leavers" (e.g., voluntary resignation, dismissal for cause). Bad leavers generally lose all rights without compensation, while good leavers may retain or receive fair market value for vested participations.

- Corporate events:

  In the case of a sale of the company or IPO, virtual participations are automatically settled in cash or converted into equivalent rights under the acquirer's scheme. For real shares, employees may be required to transfer their shares under drag-along clauses to ensure smooth execution of the transaction.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?

The competent corporate body authorized to issue (virtual) participations depends on whether the participation takes the form of V(E)SOP or real equity participation.

V(E)SOPs require no statutory corporate law approval. Management decides on individual issuance, though shareholder approval is typically required for setting up a program defining the pool size and key features.

For real equity participations, the shareholders' meeting must approve issuance or transfer of shares. Share capital increases or transfers require notarized shareholders' resolutions and commercial register amendments. Transfers from existing shareholders require individual consent.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?

Formal requirements depend on whether the participation constitutes V(E)SOPs or real equity participation under German law.

1. V(E)SOPs

V(E)SOPs are purely contractual arrangements between the company and employee. They do not involve transfer or issuance of existing shares, and therefore no corporate-law formalities (such as notarization or registration) apply. The participation contracts can be concluded in writing including using an electronic signature.

In practice, most startups use simple written form or digital e-signatures (e.g., DocuSign, Adobe Sign), provided that the plan documents and employment agreements do not require stricter form.

The shareholders' approval or consent (if required under investment or governance documents) is typically adopted by simple shareholders' resolution, without notarization.

Implementation steps:

a) Preparation and adoption of the V(E)SOP rules (framework document).

b) (Optional) Shareholder authorization to management to allocate participation under V(E)SOPs.

c) Execution of individual grant agreements with employees (electronic or written form).

Because V(E)SOPs usually do not involve share transfers, they do not require notarial certification or registration with the commercial register (*Handelsregister*).

The same applies for profit participation rights (*Genussrechte*) issued under the 19a Regime.

2. Real Equity Participations

Where actual GmbH shares are granted to employees, strict formal requirements under German corporate law apply:

Any transfer of GmbH shares or subscription of new shares in a capital increase must be notarized (§ 15 GmbHG).

If a capital increase is used to issue shares, a shareholders' resolution approving the increase and amending the articles of association must also be notarized and filed with the commercial register.

The updated shareholders' list must be submitted to the registry to effectuate the change of ownership.

Implementation steps:

a) Shareholders' resolution approving the equity participation framework and pool creation.

b) Notarization of capital increase or transfer of existing shares.

c) Execution of individual participation or option agreements with employees.

d) Update of shareholders' list and filing with the Handelsregister.

Interposing pooling vehicles and trusteeships allows to limit the formal requirements for individual employees because accession to a partnership does not require notarization and the requirements relating to the issuance of shares then only must be complied with by the pooling vehicle and not by each individual employee.

Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?

Whether employees pay a purchase price for receiving V(E)SOPs depends on the company's stage and valuation. In early-stage startups, V(E)SOPs are typically granted free of charge, as these companies aim to attract talent and involve employees directly in the company's value creation from the start. In later-stage or growth-phase companies, where the company valuation is already significantly higher, a strike price is commonly introduced. This is particularly the case when the company intends that employees participate only in the future increase in value from the time of allocation, rather than benefiting from prior appreciation. However, such strike price is not payable upon grant but is deducted from later proceeds or becomes payable should real shares be issued upon exercising the option. This also applies for profit participation rights (*Genussrechte*) issued under the 19a Regime.

In contrast, when real equity participations are granted, the payment of a purchase price at least equal to the nominal value of the shares is mandatory under German corporate law. In a GmbH, this nominal amount must be at least EUR 1 per share, depending on the nominal value specified in the articles of association. If the employee does not personally pay this amount and the third parties cover the payment on their behalf, the contribution is automatically treated as taxable salary (employment income) at the time of grant. In addition, a "strike price" may also be implemented in the form of a hurdle which is then deducted from proceeds realized upon a sale of the shares to differentiate between employees having joined the company at different times.

What are the three most important topics to be covered/considered under an employee participation plan?

First, the plan must specify the nature of participations, the number of shares/options to be granted, and allocation procedures. It should define the total pool size, approval requirements including shareholders' authorization, and management's authority to allocate individual grants.

Second, the plan must define vesting schedules (typically four years with one-year cliff) and leaver provisions. It should distinguish between good leavers (e.g. termination without cause, retirement, death) and bad leavers (e.g. resignation, dismissal for cause), specifying whether rights are retained, forfeited, or repurchased, and address treatment during exit events.

Third, tax treatment and structuring are central to any participation plan. The tax implications differ depending on whether the participations are V(E)SOPs or real equity participations. Under a V(E)SOPs payouts are generally taxed as employment income upon a liquidity event. For real equity participation, taxation may occur upon grant if the shares are issued below fair value. However, under the 19a Regime, taxation may be deferred until an exit or another tax trigger event, thereby preventing "dry income" taxation. To benefit from this regime, employees must explicitly consent to the application of section 19a EStG and the tax deferral mechanism. The plan should also clearly allocate responsibilities regarding any liability for deferred taxes and may include indemnification or assumption of liability clauses in favor of the employees.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?

Employees holding participations under V(E)SOPs are not registered in any public register, such as the commercial register or the UBO register (*Transparenzregister*). These participations are purely contractual rights and do not constitute share ownership under corporate law. Companies typically maintain only an internal participation ledger or VSOP/ESOP register, listing the number of virtual shares or options allocated to each employee for administrative and accounting purposes.

For real equity participations, employees generally become shareholders (*Gesellschafter*) of the GmbH upon acquisition of their shares and must therefore be listed in the shareholders' list (*Gesellschafterliste*), which is publicly accessible via the commercial register. The updated shareholders' list must be submitted by a notary and certified in accordance with section 40 GmbHG whenever a change in share ownership occurs.

However, in practice, particularly in employee pooling structures, many startups avoid individual registration of each employee as shareholder. Instead, the employees' participations are held collectively by a trustee (*Treuhänder*) and/or through a pooling vehicle such as a limited partnership (*GmbH & Co. KG*). In such constellations, only the trustee or pooling entity is registered in the commercial register, while the employees' economic interests are governed by internal participation or trust agreements.

This approach reduces administrative complexity, as each change in employee participation would otherwise require a notarized or certified power of attorney for the notary to update the shareholders' list.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	For V(E)SOPs, payouts are usually received by employees upon exit, sale, or IPO are treated as employment income and subject to personal income tax rates up to 47.48% including solidarity surcharge. Taxation is triggered only when payout is actually made, meaning when employees receive cash proceeds from the company. Before that point, no taxation arises. For the 19a Regime, taxation follows a different logic. When an employee receives actual shares, the difference between the purchase price paid by the employee and the fair market value of the shares at the time of transfer would normally be treated as taxable employment income and taxed immediately with personal income tax rates up to 47.48% including solidarity surcharge. This could lead to so-called dry income taxation, where tax becomes due even though the employee has not yet received any liquidity. To avoid this, section 19a EStG allows for tax deferral. Under this rule, taxation of the value difference between the purchase price and the fair market value is postponed until a tax trigger event occurs – typically the sale or transfer of the shares, especially in connection with an exit event. Under the 19a Regime, taxation is generally also triggered when the employment terminates or after 15 years have passed. However, taxation may be further deferred until an actual sale or transfer if the employer assumes liability for the wage taxes. This should then be reflected by ensuring that the tax amount is directly deducted from any exit proceeds payable to the employee. At that later stage, when the employee actually realizes proceeds, the capital gains tax applies instead of income tax. This tax is levied at a flat rate of approximately 26.375 percent. The capital gains tax covers the increase in value of the shares from the time they were transferred to the employee until e.g. their sale in the liquidity event. In summary, under the 19a Regime, the employee's initial income taxation on the value difference at the time of receiving the shares is deferred, and taxation occurs only upon realization of liquidity. The eventual capital gain achieved between allocation and sale is then subject to the reduced capital gains tax rate, ensuring that taxes arise only when the employee actually receives a financial benefit. The 19a Regime is applicable to companies and corporate groups not older than 20 years which meet or have in the previous six years met the following requirements: (i) no more than 1,000 employees and (ii) annual turnover not exceeding EUR 100 million or total balance sheet amount not exceeding EUR 86 million. Notably, the 19a Regime does not apply to social security contributions. As these contributions are subject to caps, only for employees with an income below the relevant thresholds, additional social security contributions are triggered upon the grant of the participation which creates additional complexity and is a notable weakness of the 19a Regime.
Are there any tax benefits available for employees under (virtual) participations?	For VSOPs, there are no specific tax benefits. Any payout received upon a liquidity event is classified as employment income and taxed at personal income tax rates up to 47.48% including solidarity surcharge. The same applies to ESOPs that grant options to acquire real shares but only convert into actual equity immediately before exit or sale. In these cases, the full amount realized at the liquidity event is also treated as employment income. Consequently, employees under VSOPs and option-based ESOPs are taxed at their highest marginal rate, and no preferential capital gains taxation applies. In contrast, under the 19a Regime, only the difference between the purchase price and fair market value of shares at the time of transfer to the employee is initially considered taxable employment income. However, tax payment on this amount is deferred until a later tax triggering event, such as share sale. From allocation onward, any further value increase is subject to capital gains tax at about 26.375% including solidarity surcharge, instead of the much higher income tax rate. This creates a clear distinction. Under VSOPs or ESOPs, all proceeds are fully taxed as employment income, whereas under real equity participation structured under the 19a Regime, taxation is split. Income tax applies only to the initial value difference upon allocation, and capital gains tax applies to subsequent value increases realized upon sale. This results in substantial tax benefits for employees participating through genuine equity rather than virtual or option-based schemes, as the capital gains tax rate of approximately 26.375% is significantly lower than personal income tax rates. In addition, an annual tax exemption of EUR 2,000 for grants of employee participations (actual shares, profit participation rights) is available, but only if the grant is offered to all employees of the company. Due to this requirement, the exemption has almost no practical relevance for German startups.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	For V(E)SOPs, any payout to employees constitutes employment income, requiring the company to withhold wage tax and social security contributions (employer and employee share) at the time of payout, noting that social security contributions are capped and therefore only relevant if the employee's regular salary does not exceed the relevant thresholds. For real equity participations under the 19a Regime, the tax deferral mechanism postpones wage tax withholding until a tax trigger event occurs (such as share sale). However, social security contributions remain due at the time of share transfer if the employee's regular salary is below the social security contribution caps (*Beitragsbemessungsgrenze*).

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

The Private Company ("IKE") was introduced in 2012 as a hybrid between a limited liability company and a partnership, with the purpose of offering a modern and flexible limited liability company that meets the needs of small and medium-sized enterprises and has since gained significant ground, becoming the most commonly used corporate form for market entry in Greece and the go-to vehicle for startups. It can be established by one or more partners (either individuals or entities) and offers a unique and flexible capital structure: partners' participation is represented by corporate 'parts' (or 'units', which are not securities like shares), which can be acquired through:

(a) capital contributions (in cash or in kind),
(b) non-capital contributions (obligation to provide services to, or work for, the company), or
(c) guarantee contributions (liability undertaking for company obligations up to a specified amount).

IKE further offers significant advantages for early-stage founders, including:

- Separate legal entity with **limited liability** for the partners,
- **Practically zero capital requirements (symbolic €1,00)**,
- Greater flexibility and cost efficiency in incorporation and day-to-day management, as it:
  - is managed by one or more directors (*administrators*) acting severally (independently, as opposed to a Board),
  - has overall lower operational costs and publicity requirements,
- The option of **non-capital contributions**, a well-known and widely used feature in the Greek market, which can have a similar function to that of an Employee Stock Option Plan ("**ESOP**"), as explained in detail further below.

2. The Société Anonyme ("**S.A.**") represents Greece's flagship corporate vehicle, extensively used as the most common legal type in Greece. It is divided by shares (securities) and can be established (or later become) wholly owned by a single shareholder. The S.A. requires a **minimum share capital of €25,000**, but it is considered the most appropriate vehicle for scaling-up and attracting investments in later rounds. As startups grow, they often choose to convert from an IKE into an S.A., which offers a greater variety of more sophisticated financing tools and options, often coupled with tax or cost incentives. A key advantage of the S.A. is its **exclusive ability to issue bonds** (common, exchangeable, convertible, or profit-participating), providing a powerful financing tool that is not available to other corporate forms in Greece. It is also the only one which can:

- issue preferred stock (whether voting or non-voting), as well as a number of other securities (warrants, founding securities),
- issue called-up capital (only for non-listed, payable up to five (5) years from issue),
- authorize its Board of Directors to decide on future capital increases (pre-approved by the General Meeting),
- have an IPO.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

Virtual shares or distinct treatment of employee participations are not expressly recognized by Greek law and, consequently, they are not common in practice. Once assumed or otherwise acquired, employee participations are treated as normal partner/shareholder participations and may only be subject to the restrictions, limitations, or conditions afforded by the articles of incorporation ("**AoI**") and applicable law to corporate parts or shares in general.

Startups usually choose to make use of the options generally available (e.g. non-voting and/or redeemable preferred shares in case of S.A.s) and to further shape the intended scope and function of such employee participations at a contractual level (agreement for non-capital contributions for IKEs or ESOP for S.A.s, and partners'/shareholders' agreement). A commonly used practice, that resembles the virtual participation scheme, is granting stock options under an ESOP (only for S.A.s, see below), with the exercise right of such stock options tied to the occurrence of an acceleration event (e.g. full exit, IPO).

IKE: Employee participation in IKE is available through non-capital contributions, which are defined as contributions that cannot become part of the capital (like cash or valuated in-kind, e.g. securities or real estate assets), and most commonly consists in the obligation to provide services to, or to perform certain duties or work for, the IKE. While these contributions are not included in the capital, the corresponding corporate parts are treated equally to normal (capital) corporate parts and have in principle the same rights and obligations*. Non-capital contributions can be agreed either in lieu of, or more commonly in addition to, the employee's basic remuneration (wage, salary), but they need to be clearly defined and adequately distinguished from the duties and work for which the employee receives their salary. Gaining participation (corporate parts) through the assumption of non-capital contributions can be negotiated with greater flexibility (as the value of the services or work is left to the agreement of the parties) but needs to be negotiated with each individual employee on a separate basis, as the IKE cannot formally adopt an ESOP.

** There have been instances of significant contractual deviations from the equal treatment principle in practice, where, by agreement of the parties (in the investment agreement and/or AoI), non-capital corporate parts have been issued with limited or no voting rights, or where capital corporate parts have been issued as 'preferred' (with privileges and priority over 'common') and/or in different classes. While the law does include a general clause ("unless otherwise provisioned in this Law or the AoI") in the equal treatment principle, none of the aforesaid contractual constructs is expressly provisioned in the IKE law. As a result and given the lack of sufficient case law on the matter, no estimation as to the legality, validity, and/or enforceability of such contractual constructs can be made here.*

S.A.: The S.A. is the only corporate form in Greece that can formally adopt an ESOP. Such ESOP is a unilateral commitment by the S.A. (meaning that it does not have to be negotiated with the employees) and can: (a) either grant **stock options**, for a price, or (b) award shares ("**stock awards**"), always free of charge, or a combination of the two. While members of the Board and senior management are most commonly set as eligible under an ESOP in practice, the law allows to extend eligibility to all employees of the S.A. (and of related or group entities), as well as any other person that provides services to the S.A. on a constant basis. ESOP shares are usually either preferred without non-voting rights or common (in case of stock awards).

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	IKE: While at least one corporate part of capital contributions is required for establishment of an IKE, there is no limitation to the participation (number of corporate parts) allotted to non-capital contributions. As such participations are usually the result of individual negotiation (e.g. for talent acquisition) and/or also used as a form of sweat equity for founders and early-day hires, there is no typical or usual percentage or number reserved, but instead varies by case. S.A.: The maximum number of options/shares than can be allocated for distribution under an ESOP is capped at 1/10th of the total capital, meaning that the nominal value of all options and shares issued under an ESOP may not exceed, in aggregate, an amount equal to 1/10th of the total paid-up capital of the company (at the time of adoption of the plan).
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	IKE: Corporate parts corresponding to non-capital contributions are personal and cannot be transferred under performance in full of the obligations or conversion in cash and payment (see further below). They also have no monetary price and they do not constitute securities. As such, they can only come by way of a new issuance and directly from the company, which also bears the relevant costs. Given the partnership elements and equal treatment principle found in the IKE form, usually all (existing, capital) partners share the burden of dilution. There have been instances of contractual arrangements, where the founders have instead undertaken a contractual obligation towards the investor to transfer directly capital corporate parts to employees, either from their own parts or to be newly issued for a price and first subscribed for by the founders, with a result resembling that of an ESOP. S.A.: Shares that are to be distributed under an ESOP can come from a stock buyback or a capital increase (usually at nominal value). In case of (free) stock awards only, they can also come from capitalization of undistributed profits, reserves or premia. The overall costs are borne by the company. With regard to dilution, the founders (and friends and family) are usually the ones to bear the burden of dilution at each round even from early stages. Investors are usually granted an exclusion from any dilution or obligation relating to the ESOP upon first entering, while they usually negotiate and get sufficient preemptive rights and other anti-dilution protections with regard to future rounds.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	IKE: Substitution in the performance of the assumed obligations is not permitted. Corporate parts of non-capital contributions cannot be transferred prior to their fulfillment, i.e. either full and final performance of the obligations or conversion and payment of the corresponding price (value) (on the employee's right to convert into cash, see further below). In case of encumbrance, the performance obligations rest with the employee. Transfer can be fully restricted by the AoI; usual contractual arrangements for clawback both before and after fulfillment include: (a) a right of first refusal to other (capital) partners or a third party indicated by them or the company (before fulfillment), as well as retention by the company of the right to call and cancel any unvested non-capital corporate parts in certain good- or bad-leaver events. S.A.: No mandatory transfer restrictions. Customary or common contractual restrictions include: transfer restriction of stock options (until conversion into shares), requirement of company's approval for transfer, and/or right of first refusal or call option by the company, the shareholders, or a third party indicated by them. In both cases, good leaver and bad leaver scenarios can be determined at the discretion of the relevant parties, with no mandatory scenarios set in applicable law. They usually follow international standard practice.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	IKE: Most relevant decisions fall under the competency of the General Meeting of the partners, with a few exceptions, mostly of implementing or procedural nature (e.g. in case of conversion and payment of the resulting price, the capital increase and AoI amendment required to reflect that is performed by the director(s), without a need for a General Meeting resolution). Decisions must be unanimous, unless otherwise provided in the IKE's AoI (which is usually the case). S.A.: The high-level ESO Plan, containing all material terms (max. number of options/shares, categories of eligible beneficiaries and final determination of optionees/awardees, price or price determination method, material terms and conditions for (reverse-) vesting and exercise, duration etc.), is required to be approved by a resolution of the General Meeting of the shareholders adopted with a qualified quorum and majority. General Meeting may delegate actual adoption of the ESOP to the Board, in which case such adoption by the Board may be made within five (5) years from the date of the General Meeting's authorizing resolution and always subject to the material terms determined by the latter. Further specification of the ESOP's terms and determination of details and particulars with regard to vesting, award, and exercise can be delegated to the Board, an option often used by S.A.s in practice.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	IKE: All non-capital contributions, their terms and number of corresponding corporate parts are required to be determined in the IKE's AoI, which (and any amendment thereto) is subject to publicity, i.e. filing with the Greek companies' registry ("**GEMI**"). Necessary steps required to effectuate issuance and transfer of non-capital corporate parts follow the requirements of the IKE's AoI and applicable law for any issuance and transfer of all other (capital) corporate parts. S.A.: The ESOP, once adopted, is subject to publicity, i.e. filing with GEMI. In case of a listed S.A., the ESOP needs to form part of the adopted remuneration policy. In case of stock options, these are issued by the Board, while transfer of shares (whether following the exercise of the stock options or directly, in case of stock awards) and necessary steps required to effectuate such assumption (and issuance, if by way of capital increase) follow the requirements of the S.A.'s AoI and applicable law for any issuance, transfer, and/or assumption of all other (non-ESOP) shares.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	IKE: Corporate parts are acquired up front, and the acquiring partner has to perform the services or work that have been agreed as non-capital contributions (usually in practice for an agreed period but the law allows to be set to indefinite); in case of default or breach, the company may either request performance or cancel the unvested corporate parts (without prejudice to any claims for damages). While no monetary consideration is required or provisioned, the acquiring partner has a right to request conversion of its non-capital obligation into cash and for the amount agreed as the value of the non-capital contribution (pro-rated to its unvested part, in case of conversion during the performance period). SA: Stock options may only be issued at a price, which is usually set at nominal value (€1 per option/share in most cases) or at another symbolic price. All amounts are payable directly to the company. Stock awards are always free of charge. A combination of the two is permitted (e.g. granting 1 additional stock award per each stock option exercised) allowing for greater flexibility in structuring.

What are the three most important topics to be covered/considered under an employee participation plan?	IKE: 1) Detailed description of the services, work, or other non-capital contribution, which needs to be distinct from the usual work/service for which the employee receives remuneration (wage, salary, fees). 2) Fulfillment period and good- and bad-leaver scenarios. 3) Participation percentage and restrictions or conditions for transfer and clawback. S.A.: 1) Options/Shares: class, maximum number and price of stock options and/or shares, manner of their procurement (newly-issued by capital increase or by stock buyback), duration of programme, exercise periods and procedure. 2) ESO plan/policy, beneficiary categories, eligibility criteria, vesting periods (including cliff) and/or KPIs, awarding procedure, acceleration upon exit event, good- and bad-leaver scenarios and consequences. 3) Restrictions or conditions for transfer and clawback.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	IKE: Employees are registered internally (in the company's register). Issuance of new corporate parts for non-capital contributions, as well as entry of the employee as a new partner both require an amendment of the IKE's AoI and, consequently, registration with GEMI. S.A.: Employees are only registered internally (in the company's register), with no obligation to file with GEMI. In both cases, employees are registered as partners or shareholders (respectively) in the Central UBO Register operated by the Greek Government (the company is the one obliged with the filing). Optionee employees (of an S.A.) are registrable with the Central UBO Register only upon exercise of their stock options and conversion into shares. Publicly traded (listed) S.A.s are exempted from the obligation to file with the Central UBO Register, provided that they file with an equivalent special register in accordance with applicable financial markets law.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Dividend distributions are taxable at 5% tax rate. Dividend tax is withheld by the legal entity.
Are there any tax benefits available for employees under (virtual) participations?	Stock options are subject to capital gain tax at 15% tax rate on capital gain if they are held for a minimum period of 2 years. For startup companies the minimum period is 3 years. If stock options are sold before the minimum period elapses, they are taxed as income from salaries. Stock awards are subject to capital gain tax at 15% tax rate on capital gain (at the time of sale or disposal by the awardee employee).
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	In case of dividend distributions, legal entities are obliged to withhold tax at 5% tax rate. Employees that are entitled to dividend distributions as shareholders or partners are not subject to social security contributions for this type of earnings. Non-capital contributions of an IKE partner are not taxable on the IKE.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	Startups in Israel are almost always incorporated as a private limited liability company ("**Ltd**") (which is the most common business vehicle for corporations), pursuant to the Israeli Companies Law, 1999. It is a separate legal entity established by one or more shareholders (individuals or entities) who subscribe for shares, with or without par value. Each shareholder's liability to the company's obligations is generally limited to the payment of the par value (if any) of the shares held by such shareholder. There is no maximum or minimum share capital, and the minimum number of board members is set at one, with no regulatory limit on the maximum number. This form provides flexibility for shareholder arrangements, capital structure, and employee option grants, and limits the exposure of the shareholders on a personal level.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	Israeli startups typically implement equity incentives through an Employee Share Option Plan ("**ESOP**"), which sets out key elements such as vesting schedules, exercise conditions, treatment upon termination, and sale/exit provisions. The principal tax framework is found in Section 102 of the Israeli Income Tax Ordinance ("**Section 102**"), which applies to employees, officers, and directors who are not "controlling shareholders" (i.e., those holding 10% or more of the company's shares or with a right to appoint a director to the board of directors ("**Board**")). Section 102 permits grants either with or without a trustee (a qualified CPA or attorney or professional trust company) which is subject to the approval of the Israel Tax Authority ("**ITA**"). In practice, nearly all companies adopt the trustee track, as the options are then taxed as capital gains (currently at 25%) upon a sale and not as regular employment income. The trustee track requires that awards are held by the ITA-approved trustee for at least 24 months from the date of grant to qualify for the reduced tax treatment. In addition, awards are usually only for ordinary shares as this is another requirement of Section 102. Until options are exercised and shares are issued, employees do not enjoy shareholder rights and once exercised, employees assume the same rights and obligations as ordinary shareholders, subject to any restrictions in the company's articles of association and option plan. The trustee usually holds the shares even after their exercise, until an "exit" event, so as to avoid transferring the shares to the hands of the employee and thereby creating a taxable event for the employee. Common practice is to have an optionee, as part of his/her option grant agreement with the company, sign an irrevocable voting proxy, appointing the CEO or other designee by the Board, to vote the shares issued to the optionee following exercise of the options.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	It is market practice to reserve 8-12% of a seed stage startup's fully diluted share capital for the employee option pool. Such percentage generally decreases in later funding rounds and reaches 5-6%.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	The dilution resulting from option grants is usually borne pro rata by all shareholders of the company, including founders and investors, unless otherwise agreed in investment round documents (for example option pool reservation made pre-money vs. post-money). The company bears any associated costs of issuance, if any.

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Options and any shares issued upon exercise under Israeli employee share option plans are usually not freely transferable. Under the Section 102 trustee capital gains track, all options and underlying shares must be deposited with an ITA-approved trustee for at least 24 months from the date of grant and may not be sold, assigned, pledged, or otherwise encumbered during this period, otherwise any transfer, disposal or release before expiry of this holding period disqualifies the grant from the favorable capital gains tax treatment, and the resulting income becomes taxable as ordinary employment income. In addition, both during and after such restricted period, transfers remain subject to the ESOP (which usually restricts transfer of options to third parties), the company's articles of association (which typically require prior Board or other corporate consent for transfers and usually impose rights of first refusal and co-sale (tag-along) provisions on any shares issued upon exercise) and shareholders' agreements (if applicable). Unvested options are automatically forfeited upon termination of employment or service (unless any acceleration provisions apply), while vested but unexercised options are generally exercisable only within a limited post-termination period (customarily 90 days). The ESOP plan usually prohibits any lien or charge over options or shares while held in trust. In the event of an exit, merger, or liquidation, outstanding awards may be assumed, substituted, accelerated, or cancelled as determined by the Board.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	Generally, the Board is the corporate body empowered to grant employee equity awards in Israel, typically under an ESOP plan that has been previously approved Board. The Board (or, if delegated, a compensation committee of the Board) administers the plan, approves the list of grantees, determines the number of options, and sets vesting, exercise price, and other applicable terms. Assuming the company elected the Section 102 trustee capital gains track, the ESOP plan must be first filed with the ITA at least 30 days before the first grant, accompanied by the appointment of an ITA approved trustee. This ITA filing is now made online (effective January 2025) and includes a detailed questionnaire identifying potential "red flags." Any material change to the plan requires re-submission or notification to the ITA. Grants to directors or other office holders are further subject to the corporate governance approval process prescribed by the Israeli Companies Law, 1999 (including requirement, in certain cases, of the approval of the shareholders).
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	The corporate resolution approving the grant of options (under the Section 102 capital gains track) must be delivered to the ITA approved trustee within 45 days of the date of the resolution. Following the corporate resolution, each employee must sign a grant or award agreement (which format is approved by the company), which may be executed electronically (simple e-signature suffices; handwritten signatures are not required). After execution, the company must deliver the signed agreements and related documentation to the ITA approved trustee within the statutory period (90 days from the corporate resolution approving the grant) so that the awards are legally placed in trust. The trustee then issues a confirmation of deposit completing the formal grant process under the Section 102 trustee track. No registration, notarization, or public filing is required for the issuance itself. The company records the grants internally in its option register (as well as the periodic notifications made by the trustee to the ITA with respect to the options held by it which were issued pursuant to Section 102) and updates its shareholder register only upon exercise of options and issuance of shares.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	Employees are not required to pay any purchase price when receiving options under Israeli employee share option plans.
What are the three most important topics to be covered/considered under an employee participation plan?	(1) Tax compliance and trustee structure - The plan must specify that grants are made under Section 102 and abide by the rules promulgated thereunder, including requirement for trustee and statutory holding period. (2) Vesting and termination rules- The plan should define the vesting schedule (commonly four years with a one-year cliff) though the Board is usually given discretion, exercise procedures, and post-termination exercise periods (usually 90 days, or 12 months upon death or disability). It must also address forfeiture of unvested options and clarify the treatment of vested awards upon termination or reduction in employment. (3) Treatment upon exit events - The plan should regulate how awards are handled in M&A or IPO scenarios, including acceleration, substitution, or cancellation mechanics.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Employees are not registered in any public register (such as the Israeli Companies Registrar) in connection with the grant of options or other equity awards. Grants are recorded internally in the company's option register and reflected in the reports and confirmations maintained by the trustee under Section 10, who is also responsible for providing periodic notifications to the ITA regarding the options granted pursuant to Section 102 and shares held in trust. Employees are entered into the company's shareholder register (maintained internally and also required to updated the public registry with the Israeli Companies Registrar) only once their options are exercised and shares are actually issued (it being noted that the shares are typically held by the trustee until an exit event, so the registries reflect the trustee as the shareholder on behalf of such employees).
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Under the Section 102 trustee capital gains track (the market standard), tax is triggered only upon the sale of the shares (not upon grant or exercise of options). The taxable amount equals the difference between the sale proceeds and the exercise price, and is subject to capital gains tax of 25%, plus a surtax (3-5%) on high income levels. Provided that the statutory 24 month holding period with an ITA approved trustee is observed, the gain is classified entirely as capital; otherwise, any earlier sale or disqualifying event converts the entire benefit into ordinary employment income taxed at marginal rates up to ~47%, which may attract also national insurance payments or health tax contributions. The trustee withholds the applicable tax only upon sale.
Are there any tax benefits available for employees under (virtual) participations?	Yes, significant tax benefits are available to employees under the Section 102 trustee capital gains track. Provided that the options or shares are held by the ITA approved trustee for at least 24 months, the employee's gain on sale is taxed as a capital gain at 25% (plus a possible surtax for high income earners) rather than as ordinary salary income subject to marginal rates of up to ~47% and national insurance / health tax contributions. The plan thus offers both deferral of taxation (i.e. no tax at grant or exercise) and conversion of ordinary income into capital gain, substantially reducing the employees effective tax burden.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Under the Section 102 trustee capital gains track, the company is not subject to any employer national insurance / health tax contributions and has no withholding or payment obligations at grant or exercise (assuming the rules of Section 102 trustee track are observed); the trustee withholds the employee's capital gains tax (and surtax, if applicable) only upon the employee's sale of the shares underlying the options.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

The most common form used by startups under Italian law for early stage (and very often also for the growth phase) is the limited liability company (*società a responsabilità limitata*, in short "**Srl**"). The alternative form under Italian law is the società per azioni (joint stock company). Here is a brief comparison schedule:

Matter	S.p.A. (Joint-Stock Company)	S.r.l. (Limited Liability Company)
Minimum Share Capital	€50,000	€1
Share Capital	Shares	Quotas
Share transfer	Endorsement of the shares	Deed of transfer
Liability of Members	Limited to the amount of contribution	Limited to the amount of contribution. The shareholders may be held directly liable (in addition to direction and coordination liability) in case they willfully authorized decisions to the detriment of the company.
Liability for direction and coordination	Entity exercising direction and coordination (controlling entity) is responsible for liability of the company if a decision is taken for the benefit of the group/controlling entity but resulting in a loss for the company, unless evidence is provided of the indirect benefits for the company and the group of such decision.	Entity exercising direction and coordination (controlling entity) is responsible for liability of the company if a decision is taken for the benefit of the group/controlling entity but resulting in a loss for the company, unless evidence is provided of the indirect benefits for the company and the group of such decision.
Corporate Bodies	Shareholders' Meeting, Board of Directors (or sole director)	Shareholders' Meeting, Board of directors or one or more directors
Decisions by corporate bodies	Compulsory by way of duly held meetings.	Possibility to adopt decisions by way of written consultation.
Statutory Auditor	Mandatory – at least 3 members	Statutory Auditor or external auditor compulsory only if certain thresholds are exceeded.
Governance	More rigid structure, can adopt monistic or dualistic system	Flexible structure, possibility to freely determine in the by-laws.
Access to Market	Can be listed on stock exchange, possibility to issue bonds.	Very limited listing opportunities, very limited possibilities of issuing debenture bonds.

Very often, startups incorporated in the form of SRL (or, in theory, Spa) companies also benefit from specific additional regimes. The most interesting one is "innovative start-up" ("STI"), introduced by the Start-Up Decree. In order to fall within the category, the company must comply with some operative and innovativeness requirements:

- Operative requirements. (i) limitations in terms of duration of the regime (ii) must be "resident" in Italy" or in another European Member State or in a state which is party to the Agreement on the European Economic Area, having a production site or branch in Italy (iii) the total value of the annual production starting from the second year of the STI must not exceed 5 m euro, (iv) the company does not and has not distributed profits, (v) the company is not a "result" of M&A transactions (mergers, demergers etc.) (vi) the company does not provide agency or consultancy service as core business.

- "Innovativeness" requirements. The company's sole or prevailing object must be the development, production and commercialization of "innovative products and services with a high technological value". Moreover, such company must fulfill at least one (i.e., alternatively) of the following requirements: (i) research and development expenses equal to or greater than 15% of the higher value between cost and total value of the innovative start-up production. The legislator specified, in the converting law, which expenses fall within such definition, as compared to accounting standards; (ii) at least one third of the workforce as an employee or otherwise in possession of a PhD or who is doing a PhD at an Italian or foreign university, or have a degree and who has held, for at least three years, certified research activity at public or private research institutes or private, in Italy or abroad or at least two thirds of the workforce as an employee or otherwise is in possession of a masters' degree (iii) the company is the owner, depositary or licensee of at least one IP right regarding an industrial or biotechnological invention, of a topography of a semi-conductor product or a new vegetable variety or original computer program registered with the Special Public Register for Computer Programs, directly related to its corporate purpose or activity.

Companies qualified as "innovative start ups" are registered with the appropriate section of the Company Registry. Recognition is made on the basis of a simple self-certification of the company's legal representative with regard to the abovementioned requirements.

In addition to the above, the model per se deviates from some rules that generally apply to corporations under Italian law. For example, the law introduced some derogatory provision to the rules in case of reduction of share capital, pursuant to both Arts. 2446 and 2482 bis of Italian Civil code (capital reduction for losses of more than one third), and Arts. 2447 and 2482 ter (capital reduction below the legal limit). In both cases, the legislator granted more time to the company in order to cover losses and recapitalize. Other deviations (from rules generally applying to a Srl) concern, by way of example and not limitation:

– the possibility to derogate from Art. 2468, providing for share categories bearing different rights with the determination of the content of the single categories; in particular, by way of derogation from Art. 2479 para. 5 shares "that do not confer voting rights, or that confer to the partner voting rights without necessarily having to be proportional to the amount of shares held, or voting rights restricted to particular subjects or subject to the occurrence of particular non merely discretionary circumstances" may be provided.

– the company's shares may be, by way of derogation from Art. 2468 para. 1 object of offer of financial products to the public, also via crowdfunding online instruments.

– the inoperativeness of the trading ban on its shareholdings provided for in Art. 2474 c.c., if in implementation of incentive plans which provide for the assignment of shares to its employees, collaborators or members of the administrative, (professional and non) service providers (ex., stock options plans) for small to medium enterprises in the form of Srls.

– the possibility of issuing financial instruments with equity or administrative rights, against the contribution of third parties of work or services.

In addition to STIs, the current landscape also includes the possibility of being qualified as "innovative SMEs" (PMI Innovative= that can enjoy certain tax and corporate benefits similar to those of STI. Many startups in their growth phase benefit from this regime.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

It is possible to assign ordinary shares or quotas. In certain cases, companies can assign to the beneficiaries shares or quotas of a particular category, i.e. with rights different from those envisaged for ordinary shares and quotas. Innovative start ups and SMEs may provide in their articles of association the possibility of issuing categories of shares or quotas with economic and/or administrative rights other than or additional to those commonly attributed to all shareholders (e.g. limited voting rights). For STIs, in terms of profits, however, these special rights cannot consist of an increased percentage of dividends, at least for the first years after incorporation of the company, given the prohibition to distribute profits provided for by the Decree.

It is common to assign to employees quotas of a category that does not grant voting rights (or give reduced voting rights). This way, founders may assign economic interests without being affected in the decision making process.

Stock options are also very often used. They generally give the beneficiaries the right to subscribe, at a determined price, shares or quotas to be issued in the future by the issuing company; stock options are usually granted free of charge. The options cannot generally be exercised before the vesting date, once the so called "Vesting period". The vesting date usually coincides with the achievement of predetermined performance objectives and/or with the continuation of the employment relationship for a predetermined period of time. Stock options are very useful as, under SRL regime, it is more difficult to claw back a quota (for instance for bad leaver) once it is assigned.

Participatory financial instruments (so called SFP) are very often used. Authorized entities can issue participatory financial instruments whose characteristics, terms and conditions must be contained in the by-laws and in a specific regulation. Participatory financial instruments do not attribute the status of shareholder or allow participation in the share capital; however, they may provide administrative rights or right to obtain profits. The regulation for the issuance of financial instruments could also provide for their conversion into shares or quotas upon the occurrence of certain conditions or performance of the entity, thus allowing the beneficiaries to become shareholders of the company. Phantom stocks are not very used in the VC Italian market.

All such instruments cannot replace the base salary of an employee, but they can rather be used to recognize additional rights to them.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

Common practice is to allocate between 5% and 10% of the company's share capital (fully diluted), although there are no legal restrictions.

In early stage investments it is possible to find reverse vesting plans dedicated to founders that provide for higher percentages.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

It usually depends on the current company's phase of development and whether investment rounds have already taken place. Usually, the economic burden lies with the founders in case of early stage investments. Starting from Series A (but sometimes also in early stage) also investors are available to accept dilutions in order to incentivize key employees.

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	There is no statutory general restriction. However, normally all instruments assigned to employees provide for: a) lock up periods (periods after the assignment during which employees cannot transfer their instruments) b) pre-emption rights: in order to transfer the instruments, employees often shall offer them first to founders / other shareholders. Sometimes mechanisms are inserted to limit the price that shall be paid; c) while very often they enjoy tag along rights, they are also subject to drag along rights by founders/investors; The by-laws often provide for limitations to the transfer mortis causa, with rights for the other shareholders to redeem the quotas. SFPs are normally not freely transferable. It is common for shareholders' agreements and bylaws to contain leaver provisions.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	Issuance is normally approved by the shareholders (although it is under certain circumstances possible to delegate it to the administrative body). Very often it is delegated to the administrative body the identification of the beneficiaries and the targets subject to which the employee is entitled to receive the participation.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	The shares and quotas can be attributed free of charge to employees of the entity, by resolution of the extraordinary shareholders meeting, to the extent distributable profits exist. The share capital is increased by the extraordinary shareholders' meeting to an extent corresponding to the profits intended to be attributed. The shares and quotas can also be attributed through paid capital increases offered for subscription to employees of the entity, by resolution of the extraordinary meeting. The entity may also purchase own shares or quotas and subsequently assign them to the employees identified as beneficiaries. The purchase of own shares or shares by the entity can take place: • for consideration, provided that only the available reserves resulting from the last approved financial statements are used, or • free of charge. The purchase of own shares or quotas and their subsequent sale is approved by the ordinary shareholders' meeting; the board of directors usually carries out the purchase by constituting a dedicated reserve, within the limits above described. The assignment of participatory financial instruments (SFPs) in favour of the beneficiaries must be approved by the extraordinary shareholders meeting. As anticipated, the possibility for entities to issue equity financial instruments in favour of the beneficiaries must be expressly provided for by the articles of association. Share capital increases require the assistance of a notary public as secretary of the meeting Share transfers can be effected with the assistance of a notary public or of a dottore commercialista (chartered accountant) for srl companies. Even for employees of Italian nationality, it is necessary to verify whether golden power (FDI) regime is triggered.

Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	It is not mandatory. Most of the times in early stage the assignment is free of charge. In later stage it is possible to see payment of a purchase price / price for subscription.
What are the three most important topics to be covered/considered under an employee participation plan?	1. Objectives: the company should assign participation and choose the way it assigns them consistent with the objectives it wants to pursue. 2. Lock In. The participation should serve the purpose of keeping the key employees in the Company and making them part of the business and willing to contribute to its growth. 3. Attractiveness. The participation that is assigned must bear a value in the eyes of the employee.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	For Srl companies, employees who become shareholders are registered with the company registry. For SPAs, employees are registered in te shareholders ledger. The list of shareholders is then communicated once a year to the company registry. SFPs holder are registered in an internal SFP holders register. If the participation is such that the employee becomes a UBO (>25%) registration with UBOs register.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	According to Art. 50, c. 1, let. c bis) TUIR (Italian Tax Law), the shares assigned to employees or collaborators are equivalent to the normal remuneration and shall be taxed according to the same principles. The taxable amount is the fair value of the shares, calculated on the actual value of the equity. The moment when the amount becomes taxable is when the instruments are effectively economically and legally at the disposal of the employee.
Are there any tax benefits available for employees under (virtual) participations?	There is indeed a great tax benefit for assignment of financial instruments (quotas, SFPs, stock options) to employees by STI and Innovative SMEs. The assignment in such case is totally tax exempted as well as exempted from the obligation to pay social contributions. For this reason, assignment is very popular.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	In the ordinary regime, when an employee receives participation, these are considered employment income ("reddito di lavoro dipendente") under Italian law. The company (i.e. employer) is required to pay social security contributions (INPS) on the value of the benefit at the time it becomes available to the employee. The quota borne by the employer is around 30%. The exact rate depends on the sector, employee category, and other factors. These contributions are due on the fair market value of the shares/options at the time they are made available to the employee, minus any amount paid by the employee for the acquisition. The employer acts as withholding agent. With regards to taxes a similar mechanism applies, with the employer acting as withholding agent for income tax (IRPEF). The taxable amount is the difference between the market value of the shares/options and any price paid by the employee. There is a minor exemption: if the value of options exercised in a year does not exceed €2,065.83 and certain conditions are met (e.g., minimum holding period of 3 years), the benefit may be tax-free for the employee. The new Law 76/2025 introduces further incentives for employee participation, such as reduced tax rates on profit-sharing and the possibility to assign shares in lieu of bonuses, but these incentives are subject to specific requirements (e.g., collective agreements, profit thresholds, and annual limits). More in general, this very recent piece of legislation was introduced to incentivize employees' participation in companies' governance. This constitutes an important innovation in Italian legal system, whereby historically employed have stayed outside of corporate bodies.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	In Japan, the most common corporate structure chosen by startups is the joint-stock company (*Kabushiki Kaisha*) (the "**KK**"). In KK, the company has a separate legal personality from its shareholders, and the shareholders are generally not personally liable for company debts. KK can accept diverse forms of investment, such as stock options and preferred shares, making it an easily adoptable structure for companies seeking external funding. Also, under the Companies Act, KKs can adopt diverse organizational structures tailored to their scale. A limited liability company (*Godo Kaisha*) (the "**GK**") is a separate legal entity from a KK and is sometimes chosen by startup companies. GK is a highly flexible corporate structure that allows its members to manage operations directly, eliminating the need for directors or auditors. Its articles of incorporation can also be freely designed. In the early stages after founding a company, choosing a GK may be an option if a company wish to reduce operational burdens and pursue flexible management.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	To ensure the growth of a startup company, it is crucial to secure and retain top talent. In Japan, stock options are the most common method of employee participation in startups. Stock options refer to granting employees the right (stock subscription rights) to acquire company shares at a predetermined price (exercise price) as incentive compensation. Typically, the exercise price of stock options is designed to be set at a low amount. Therefore, when the company goes public in the future, employees can exercise their stock options to acquire shares. By then selling these acquired shares on the market, employees can capture the value generated by the increase in stock value as the company grows. On the other hand, directly issuing shares to employees is generally considered a difficult method for startups to adopt. This is because, in the case of issuance at market value, the amount employees must pay becomes larger, and it is also difficult to subsequently cancel shares once they have been granted.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	In corporate capital policy, the concept of an option pool refers to the percentage of total shares that can be issued as stock options. Generally, it is considered acceptable to issue stock options so that they remain within 10% of the total number of shares outstanding at the time of listing. Stock options must be issued in a planned manner, taking into account the level of the option pool.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	Who bears the economic burden of issuing stock options and related benefits is influenced by the investment agreements between the company and its investors, as well as the terms of the preferred stock. Preferred stock issued by startups typically includes anti-dilution provisions, mechanisms designed to prevent the dilution of value should a future down round occur (a funding round where shares are issued at a price lower than the most recent funding round's share price). This burden is usually borne by the founders holding common stock.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Stock options are issued as stock subscription rights (*Shinkabu Yoyakuken*) and are typically prohibited from being transferred to third parties, pledged as collateral, or otherwise disposed of under the terms of the stock subscription rights allocation agreement. Also, restrictions on the transfer of stock options are one of the requirements for stock options to qualify as tax-qualified stock options. Regarding stock options, at the time of issuance, the company may stipulate circumstances under which it can acquire the stock options, including provisions allowing the company to acquire the stock options without compensation if the holder leaves the company.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	To issue stock options (stock subscription rights), a special resolution of the shareholders' meeting (requiring approval by at least two-thirds of the voting rights of shareholders present) is generally required. However, it is also possible to delegate the determination of the offering terms to the board of directors by means of a special resolution of the shareholders' meeting.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	When issuing stock options (stock subscription rights), an allocation agreement for the stock options is typically concluded with the subscriber. Furthermore, when applying for registration of the stock option issuance, submission of a document evidencing the subscription of the stock subscription rights is required. While notarization is not required for these agreements or documents, the subscriber's signature or seal is typically required.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	When stock options (stock acquisition rights) are issued to employees, they are typically issued without consideration. For stock options to function as an incentive, they must be designed to minimize the employee's tax burden. Stock acquisition rights issued without consideration are usually structured to qualify as tax-qualified stock options.
What are the three most important topics to be covered/considered under an employee participation plan?	1. When issued as tax-qualified stock options, the terms of the stock options, including the grantees, and the conditions for exercising the rights must be designed to meet the tax qualification requirements. 2. Stock options may be granted with a vesting period during which they cannot be exercised. After this period, exercise becomes possible in stages at specified intervals (cliff, vesting). To ensure stock options function effectively as a retention tool, appropriate conditions must be designed. 3. When a company becomes the target of an acquisition, it is also important to establish conditions under which the company can acquire stock options (stock subscription rights) in the event of an acquisition, so that these options do not become an obstacle to the execution of the acquisition.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Holders of stock options (stock subscription rights) are not registered in public records. On the other hand, companies issuing stock options must create a stock subscription rights register, in which the names and addresses of the holders of stock subscription rights are recorded.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	The benefits employees receive from acquiring and exercising stock options are subject to taxation both at the time of exercising the stock options and at the time of selling the shares acquired through such exercise. In this case, the economic benefit realized upon exercising stock options is subject to payroll tax, while the economic value of the shares acquired through exercise when sold is subject to capital gains tax. Payroll tax is progressive, reaching a maximum rate of 55.945%, while capital gains tax is generally levied at a rate of 20.315%.
Are there any tax benefits available for employees under (virtual) participations?	Tax-qualified stock options offer preferential treatment whereby taxation is deferred until the time of stock sale, provided certain requirements are met. Taxation is uniformly applied as capital gains tax. Therefore, tax-qualified stock options can be said to be advantageous for employees from a tax rate perspective as well.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	For stock options that are not tax-qualified, employees are subject to payroll tax upon exercising the options, and the company is therefore obligated to withhold taxes. On the other hand, in the case of tax-qualified stock options, when an employee exercises the stock options, employees are not subject to payroll tax, and consequently, the company also has no withholding tax obligation. Also, the economic benefit from exercising stock options generally does not affect the calculation of social insurance premiums.

Global Advocacy and Legal Counsel

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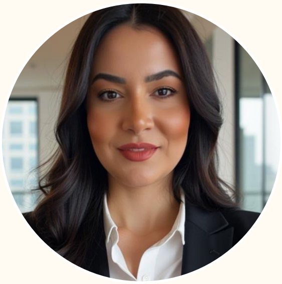

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	The most common company form used by startups in Jordan is the Limited Liability Company ("**LLC**"). It is a separate legal entity established by one or more shareholders (individuals or legal entities) who contribute capital – in cash or assets – in exchange for shares. Shareholders are generally not personally liable for the company's debts, except in limited circumstances related to state funds. The minimum share capital required is 1 Jordanian Dinar ("**JD**"), to be paid within two years of incorporation. The company is represented by its managing director(s), one of whom may also be a shareholder.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	There are no provisions under Jordanian law requiring employee participation, whether in startups or other companies. Instead, employees are typically rewarded through incentives such as bonuses, annual salary increments, or an additional annual payment. The latter is more common in larger corporations, such as banks, than in startups. Some startups, however, make special arrangements with key employees (for example, technical staff essential to the business) by granting them a percentage of annual dividends or, in some cases, a shareholding stake to strengthen their commitment and loyalty to the company.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	This concept is not addressed under Jordanian legislation. However, some companies follow the practice of appointing "partners" by title – individuals who are not equity partners but are recognized as partners due to their employment status and contribution to the company. This honorary title often comes with certain privileges. While this practice is more common in larger corporations, startups may also adopt it if they wish
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	As mentioned above, this is not regulated under Jordanian legislation.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	This is not addressed under Jordanian legislation.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	Based on the above, since such matters are not regulated by law, titles and benefits are typically granted at the discretion of the company's authorized signatories. Dividend distributions are usually approved through a general assembly meeting.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	As previously mentioned, this is not applicable under Jordanian law. Generally, if a company chooses to offer additional benefits as described, this depends on the individual's level of contribution. For example, general assembly resolutions can be submitted online with e-signatures, but documents submitted to banks usually require a wet-ink signature.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	If employees are granted partnership, no purchase price is typically required.
What are the three most important topics to be covered/considered under an employee participation plan?	This is not regulated under Jordanian legislation.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Since this is not legally regulated, an internal company registry is generally sufficient.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Notwithstanding the above, dividend proceeds are tax-exempt, and the Income Tax Law applies where relevant.
Are there any tax benefits available for employees under (virtual) participations?	Regardless, any tax exemptions are interpreted very narrowly and are specifically defined by law.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Income tax deductions and social security contributions apply as usual in all cases.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	The most common type of corporate form in Latvia is a limited liability company (*sabiedrība ar ierobežotu atbildību*, abbreviation – *SIA*). The share capital must be at least EUR 2,800, which shall be paid in full upon the company's foundation. It is also possible to set up a limited liability company with a share capital of EUR 1 (usually an option for small businesses); however, depending on the planned activities, this may not be the most suitable option. The nominal value of one share must be at least EUR 0.01. There can be one or more shareholders (either individuals or entities) who contribute capital (in the form of cash or in-kind contributions) to the company in exchange for shares.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	The most typical form of employee participation is the use of employee stock options, whereby employees, management board members, and supervisory board members of the company acquire shares through these options. The terms of acquisition for employee stock options are typically governed by the Employee Stock Option Plan ("**ESOP**"). The employee shares are ordinary shares. The rights deriving from such shares are foreseen in the articles of association (i.e., voting rights, rights to receive dividends, rights to liquidation quota, rights of first refusal, etc.). Employee participation can also be formed through ownership of different share categories, whereby each share category provides distinct rights (i.e., voting rights, rights to receive dividends, rights to liquidation quota, rights of first refusal, etc.), although this form is not very common.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	Shares acquired via employee options may not exceed 10% of the company's share capital when the company's shareholders decide to grant employee stock options.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	Depending on the phase of the company`s development, the founders initially bear the economic burden. At the later stages of the company`s development, the burden lies with the shareholders and investors (depending on each case individually).
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee options may be freely transferred only if the articles of association or ESOP provide such rights. Typically, restrictions are provided, including terms on whether the employee options can be inherited or not. Once the option has been exercised and a share has been issued, the shares can be freely transferable or encumbered, unless otherwise provided by the articles of association or the ESOP. Usually, restrictions on transfer, pledge and encumbrance of such shares are established. Employee shares are directly linked to the employee's status, whether as an employee, a member of the management board, or a member of the supervisory board. Therefore, the standard provisions stipulate that in the event of the expiry of such status, the employees' shares are transferred to the company.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	It is within the competence of the shareholders to decide on the issuance of employee participation and approve the terms thereof.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	Shareholders shall approve ESOP, and employees shall confirm their participation in ESOP (i.e., via an agreement between the company and the employee). The contract shall be concluded in a written form and signed by hand or electronically. Once the options are exercised, the employee becomes a shareholder and is therefore included in the company's shareholders' register. The handwritten signatures on the shareholders' register shall not be notarised. If shares are issued to employees through a share capital increase, the standard requirements for share capital increases (including notarization of certain documents) shall apply.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	At the phase of exercising the employee options, the shares are acquired for a purchase price or free of charge, as specified in the ESOP provisions. The purchase price is typically equal to the nominal value of a share and shall be paid to the company. If shares are issued to employees through a share capital increase, the price is typically the nominal value of the shares, with no premium applicable. In case the shares are acquired free of charge or for a purchase price lower than the nominal value of a share, the company shall issue shares on account of non-distributed profit, or the payment thereof is made from the special reserves of the company.
What are the three most important topics to be covered/considered under an employee participation plan?	These are: (i) terms of the ESOP (i.e., vesting period, criteria for obtaining the right to acquire shares, and the type of shares to be acquired (for a purchase price or free of charge, rights to transfer or inherit the options, etc.)); (ii) persons who are subject to employee options (i.e., all employees or senior or key employees, management board and supervisory board members); and (iii) leaver provisions, especially when a person is regarded as a bad leaver.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	During the phase when the employee holds options, the company's management board shall maintain an options register to record the employee options and their holders. The options register shall not be submitted to the Enterprise Register of Latvia and shall be kept in the books (records) of the company. Once the options are exercised, the employee becomes a shareholder and is therefore included in the company's shareholders' register. Each shareholder's register shall be submitted to the Enterprise Register of Latvia, and the employee shall be registered as a shareholder in a public register. Considering that employee options may not exceed 10% of the share capital of the company, neither the option holders nor employees holding shares shall be registered as UBO of the company.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	The employer (the company) is obliged to withhold wage tax from the remuneration paid to employees and remit the corresponding amounts to the tax authorities. Regular monetary payments and any non-monetary benefits granted to employees are subject to wage taxation. The granting of shares in a company at nominal or par value is also subject to wage taxation, unless the conditions for the tax exemption applicable to ESOP are met (see next question). Income received by an employee from dividends or from the sale of shares (capital gains), if permitted by the articles of association, is generally treated as capital income. Dividends distributed by the company are subject to a 25% (effective rate) corporate income tax ("**CIT**"), which is withheld and remitted to the Latvian State Revenue Service ("**SRS**") by the company at the time of payment. Personal income tax ("**PIT**") shall not be applied to Latvian residents in case such CIT has been paid. Generally, gains derived from the sale of shares are subject to a 25.5% capital gains tax, calculated on the difference between the sale price and the acquisition cost of the shares. The tax obligation arises at the moment of disposal of the shares, and the individual is required to declare and pay the tax in the income tax return.

Are there any tax benefits available for employees under (virtual) participations?	Employees may qualify for the PIT and social security tax ("**SSC**") exemption on income related to the acquired shares if the share purchase rights were granted under a formal ESOP and all statutory conditions were met: (i) the minimum holding period for the employee options must be at least 12 months, counted from the date of grant until the date when the employee becomes entitled to exercise options; (ii) during this holding period, the employee must remain employed by the company or a related entity. In cases where the employment relationship ends, the rights must be exercised within 6 months after termination; (iii) the employer (the company) is required to submit the information specified in the law to the SRS regarding the granting of the employee options; (iv) the company or a related entity must not have issued a loan to the employee that remains unpaid at the moment the employee's options are exercised, except for certain loans permitted under the law that are not used to acquire the company's own shares; (v) the employer (the company) must notify the SRS about the ESOP. The notification must be submitted within 2 months after the date when the rights to acquire employee share purchase rights are granted to employees. By meeting all conditions, the income from the acquisition of the shares is exempt from PIT and SSC. If any condition is not met, the income is treated as employment income and taxed accordingly.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	General taxation principles apply. No tax applies to the granting of employee options. If wage tax becomes due upon granting shares to an employee (if no tax benefit applies), the employer (the company) is obliged to withhold and remit the PIT and SSC to the SRS in the month in which the rights are granted. If dividends are paid to an employee based on shares acquired through ESOP, the employer is responsible for withholding and remitting the 25% CIT on the dividends, where applicable.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	A private limited liability company ("UAB" - *uždaroji akcinė bendrovė*) is the most common corporate form for startups in Lithuania and is, in short, a separate legal entity established by one or more shareholders (either individuals or entities) who contribute capital (cash or assets) to the company against receipt of shares. Shareholders are generally not personally liable for company debts beyond their capital contributions. The minimum share capital is EUR 1,000, which must be fully paid before registration. At least 25% of the share capital must be paid in cash, whilst the remainder may be contributed as non-monetary assets. The company is managed by its director(s) (one director would be sufficient; such person may also be a shareholder), who represents the company in dealings with third parties and is appointed by the shareholders' meeting.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	The most common legal participation form is being a shareholder by acquiring share via share option plans. Share option plans grant employees the right to purchase shares at a predetermined price (strike price) within a specified timeframe, typically subject to vesting conditions (commonly 3-4 years with a 1-year cliff) and leaver provisions. The shares are common shares or shares with some specific rights (or restrictions) as foreseen in the articles of association (e.g. non-voting shares), i.e. in order to have specific rights attached to the shares, these need to be foresee in the articles of association. No virtual shares exist and other forms of participations are also not common.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	Typically, up to 10% of the company's share capital is reserved for issuance under an employee stock option plan. In early-stage startups (pre-seed or seed phase), the pool may be smaller – around 5%.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	Typically, the economic burden of employee participation (i.e. the dilution resulting from the issuance of new shares under an option plan) is borne by all existing shareholders, proportionally to their holdings. In early stages, this usually means the founders, but in later financing rounds, investors also share in the dilution. However, in some venture capital investments, investors may negotiate anti-dilution or non-dilution protections with respect to the employee option pool – for example, by including the option pool in the pre-money valuation so that dilution is effectively borne by the founders only. Such arrangements are negotiated case by case but are not uncommon in more structured investment rounds.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee stock options are contractual rights and are not transferable or encumberable. These restrictions are standard and included in the option agreement or option plan; any breach typically results in termination or forfeiture of the option. Once the option is exercised and the shares are issued, their transferability is governed by the articles of association and shareholders' agreement. In practice, such shares are usually subject to rights of first refusal, prior consent requirements, and lock-up or leaver provisions. A transfer made in violation of restrictions set out in the articles of association is void under Lithuanian law. As there are no statutory redemption mechanisms, any buy-back or redemption obligations must be agreed contractually, typically linked to termination of employment or leaver events.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	The general meeting of shareholders by qualified majority votes (more than 2/3) participating in the meeting is expressly entitled to approve the rules on granting shares, including employee stock option plans. After such approval, the management board or, in its absence, the general manager usually implements the plan and grants options to specific employees in line with the approved terms.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	A company may grant employees the right to acquire its shares (stock options) in accordance with rules approved by the general meeting of shareholders. The stock option agreement must be concluded in writing or electronically (using a qualified e-signature). No notarization is required for the option agreement itself. In order to exercise the options (acquire the underlying shares), the issuer of the option must increase a share capital (all regular share capital increase rules are applicable) or transfer its own shares to the participant.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	A purchase price (strike price) is usually set for the employee when exercising stock options, though in practice it is often symbolic or equal to the nominal value of the shares in order to benefit from the favorable tax regime. If the shares are issued through a share capital increase, the employee typically pays the nominal value of the shares directly to the company as part of the capital contribution. In some cases, particularly where shares are transferred by existing shareholders, the purchase price is paid to the transferring shareholders instead. In both cases, it is common for the strike price to be lower than the market value of the shares at the time of exercise.
What are the three most important topics to be covered/considered under an employee participation plan?	1. Share issuance terms – determine the nature, procedure, and total number of shares to be issued under the plan. 2. Leaver provisions – clearly define good and bad leaver scenarios and the consequences for both vested and unvested options upon termination of employment; and 3. Vesting rules – specify the vesting schedule, any performance conditions, and the treatment of options during employee leave or in the event of a liquidity or control change;
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	While employees hold stock options, these rights are purely contractual and not recorded in any public register. The company usually maintains an internal option or cap table, tracking granted and vested options. Once the options are exercised and shares are issued, the employee becomes a shareholder and must be entered into the shareholders' register, which is kept internally by the company or by a licensed financial brokerage firm if share accounting of the company has been transferred.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Dividends paid to individuals are taxed at a flat rate of 15 % under personal income tax, with no additional social or health insurance contributions applied. Income from the sale of shares is subject to a 15% personal income tax rate; however, if the annual amount of these and other taxable income not related to employment exceeds the threshold of 120 average national salaries (AMS) (in 2025 – EUR 253,065.60), the portion exceeding this threshold is taxed at a 20% rate. A non-taxable amount of EUR 500 also applies. The 120 AMS annual income threshold does not include income from individual activities, distributed profit, royalties received from an employer, directors' fees, and remuneration for activities on supervisory boards, management boards, loan committees, or income of a small partnership manager (who is not a member) for management services. From 2026 capital gains from employee stock option shares held for more than 3 years, as well as from any other shares held for more than 5 years, will be subject to a fixed 15% personal income tax rate, regardless of the amount.
Are there any tax benefits available for employees under (virtual) participations?	Employee stock options may benefit from a full exemption from personal income tax and social contributions if exercised no earlier than 3 years after their grant. However, that relief applies exclusively to actual share options and does not extend to virtual participation, meaning employees receiving virtual payouts cannot take advantage of the existing tax reliefs available for direct ownership or ESOP structures.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	If tax exemption rules are not met, the benefit (the difference between the market value of shares and the exercise price) received by the employee derived from employee stock options is considered income related to employment - personal income tax is levied at a rate of 20% on employment income up to the annual threshold of EUR 126,532, and at a rate of 3% on any portion of employment income exceeding that threshold; state social insurance and compulsory health insurance contributions rate is 21.27% or 24.27% if the employee additionally contributes 3% to a supplementary pension scheme. The contribution rate comprises the employer's portion of 1.77 % and the employee's portion of 19.50% or 22.50%, respectively. The befit is taxed upon exercise of the stock option (i.e. acquisition of shares by an employee). Such taxes are paid by the startup/company (as issuer). In case of virtual participation (which is not commonly used), the income (benefit) received by the employee is also recognized as employment-related income and is accordingly subject to personal income tax, as well as state social insurance and compulsory health insurance contributions Starting in 2026, Lithuania will introduce a more progressive personal income tax system for most types of income, including employment income, with rates rising up to 32%.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	The private limited liability company (Besloten Vennootschap or "**B.V.**") is the common corporate form for Dutch startups. A B.V. is a separate legal entity with at least one (1) shareholder contributing capital in exchange for shares, which offers limited liability to its shareholders. Since 2012, the minimum share capital requirement has been abolished (effectively reduced to EUR 0.01), making the B.V. more accessible for startups. In practice, a single B.V. or a holding B.V. with an operating subsidiary B.V. structure is often used by start-up companies.
What legal forms of employee participation are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	**Depositary Receipts** ("**DRs**"): a typical and commonly used employee participation form in the Netherlands involves the use of a Stichting Administratiekantoor ("**STAK**") to issue DRs to employees, instead of shares. The (board of) STAK holds legal title and voting powers to the shares and issues DRs to employees, which transfers the economic benefits to the employees. Employees holding DRs are registered depository receipt holders (but not shareholders), and do not participate in the general meeting. The employee's obligations as a DR holder are usually set out in the terms of administration issued by the STAK, which may include adherence to transfer restrictions, vesting schemes, leaver provisions and other conduct requirements for the duration that they hold DRs. The issuance of DRs requires corporate formalities such as a shareholders' resolution and a notarial deed of issuance. **Stock Options**: stock options grant employees the right to acquire shares (or DRs) in the company in the future at a predetermined price, whereby often a vesting period applies. Until exercise, the employee has no (voting or) profit rights. Upon exercise, new shares (or DRs) are issued to the employee who then becomes shareholder (or DR holder), benefiting from economic upsides, if applicable. Options are typically governed by an option plan, which sets conditions such as (among others) vesting schemes and leaver provisions. The employee's obligation under an option is mainly to pay the exercise price if they choose to exercise. Notably, the issuance of shares (or DRs) on exercise requires corporate formalities (such as a shareholders' resolution and notarial deed). **Stock Appreciation Rights** ("**SARs**"): SARs are contractual rights to a cash bonus tied to the value increase of a company. An employee with SARs does not have any equity and SARs do not require any initial investment. Instead, upon a liquidity event, the employee is entitled to receive payment equal to the increase in value of a specified number of shares. No voting, dividend or meeting rights are attached to SARs (a variation of SARs, Phantom Shares, can entail dividend rights). SAR plans are very flexible and governed purely by contract law; no notarial issuance is required to grant SARs. The SAR plan will detail vesting conditions and the method for calculating the payout. From the employee's perspective, SARs create an obligation on the company to pay part of the value increase to the employee if the conditions are met. **Direct Share Ownership**: Less common, startups may issue actual shares to (key) employees. Shares can be ordinary with full voting and profit rights or non-voting with only economic rights. Employees holding shares gain statutory rights such as dividends, meeting rights and tag-along protections, and must also accept certain shareholder obligations under the shareholders' agreement, to the extent applicable. Variants include growth or performance shares, which only participate above a value hurdle and serve as sweet equity to reward future growth while having little value at grant.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	There is no legal minimum or maximum for how much share capital is to be reserved for issuance under an employee participation plan. Common practice is to allocate around 10-15% of the company's share capital for employee participation, of course depending on the company's stage and/or hiring plans.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participation (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	The economic cost of granting employee participation is typically borne by the shareholders through dilution, but the allocation depends on the stage of the company and the agreements made. In the early stages, dilution usually falls on the founders, as investors commonly require this dilution to occur before they invest. In later financing rounds, dilution is generally shared by all shareholders pro rata, unless specific arrangements state otherwise. For cash-settled participation such as SARs, in principle, the company bears the cost, but in the end, it of course reduces the payout to shareholders. Advantage may be that under certain conditions, these payments can be deductible for corporate income tax purposes.

Transfer restrictions/obligations: • *May (virtual) participations be freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee participation in Dutch startups is generally not freely transferable or disposable. Shares and depositary receipts are typically subject to strict transfer restrictions under the documents governing such participation. These restrictions usually include prohibitions on transfer or pledge in general or without prior consent and, with respect to shares, rights of first refusal for the company or existing shareholders. Any transfer in violation of these rules is typically void. Virtual instruments such as SARs or Phantom Shares are personal contractual rights and are, as a rule, non-transferable unless expressly permitted under the agreement, which is uncommon. Participation is commonly subject to mandatory transfer or redemption in specific scenarios. The most frequent are leaver situations: when an employee leaves the company, they are usually required to forfeit or sell back their participation. Plans distinguish between good leavers and bad leavers, with bad leavers often losing all rights or receiving only nominal value, and good leavers retaining vested rights or receiving fair market value. Other typical transfer or redemption events include death or disability, breach of (material) agreements, insolvency of the company, and exit events where drag-along provisions oblige employees to sell or redeem their participations in line with majority shareholders.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	In a Dutch B.V., the general meeting of shareholders is by default authorized to issue shares, unless such power is delegated to another corporate body (such as the board) via the articles of association or a specific shareholders' resolution. Thus, share issuance or granting rights to shares such as options require shareholders' approval (whereby the required majority depends on the arrangements between shareholders). If shareholders have resolved to issue shares or rights to shares, it is often agreed in the shareholders' agreement that the board will be entitled to designate or nominate individual grants, in some cases with the prior approval of (certain) shareholders. In DR schemes, the STAK board issues DRs to employees after the company has issued shares to STAK. For virtual plans like SARs and Phantom Shares, no share issuance occurs, so board approval suffices, though in practice shareholders usually have prior approval rights under the shareholders' agreement. Additionally, if a works council exists (when a company has more than 50 employees, so this is often not the case for start-ups), its consent may be required for the adoption of an employee participation scheme.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	The formalities for employee participation depend on the type of instrument. **Shares and DRs**: issuance or transfer of shares always requires a notarial deed before a Dutch civil law notary (which will require "wet" or handwritten signatures), supported by shareholders' resolution. A STAK must also be incorporated and its trust conditions must be established by notarial deed. Subject to sufficient shares being issued to STAK, the board of STAK can issue DRs or DRs can be transferred by private deed without involvement of a notary, which can be signed with electronic signatures. The STAK maintains a DR register. **Options and SARs**: These are contractual of nature and do not require a notarial deed or public registration. Instead, companies prepare plan rules like an option plan or a SAR plan and have employees sign a grant or acceptance letter, which can all be signed with electronic signatures. Shareholders' agreement can set out prior approval rights for shareholders.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	In the Netherlands, employees are generally not required to pay a purchase price for participation in an equity plan, except the nominal value of the shares. **Shares and DRs**: at least the nominal value is typically paid in, usually directly to the company or STAK (but there are exceptions). **Options**: the grant is free of charge. Payment occurs only upon exercise when the employee pays the exercise price. This may be set at nominal value or at (approximate) fair market value. A low strike price maximizes the incentive but may create tax issues (see further below). **SARs and Phantom Shares**: these are purely contractual bonus rights. No purchase price is due; taxation arises only upon payout.

What are the three most important topics to be covered/considered under an employee participation plan?	• **Vesting & leaver provisions**: the plan often defines how and when participation vest, include leaver provisions which can lead to forfeiture of vested shares, and any accelerated vesting triggers in case of exit or change of control of the company. • **Nature of the participation & attached rights**: clarity on the instrument, the rights linked to it and any restrictions to the extent applicable. • **Trigger Events & Exit/Payment Terms**: details on the exercise possibilities in case of options or events leading to payout in case of SARs and the valuation and settlement mechanics.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Employees receiving (virtual) participation are generally not required to be registered in any public register, with some exceptions at the very high ownership levels (which usually does not apply in employee participation schemes). The Netherlands does not have a public registry of shareholders for B.V.s. Internally, a Dutch B.V. must keep a shareholders' register and a STAK must maintain a register of DR holders. These registers are not public but internally accessible. Also virtual participation (SARs/Phantom Shares) is only tracked internally.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	<u>For participation in shares or DRs</u> and the tax treatment of earnings, it is relevant to consider whether the employee's participation is considered a so-called 'lucrative interest', or not. Generally, a participation is considered a lucrative interest if the shares are (i) considered in whole or in part as remuneration for work and/or knowledge, and (ii) the shares must have such favorable conditions that there will be an excessive (lucrative) remuneration of the employee compared to the main investor(s). If the two conditions are met, any income from the shares is subject to personal income tax in Box 1 against progressive rates up to 49.5% (rate for 2025). However, if the shares are (also) held as a substantial interest (see below) and structured properly, it is possible to opt for a lower rate. This used to be at the regular substantial interest rate (see below) but is intended to change per 1 January 2026. As of that date, the rates will increase to a maximum of 36% for lucrative interest structured as a substantial interest. If an employee (on its own or together with its 'fiscal partner') holds at least 5% of the shares in the company (or 5% of a distinguished class of shares), it holds a so-called 'substantial interest'. In that case, both dividends and capital gains are taxed with personal income tax at a rate of 24.5% for any amount up to EUR 67.804 and at a rate of 31% for the excess (2025 rates). For dividends, any dividend withholding tax already withheld on the dividends may be credited against the personal income tax when filing the tax return. For capital gains, the personal income tax is triggered upon alienation of the shares (or in some cases of deemed alienation). The personal income tax return must be filed within 4 months after the calendar year has ended and any tax must be paid upon receiving a final assessment for such return. If an employee holds an interest of less than 5% of the shares in the company (as mentioned above) and the interest is not qualified as a lucrative interest, a notional approach applies. Personal income tax, at a rate of 36%, is due on a 'notional return on investment'. These notional returns are fixed and for shares, a return of 5.88% (deemed return for 2025) applies, regardless of actual realization. The taxable base is assets minus debt. For this approach, only assets that are owned by the employee on 1 January of every year are included in the taxable base. As such, dividend payments or alienation of shares are no taxable events. <u>For Stock Options</u>, the tax treatment for the employee is that stock options, for which no price is paid but that are received as an employment package, form income from employment which is taxed at a progressive rate of personal income tax, up to 49.5% (rate for 2025). However timing of the recognition of income, and accordingly the moment of taxation may vary: (i) the starting point for Dutch tax purposes is that the income (for tax purposes) is recognised at the moment when the shares (after exercise of the option, and thus creating a deferral) become tradable, following contractual or legal restrictions (lock-in), if any, and thus only when the shares can be alienated by the employee; (ii) employees can however also opt for taxation upon exercise of the options. <u>For SARs</u>, that entitle the employee to a payment in cash equal to the value appreciation of underlying shares, the taxable moment is the moment the employee receives the cash payment with respect to the SARs from the employer. The employer should process this through the Dutch payroll at the moment the taxable event occurs. Proceeds are taxed at a progressive rate of personal income tax, up to 49.5% (rate for 2025), <u>For a cash bonus</u>, proceeds are taxed as income from employment and are taxed at a progressive rate of personal income tax, up to 49.5% (rate for 2025).

Are there any tax benefits available for employees under (virtual) participations?	N/A.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Wage tax is payable if a certain benefit is obtained by an employee. This could be the case if the acquisition price of the shares or DRs is lower than the fair market value of such shares or DRs. In that case, wage tax is due on the difference between the acquisition value and the fair market value. Wage tax should then be withheld by the company/employer upon the acquisition/granting of the shares or DRs. For option rights, different rules apply. Generally, when an employee exercises an option right, wage tax is generally due once the acquired shares are tradeable (refer to the comments above). Any costs in relation to granting shares or option rights to employees (including under conditions, SARs) are not deductible from the taxable profit of the issuing company.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

A private limited liability company is the structure most Norwegian startups choose when entering the market and when scaling their business. The company may have one or several shareholders and must have a board of directors. Smaller companies are not required to appoint a general manager, although many do so in practice. The minimum share capital for an LLC is NOK 30,000 (approximately EUR 2,500), which must be fully paid before registration. This structure combines low capital requirements with limited liability, making it well suited for investor participation and controlled risk exposure.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

In a Norwegian private limited company, the most common forms of employee participation are ordinary shares, stock options, and virtual/synthetic share programs.

Ordinary shares: Employees may acquire shares directly in the company, preferably at market value and subject to vesting, lock-up and leaver provisions set out in a shareholders' or investment agreement. In practice, employee share programs are often structured through non-voting B-shares, allowing founders and investors to retain control. Such shares provide full economic rights, including dividends and capital gains, but no voting rights.

If the employee holds the shares personally, dividend payments are subject to an effective tax rate of approximately 37.84%. If the shares are acquired through a holding company, dividend distributions will fall under the Norwegian participation exemption and will therefore not trigger taxation at the shareholder level. In light of the tax implications, it is generally recommended that employees acquire their shares through a holding company, when feasible to have better flexibility in particular in buy-outs with an obligation to re-invest.

Stock options: Option programs are commonly used among startups. The employee receives a right, but not an obligation, to purchase shares in the company at a pre-agreed price, normally after a vesting period. The holder has no shareholder rights until the option is exercised. Under the current tax regime, qualifying startups benefit from a favourable deferral mechanism whereby taxation is postponed until the shares acquired through options are sold, rather than at the time of grant or exercise. Non-qualifying option schemes are generally taxed as employment income upon exercise. Please note that there are certain conditions and thresholds related to the favourable deferral mechanism.

Virtual/synthetic shares: Virtual shares involve the employee paying an amount to the company equivalent to purchasing shares. The employee gains economic exposure to the increase or decrease in the company's share value, without holding actual equity or voting rights.

According to a recent binding advance ruling from the Norwegian Tax Administration, gains from virtual shares are taxed as capital income (22%). This applies if the arrangement follows the structure outlined in the rulings.

Virtual shares have become increasingly popular as they allow employees to achieve a lower potential tax rate (22%) compared to ordinary share gains, while avoiding the need for each employee to establish personal holding companies. However, such arrangements require careful structuring to avoid misclassification.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

There are no statutory limitations under Norwegian corporate or tax law on the portion of share capital that may be reserved for employee participation schemes. In market practice, Norwegian startups commonly set aside between 5% and 15% of the fully diluted share capital for an employee option or incentive pool, depending on the company's stage of development, expected hiring needs and investor negotiations.

At early stages (pre-seed or seed), pools of up to 10–15% are often established to attract and retain key talent before the first external funding round. After Series A or later rounds, the pool is typically adjusted to 5–10%, aligned with investor dilution expectations.

There are no regulatory approvals required for such pools. The special startup option tax regime mentioned above, does not impose any quantitative limits on the size of employee option allocations.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	For equity-settled instruments (ordinary shares, options/warrants resulting in new shares), the economic burden is borne through dilution of existing shareholders when new shares are issued. Under Norwegian company law, capital increases are resolved by the general meeting (or under a registered board authorization) and registered with the Register of Business Enterprises. Dilution occurs on a pro rata basis across all existing shareholders. In venture financing rounds, it is market practice to negotiate who bears the ESOP/option pool expansion. Investors frequently require the pool to be created or "topped up" pre-money, which places the effective dilution primarily on founders and other pre-money holders; post-money top-ups dilute all shareholders pro rata. The allocation of this burden is a commercial question and varies by round and negotiation. For cash-settled (virtual/synthetic) plans, there is no share dilution. Instead, the company bears a profit and loss expense and cash outflow when amounts are paid, which indirectly affects all shareholders through reduced profits and equity. Under Norway's startup option tax regime, the tax deferral does not change who bears dilution: when options are ultimately exercised into shares, dilution still falls on existing shareholders as above; the regime affects timing of employee taxation, not the corporate allocation of the economic burden.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Under Norwegian corporate law, transfer of shares are contingent on approval from the board of directors unless otherwise stipulated in the articles of association. In addition, it is customary for employee share or option programs to include transfer restrictions. Typical provisions include lock-up clauses prohibiting the sale or encumbrance of shares during the vesting period, rights of first refusal or company buy-back rights, and good/bad leaver provisions determining whether and at what price shares or options must be sold back if the employee leaves the company are often included. For virtual/synthetic share plans, the rights are purely contractual and cannot be transferred, pledged, or otherwise disposed of by the employee unless this is explicitly regulated in the contract. Such rights automatically lapse or are settled in cash upon termination of employment or the occurrence of defined "exit events", e.g., sale of the company or IPO. In practice, transferability is therefore strictly limited. Redemption or forfeiture obligations are triggered primarily upon termination of employment, breach of vesting conditions, or exit events specified in the plan documentation.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	For equity-based participation schemes in an LLC, the general meeting is the competent corporate body to resolve on the issuance of new shares, or to grant authorization to the board of directors to issue shares in connection with an employee share or option program. Such authorizations are typically granted for a limited period (up to two years) and within a defined maximum amount of share capital. Any capital increase resulting from the exercise of employee options, must be formally registered with the Norwegian Register of Business Enterprises. There are no mandatory external approvals required for employee option plans, including those established under the Norwegian startup option tax regime, provided that the statutory eligibility criteria are met. However, companies must, report such options through the regular payroll reporting system to the Norwegian Tax Administration. For virtual/synthetic share plans, approval by the board of directors is generally sufficient. Although it is common practice for such schemes to be acknowledged or approved by the shareholders to ensure alignment of interests and transparency.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	For share-based participations in an LLC, formal requirements depend on whether actual shares are issued or only options are granted. Issuance of new shares must be based on a resolution of the general meeting or a valid board authorization. The share capital increase must be documented in written minutes, signed, and registered with the Norwegian Register of Business Enterprises. Each subscribing employee must execute a subscription form, and payment of the subscription amount must be verified. No notarization is required, and electronic signatures are fully accepted. For option agreements, a written contract between the company and the employee is required, typically approved by the board of directors. The contract must specify the number of options, strike price, vesting and exercise conditions, and, if applicable, fulfil the formal content requirements under the startup option tax regime. Option grants are not subject to public registration but must be reported through the payroll reporting system. Please note that upon exercise of the option, the board of directors need an authorization from the general meeting to issue shares under the program. Alternatively, the program itself can be resolved by the general meeting and subscribed by the employees in the same way as regular shares. Virtual/synthetic shares do not have statutory form or filing requirements as these rights are purely contractual. Written agreements are recommended, and execution by electronic signature is sufficient.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	In an LLC, the payment requirements depend on the nature of the employee participation instrument. For ordinary shares, employees must pay the subscription price determined by the company upon issuance. There is no statutory minimum beyond the nominal value of each share, but any acquisition below market value will be treated as taxable employment income. Shares issued at market value do not trigger immediate taxation. Share purchases are often partly financed by the company through loans combined with a loss protection. Virtual/synthetic plans are the same as ordinary shares. For stock options, no purchase price is typically payable upon grant. The employee pays the exercise price only when exercising the option to acquire shares. Under the startup option tax regime, the exercise price must at least correspond to the fair market value of the underlying shares at the time of grant, and no tax arises until the shares are later sold.
What are the three most important topics to be covered/considered under an employee participation plan?	The following three key elements should be addressed in a Norwegian employee share or option plan: • A vesting schedule, including consequences of termination of employment during this time. • Regulations for when options may be exercised, and how the plan operates in connection with exit scenarios such as a sale, merger, or IPO. • The mechanism for determining the fair market value of the shares.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	In an LLC, all shareholders must be recorded in the company's share register, which is maintained internally by the company. Any person can request a copy of the share register but the share register itself is not available online. Please do however note that the shareholders are listed in the company's annual accounts, which are public, and certain search engines have specialized in having company information, including the shareholders available online. Persons holding, directly or indirectly, 25% or more of the shares or voting rights must be reported to the Norwegian Register of Beneficial Owners ("**UBO Register**"). Employees with minor holdings are generally not included. Employees holding options are not considered shareholders until the options are exercised and are therefore not entered into the share register or the UBO Register prior to exercise. The company must, however, report option grants and exercises to the Norwegian Tax Administration through the regular payroll reporting system. Holders of virtual/synthetic shares are not registered anywhere. as these rights are purely contractual and do not represent legal ownership or right to ownership of shares.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?

For ordinary shares, dividends and capital gains are taxed as capital income under the Norwegian shareholder model. For personal shareholders, the effective tax rate in 2025 is approximately 37.84% after applying the statutory upward adjustment factor. Gains are taxed upon realization, while any loss is deductible on the same basis. If the shares are held through a holding company, no taxes apply, but taxes will apply when the person owning the holding company wants to realize profits in the holding company. If shares were acquired below market value as part of employment, the discount is taxed as salary income at grant, irrespective of whether the shares are held directly by the employee or through a holding company.

Properly structured virtual/synthetic share plans are taxed as capital income (22%) pursuant to recent rulings from the Norwegian Tax Administration. Please note that the favourable tax treatment of synthetic shares depends on strict compliance with the rulings.

For stock options outside the startup regime, taxation occurs at exercise: the difference between the market value of the shares and the exercise price is treated as employment income (up to a combined marginal rate of approx. 47.4%), and employer social security contributions apply. Any subsequent appreciation after exercise is taxed as capital income upon sale.

Under the Norwegian startup option tax regime, taxation is deferred until the acquired shares are sold. At that time, the entire gain is taxed as capital income, providing significant liquidity relief. Employer social tax does not apply.

Are there any tax benefits available for employees under (virtual) participations?

Norway offers a startup option tax regime for qualifying startups under which employee stock options are not taxed at grant or exercise. Taxation is deferred until the acquired shares are sold, and the gain is then taxed as capital income under the shareholder model rather than as employment income.

The scheme was amended and approved by ESA in March 2025 and includes quantitative caps of up to NOK 3 million per employee and NOK 60 million per employer, measured at grant. The amendments have significantly broadened the scope of the scheme. Eligible companies may now have up to 150 employees in the year preceding the option grant. The balance sheet limit has been raised to NOK 200 million, from NOK 80 million, and companies existing for up to 12 years are now qualified. No employer social security contributions apply to the deferred gain.

Outside the startup regime, underpriced share acquisitions in connection with employment are fully taxable as salary. Subsequent dividends and share gains are taxed as capital income with an effective rate of approximately 37.84% in 2025.

Properly structured synthetic share plans are taxed as capital income (22%) pursuant to recent rulings from the Norwegian Tax Administration. The tax treatment of synthetic shares depends on strict compliance with the rulings.

Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?

For ordinary share acquisitions or option programs outside the startup regime, the company is required to withhold income tax and pay employer social security contributions when a taxable employment benefit arises. The employer’s contribution rate varies by region, ranging from 0% to 14.1%, and is calculated based on the taxable benefit amount.

Under the Norwegian startup option tax regime, no taxation or employer social contributions are triggered at grant or exercise. When the employee later sells the shares, the gain is taxed as capital income for the employee only, and the company is not liable for any employer social contributions at that stage. This is one of the primary advantages of the regime.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

The most commonly adopted corporate form for startups in Oman, excluding charitable or non-profit ventures, is the Limited Liability Company (LLC). This structure is favored for its flexibility and relatively minimal regulatory oversight. It is important to note that following the promulgation of Foreign Capital Investment Law (Royal Decree 50/2019), foreign investors can now own 100% of the share capital in most sectors, removing the previous requirement for a local Omani partner.

LLCs provide limited liability protection, meaning shareholders' personal assets are safeguarded, and their liability is restricted to their capital contribution. There is generally no statutory minimum capital requirement, however, the minimum capital shall, for practical reasons, be sufficient for performance of the activities that the company will undertake.

LLCs also offer flexibility in governance, profit distribution, and management, making them ideal for startups during the market entry and growth phases. For individual founders, Oman permits the establishment of Single Person Limited Liability Companies (SPCs), which provide similar liability protections and operational simplicity.

In addition to these corporate structures, Oman offers incorporation options in free zones and industrial zones, which are attractive for export-oriented, information technology businesses or those seeking sector-specific incentives. However, free zone entities may face restrictions on direct trading within Oman's mainland market.

A recent regulatory change that may be seriously considered by entrepreneurs and emerging businesses in the coming future or once the business have matured is the Alternative Investment Market (AIM) under the Muscat Stock Exchange established pursuant to the issuance of Royal Decree 18/2025 and regulated in terms of Decision No. 28/2025 issued by the Financial Services Authority (FSA). AIM is designed to provide a market for promising companies, which may include startups, enabling them to access capital and liquidity earlier in their lifecycle. Under the regulation, companies eligible for listing must be closed joint stock companies, subject to stricter regulatory oversight and corporate governance rules and general capital requirements. The framework offers two listing pathways: Direct Listing and Indirect Listing. Trading on AIM is limited to qualified investors.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

Employee participation schemes in Oman, particularly for startups structured as LLCs or SPCs, remain limited in practice due to regulatory and procedural constraints. While the law does not prohibit granting employees equity or profit-sharing rights, direct share-based participation is uncommon because any issuance or transfer of shares in an LLC must be formally documented and registered with the Ministry of Commerce, Industry and Investment Promotion (MoCIIP).

For reference, Article 138 of the Commercial Companies Law (Royal Decree 18/2019) (CCL), **applicable to joint stock companies**, provides a legal basis for employee share allotment, allowing the extraordinary general meeting of a company to resolve to allocate up to 5% of an increase in share capital to employees, subject to rules and conditions specified in the Regulations.

In practice, most startups rely on contractual participation arrangements rather than formal equity transfers and the mechanisms for employee participation, therefore, vary. These schemes are documented in employment agreements or separate participation contracts. Obligations, for employees, usually include compliance with confidentiality and non-compete clauses under Oman's Labor Law and other applicable laws.

Briefly, any participation that amounts to equity must be properly registered with MoCIIP to be enforceable.

It is pertinent to note that in terms of Article 239 of the CCL, contributions to the share capital in the form of labor or service in LLCs are prohibited. Consequently, startups favor contractual models that align employee incentives with company performance.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

There is no established market practice for employee participation plans and, hence, the allocation would largely depend on what the parties agree upon in the relevant agreements.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

In Oman, employee participation schemes which are usually contractual are generally structured as obligations of the company as the principal obligor since the employees do not generally acquire ownership rights or voting powers. However, if the scheme requires listing of the employee as an equity shareholder in the commercial register then employee may be required to bear the associated costs. Furthermore, formal participation may result in dilution of the existing shareholders.

In cases of formal participation, to ensure enforceability and avoid conflicts with preferential or preemptive rights, it is a common practice for shareholders to consent to such arrangements and, in the case of LLCs, to be made parties to the participation agreement. This creates a binding obligation on shareholders to approve necessary corporate actions, such as capital increases or amendments to the constitutive documents, thereby securing compliance and protecting employee rights under the scheme.

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Virtual participation is a contractual right and does not confer formal ownership in the company. Accordingly, the rights are not freely transferable or disposable. Transferability is governed by the participation agreement, which typically imposes strict restrictions, including non-transferability, prohibition on pledging or assignment. The rights usually lapse or are redeemed upon; termination of employment, breach of obligations, or triggering events such as a company sale, IPO, or financing round.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	Virtual participation schemes are not subject to any specific regulation.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	There are no statutory formalities like notarization or government filing in case of virtual participation. Issuance and assumption are effected through a written agreement, which may be signed using wet-ink or valid electronic signatures under Oman's Electronic Transactions Law (Royal Decree 39/2025).
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	For virtual participations, there is no mandatory purchase price under Omani law; they are usually granted as incentives without payment. If agreed, any amount would be contractual.
What are the three most important topics to be covered/considered under an employee participation plan?	The three important considerations would be: • The structure must first comply with the relevant legal framework, whether it is the Commercial Companies Law for real equity plans (ESOP) or general Contract Law for contractual/virtual rights (VSOP). • the plan must clearly define vesting conditions and strict "good leaver/bad leaver" clauses, which must align with the termination provisions of the Omani Labour Law (Royal Decree 53/2023) to manage employee separation and the fate of their entitlements. • Companies must carefully address local obligations by ensuring the benefit is not mistakenly classified as a wage subject to mandatory social security contributions for Omani employees, while also preparing for potential international tax exposure for expatriates.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Registration would be required only if employees are issued formal shares. In such a case, employees must be reflected in the company's shareholder register and the constitutive documents registered with MoCIIP. Otherwise, registration in the internal register should suffice. It is important to note that a shareholder is required to be declared in the UBO register, with the exception of public joint stock company, if a shareholder owns 25% or more shares in the company,.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Currently, personal income tax is not applicable in Oman.
Are there any tax benefits available for employees under (virtual) participations?	Currently, personal income tax is not applicable in Oman.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Company is not required to make social security or gratuity contributions for employee's participation, provided the proceeds are not classified as part of the employee's salary.

Kancelaria Prawna CRIDO Baran i Wspólnicy spółka komandytowa

CRIDO Law Firm is a team of 80 lawyers. We advise Polish and international entrepreneurs, family-owned businesses, and individual clients on all aspects of business operations and growth. For years, we have specialized in complex mergers and acquisitions (including cross-border transactions), corporate law, employment law, and the legal aspects of real estate. Our litigation team is one of the largest in the market and focuses on tax disputes, white-collar crime, and commercial litigation.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	The most common corporate form used by entrepreneurs in Poland, including startups during the market entry and growth phases is the limited liability company ("**sp. z o.o.** "), due to its simplicity in day-to day corporate governance and relatively low minimum share capital requirement (PLN 5,000, approx. EUR 1,175). It operates as a separate legal entity and, as a rule, its shareholders' liability is limited to their contributions. It can be incorporated either online or in the form of a notarial deed; however, the online option is based on a standardized template and does not allow for customized provisions (e.g. vesting or drag-along clauses). 2. The simple joint-stock company ("**PSA**"), introduced into Polish legal system in 2021, is also a separate legal entity and limits liability of its shareholders. It features a symbolic minimum capital (PLN 1, approx. EUR 0.24), allows for the issuance of no-par value shares, accepts contributions in the form of work or know-how. Shareholders are generally not personally liable for the debts of PSA. Its flexible governance model makes it particularly suitable for implementing ESOPs. The PSA can also be incorporated either online or – when more tailor-made provisions are required – by way of a notarial deed. 3. Some startups are also established as joint-stock companies ("**S.A.**") but this is less commonly used at early stages due to higher minimum capital requirements, more complex governance structures, and increased formalities.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	The most common forms of employee participation in startups include: **1.** **Equity** – employees become right away actual shareholders with ownership rights, including voting rights and the right to dividends. This is more often used in sp. z o.o. as a result of legal constraints applying to this type of entity. **2.** **Stock options** – employees receive options granting the right to acquire shares in the future, usually after meeting vesting conditions. Upon exercise, employees typically acquire shares at a pre-agreed price. This structure is widely used in S.A. and PSA. **3.** **Virtual / phantom equity and profit participation rights** – these are contractual arrangements governed by civil law that do not grant ownership rights but entitle employees to economic benefits linked to the company's value or profits. a. virtual (phantom) shares: employees receive a cash settlement upon an exit event (e.g., sale, IPO) or after a specified period, calculated as if they held real shares. b. profit participation rights: employees obtain a contractual right to share in profits without becoming shareholders. Both streams of revenue for employee are highly flexible, usually combined, and often include vesting schedules and leaver provisions, and can be tailored to the company's needs.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	Common practice is to allocate from 5% to 15% of the company's (virtual) share capital. As the business grows and its financial position stabilizes, this proportion may evolve, although it rarely exceeds 20%. The size of the ESOP pool is usually negotiated and defined in investment agreements to prevent unwanted dilution of investor holdings.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	**Equity (shares) and stock options:** The economic impact of issuing shares or options under an ESOP is typically borne by existing shareholders, including founders and investors, because ESOP pools are typically calculated on a fully diluted basis. This means the pool is treated as if all shares or options were already issued when ownership percentages are calculated for new investors. Early-stage rounds: Founders usually absorb most of the dilution, as investors often negotiate anti-dilution protection or require the ESOP pool to be created on a pre-money basis. Later rounds: Investors may agree to share dilution proportionally if the ESOP pool is expanded. **Virtual / phantom equity and profit participation rights:** Although these instruments do not appear in the cap table, they create a financial obligation for the company. Before an exit: profit participation rights may represent a recurring obligation, reducing distributable profits or cash flow. Upon an exit event (sale, IPO, etc.): payouts under phantom equity reduce the proceeds available to shareholders, so the economic burden is indirectly borne by them.

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	**Equity (shares) and stock options:** Under Polish law, shares are generally transferable, but ESOP plans and the company's articles of association typically impose restrictions, such as lock-up periods, pre-emption right of first refusal, or investor consent requirements. **Virtual / phantom equity and profit participation rights:** These are typically non-transferable by design. They are personal, contractual rights intended to align incentives with long-term company goals. Assignment or pledge to third parties is typically prohibited. When must participations be transferred or redeemed? Common scenarios include: • termination of employment or cooperation – governed by good leaver / bad leaver provisions. Bad leavers typically forfeit unvested rights and may be required to sell vested shares at a discount or nominal value, • exit events (sale, IPO, merger) – virtual equity triggers cash settlement; real shares may be subject to drag-along or mandatory sale clauses, • Expiry of vesting period – unvested rights lapse automatically. Transferability of shares or instruments is a key factor for determining the moment of taxation. If the instrument is freely transferable, Polish tax authorities generally consider that the employee has received a real, measurable benefit at the time of grant, which triggers taxation. On the other hand, if the instrument is non-transferable for a certain period, it can be argued that the employee has not yet received an actual economic benefit, and taxation should be deferred. Additionally, if the plan meets the conditions of Art. 24(11) and following of the Polish PIT Act, taxation is deferred until the moment of disposal of the shares, regardless of other contractual arrangements.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	**Equity (shares) and stock options:** Issuance generally requires a shareholders' resolution and formalities before a notary. In addition, in VC-backed companies, ESOP-related decisions (e.g., pool size changes, amendments) are often classified as "reserved matters" under the articles of association and investment agreement, requiring investor consent. **Virtual / phantom equity and profit participation rights:** Typically implemented by the management board. If the program has significant financial impact, shareholder consent may still be required under the articles of association or investment agreement. From the tax perspective, one of the key conditions under Article 24(11) and following of the Polish PIT Act for applying the preferential tax regime (deferral of taxation until the disposal of shares) is that the incentive program must be established based on a resolution of the general meeting of shareholders. If this requirement (and other statutory conditions) is met, employees can benefit from tax deferral until the moment they sell the shares, regardless of when they were granted or vested.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	**Equity (shares) and stock options:** Sp. z o.o.: requires a shareholders' resolution and amendment of the articles of association by notarial deed, and registration in the National Court Register (KRS). Employees must submit a notarial declaration to join and acquire shares. S.A. / PSA: typically will consist of a general meeting resolution on establishing of the ESOP, increase of share capital and amendment of the articles of association. General meeting resolutions require notarial deed form (with some exception that may apply to PSA). Beneficiaries subscribe for new shares and the increase in the capital will require registration in the National Court Register (although authorized capital is commonly used to simplify ESOP implementation). **Virtual / phantom equity:** These do not constitute corporate rights under the Commercial Companies Code. Their creation is based on an agreement between the company and the beneficiary. Subject to specific provision of the articles of association and investment documents, no shareholder resolutions are required.

Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	Various models are applicable, but typically, no purchase price is payable or it is discounted. In case of limited liability company (sp. z o.o.), employees usually acquire shares at nominal value, which is usually significantly lower than the market value. This is common in early-stage startups and is often considered tax-neutral at the time of acquisition. For financial instruments (e.g. options), the exercise price is usually pre-agreed and may be set at nominal value or a discounted price. It is also possible for the company to pay-up the shares. For virtual participation, no actual shares are issues and therefore no purchase price is paid.
What are the three most important topics to be covered/considered under an employee participation plan?	**1.** **Tax compliance** - the plan should be structured so that statutory conditions for tax deferral under Art. 24(11) of the Polish PIT Act, or for granting shares in sp. z o.o., are satisfied. Adoption by a resolution of the shareholders' meeting and granting shares in the employer company are typically required, allowing taxation to be deferred until the disposal of shares. **2.** **Vesting and leaver provisions** - clear vesting schedules (time-based or performance-based) should be defined, and good/bad leaver rules should be established to ensure alignment with corporate objectives and retention of key talent. **3.** **Trigger events and settlement mechanisms** - events triggering payouts or share transfers (such as exit, IPO, or termination) should be specified, and the methodology for valuation and settlement should be set out in detail.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	**Virtual participations (phantom shares):** No registration in any public register. **Equity-based programs (shares):** UBO Register (AML): Only if an employee qualifies as an ultimate beneficial owner (typically holding >25% of shares or voting rights), which is highly unlikely in ESOP structures. Sp. z o.o.: Shareholders are listed in the internal share ledger. Disclosure in KRS applies only if a shareholder holds at least 10% of shares (rare in ESOP). PSA / S.A.: Shareholders are recorded in an external shareholder register maintained by an authorized institution. They are not listed in KRS by shareholding details.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	**Sp. z o.o./PSA/S.A.:** Tax implications under employee participation plans should be carefully considered, as different instruments trigger distinct tax consequences: **1.** **Acquisition of shares by employees** – Proceeds from the acquisition of shares are treated as employment income and taxed at progressive PIT rates of 12% and 32%. Social security contributions are also levied, depending on the individual's situation. **2.** **Preferential regime under Article 24(11) of the PIT Act** – If the incentive plan is structured to meet statutory conditions (including adoption by a resolution of the general meeting and granting shares in the employer company), taxation is deferred until the disposal of shares, even if they were granted earlier for free or at a discounted price. **3.** **Derivative financial instruments (e.g., options)** – Income from the exercise of derivative instruments is generally classified as capital gains and taxed at 19% PIT. However, income from virtual shares or options may be reclassified under Article 10(4) of the PIT Act as employment income, resulting in progressive PIT rates (12% and 32%) and social security contributions. Tax is triggered upon cash settlement. The tax deferral under Article 24(11) cannot be applied unless actual shares are used in the scheme. **4.** **Dividends** – Dividends are subject to a flat 19% PIT rate, with no social security contributions applicable. **5.** **Sale of shares** – Proceeds from the sale of shares are taxed at a flat 19% PIT rate, with no social security contributions. The taxable event occurs upon disposal. **6.** **Solidarity levy** – If total annual income (including share sales, dividends, and other sources) exceeds PLN 1,000,000, an additional 4% solidarity levy applies on the excess amount. This levy is calculated separately from PIT and applies regardless of whether income is taxed at a flat 19% rate or under progressive rates. The solidarity levy does not apply to dividend income and certain other sources.
Are there any tax benefits available for employees under (virtual) participations?	**Sp. z o.o.:** No tax benefits are available for employee participation programs involving actual or virtual shares in sp. z o.o. **PSA/S.A.:** Yes, tax benefits are available for equity-based incentive programs implemented in a in joint-stock companies. They do not apply to virtual shares. If the incentive plan meets statutory conditions, taxation of income arising from the acquisition of shares is deferred until the shares are disposed of. The following requirements must be met: (i) the program must be adopted by a resolution of the company's general meeting, (ii) shares must be granted in the employer company (or its dominant company), (iii) the program must be addressed to employees or service providers, (iv) the company must have its registered seat in an EU/EEA country or in a jurisdiction covered by a double tax treaty with Poland. If these conditions are fulfilled, (i) no taxation occurs at grant or vesting, (ii) income is taxed only upon sale of the shares at 19% flat PIT rate (capital gains), plus the solidarity surcharge, (iii), the risk of reclassification of such income as employment income under Article 10(4) of the Polish PIT Act is eliminated.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	**Sp. z o.o./PSA/S.A.:** If the proceeds are classified as employment income, the company is required to act as the tax and social security contributions remitter. In such case, PIT and ZUS contributions must be withheld and remitted in the month in which the payout is made. No remitter obligations arise with respect to capital gains (e.g., proceeds from the sale of shares, the exercise of financial instruments, or non-Polish dividends).

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

The most used corporate form by Portuguese startups is the private limited liability company by quotas (*sociedade por quotas,* "**LDA.**"), which prevails for its simplicity and low capital requirements, followed by private limited liability company by shares (*sociedade anónima* "**S.A.**").

Private limited liability companies by quotas may be established by one (in which case, it is called a "**Unipessoal LDA.**") or by two or more shareholders, whether natural or legal persons, with a minimum share capital of €1,00 per shareholder.

As for private limited liability company by shares, as a general rule, they are required to have at least 5 shareholders and the minimum share capital of, at least,€50,000. As such, this type of company structure is more common (or suitable) among startups that, for example, may expect to raise larger investments through venture capital and rounds of financing requiring different types of shares and as such more flexibility in its structure or to be listed publicly (IPO).

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

In Portugal, the two most commonly used legals forms for employee participation are Stock Options Plans ("**SOP**" also referred as "**ESOP**") and Balance Sheet Bonuses ("**BSB**") and the first being the preferred and most used. Although not specifically foreseen in Portuguese corporate law, there is a small however growing number of Portuguese companies implementing phantom shares.

SOP: SOP take the form of a contract with employees whereby they acquire the right to purchase a predetermined number of quotas/shares in the company (vesting right), at a predetermined price (strike price) and after a predetermined period of time has elapsed (vesting period – on average, this will be between 3 and 5 years). **SOP** structures are much more common in **S.A.** companies due to its flexibility in issuing shares and its future transfer.

BSB: Balance Sheet Bonuses can be defined as monetary amounts paid to a company's employees in recognition of their performance over the financial period. These bonuses, often referred to as performance bonuses or balance sheet bonuses, are awarded based on the results achieved by the organization and may vary according to the criteria defined by each company. In general, these bonuses are linked to the profit generated by the company. Some organizations choose to share a portion of their gains with their employees as a form of recognition and incentive, even though this is not required by law.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

There is no specific minimum share capital reserved under an employee participation plan through **SOP**, as the amount may vary according to the will of the parties. In any case, we often see that these **SOP** will usually grant between 5% and 15% of the share capital to employees although this number will decrease with the growth of the company. Typically, in the **SOP**, the number of quotas/shares will never be such as to disrupt the power balance between shareholders.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

SOP: In the case of acquiring quotas/shares held by the company, the economic cost will be borne by the company through future profit distributions to be made in favor of the employee-shareholders. Also, in the case of subscription through a capital increase, the economic burden will be borne not only by the company but also by the other shareholders, including new shareholders in case of additional rounds of financing, whose quotas/shares will be diluted.

Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Transfer restrictions/obligations: • **SOP** typically stipulate that, in the event of termination of the employment relationship between the employees and the company, the right to receive a monetary amount or company interests, respectively, shall be transferred in favor of the company or a third party. Accordingly, such transfer may occur compulsorily, as contractually agreed. In **SOP** implemented by **LDA.** companies, the transfer shall follow the regime applicable to the assignment of quotas, which requires the consent of the company (not applicable to the transfer of shares in **S.A.** companies, which are, as a general rule, freely transmissible). Further to this, employees who acquire equity through a **SOP** are most likely restricted from selling, assigning, or pledging those participations without prior consent, especially considering that, in practice, startups almost always include pre-emption rights, lock-up clauses, and "*good leaver/bad leaver*" provisions in their shareholders' agreements (if existent). • **SOP**: As a general rule, **SOP** are non-transferable (*i.e.* purchase rights granted to an employee may not be voluntarily or involuntarily assigned, transferred, pledged, or otherwise disposed of in any way - other than by will or the laws of descent and distribution - and are exercisable during the employee's lifetime only by the employee), except in limited cases. Such cases include situations of inheritance or with the consent of the Company, if the plan specifically allows such transfer (e.g. to family trusts or immediate family members). As for the possibility of the participations being redeemable, the Company may re-acquire such participations due to (i) termination of employment, (ii) change of control of the company (in which cases the Company may redeem or even cancel options in exchange for cash or shares of the acquiring entity), (iii) provisions of the **SOP** in which it is specifically foreseen repurchase rights at the original exercise price or fair market value (specifically when an employee leaves the company), or (iv) breach of the employment contract, if the employee violates any obligation that is underlying to the stock option plan.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	**SOP**: The corporate body vested with the authority to issue new participations, through **SOP** is the shareholders' general meeting through a shareholders resolution, and such resolution typically determines the amount of shares under the respective **SOP**. As for the implementation and administration of the plan, the Board of Directors/Management is the usual responsible corporate body, with powers to grant purchase rights under the stock option plan, designate which of the Company's related entities or affiliates will be eligible to participate in the **SOP**, construe and interpret such **SOP**, settle all controversies that may relate to it, and take any action it deems necessary or expedient for the administration of the **SOP**. **BSB**: As for BSB, the shareholders' general meeting is the corporate body responsible for the approval of such payment/distribution, through a resolution (usually at the same shareholders' general meeting in which the annual accounts are approved).
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	**SOP**: **SOP** structures are contracts entered into between the companies and its employees and no special formalities are required. In the moment such shares are issued through a capital increase, it is necessary to approve such increase and, consequently, to limit or waive the pre-emptive rights, if existing, of the other shareholders. In private limited liability companies, the most effective way to achieve this is through provisions in the articles of association. The capital increase must then be duly registered before the Commercial Registry Office. All documents pertaining to the share capital increase must have handwritten signatures and no notarization or legalization are required. In the specific case of public limited liability companies (*sociedades cotadas*), it is mandatory to submit before the respective regulatory entity (*CMVM*) an information document containing the requirements to participate in the **SOP**, including the respective enrollment period and eligible employees, as well as a pre-offer letter. To comply with this submission no formalities are required. **BSB:** The shareholders' resolution must be manually signed and no additional formalities are required.

Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	**SOP**: The purchase price is mandatory and must be included in the **SOP** (price per share).
What are the three most important topics to be covered/considered under an employee participation plan?	**SOP:** The **SOP** must include the (i) terms, conditions and details of the offer that determine how employees benefit from such plan, including eligibility, exercise price, time frame of the offer and enrollment, minimum and maximum amount of contributions, number and nature of the participations offered, termination clauses (termination of participation in the **SOP**, termination of employment and termination, suspension or amendment of the **SOP**) and transferability provisions, the (ii) corporate legal framework which comprises the form of participation, documentation required and pre-emptive rights; and (iii) the tax treatment applicable to the participations acquired under the **SOP**. In summary, the three main topics would be the terms, conditions and details of the offer, corporate framework and tax treatment of such offer.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	There is no public registration of the employees benefiting form a **SOP**. In any case, commercial companies are required to submit a beneficial owner form in a public registry platform, with information on their ultimate beneficial owners ("UBO") (i.e., those who hold, directly or indirectly, at least 25% of the Company's share capital/voting rights or, if no one can be identified, the top management position). The beneficial owner form must be updated whenever there is a change in ownership structure of the companies and confirmed on an annual basis. Under a **SOP** it is not common to have employees holding, individually, more that 25% of the share capital of the company and, as such, no UBO requirement must be complied with. In case any shareholdings are issued under a SOP, it will be necessary to proceed with the ownership registration of such shares. In **LDA.** companies, all shareholders must be identified in the company's articles of association and registered before the Commercial Registry Office. As for **S.A.** companies, the shareholders must be identified in the shares registry book and must hold the respective share title(s).
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Different tax implications and taxable moments may exist depending on the concrete employee participation plan in force. Overall, income from **SOP** or similar incentive schemes obtained by resident employees will qualify as employment income, being subject to the general progressive tax rates (currently they range from 13% up to 48%), and added of solidarity surcharges (if applicable). However, the taxable base and taxable moment may vary depending on the plan in place. Social Security contributions may also accrue depending on the plan. Once ownership over the participation is acquired by the employee, dividends received therefrom are, as a rule, subject to 28% tax.
Are there any tax benefits available for employees under (virtual) participations?	There are some tax benefits for **SOP** awarded by companies qualifying as startups (there is a very recent legal regime enacted in 2023 that determines the requirements for a company to be classified as a startup or scale up enabling such companies to benefit from tax reductions/exemptions and other investment incentives, for instance in R&D) and meeting some additional requirements. Overall, the key benefit under this special regime is that taxation is deferred until the shares are sold and it is applied a reduced effective tax rate of 14% on the capital gains realized. The application of this regime requires a case-by-case analysis as it is dependent on meeting several criteria.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Please refer to the above. The taxable moment depends on the characteristics of the plan in force.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

A limited liability company ("SRL") is the corporate form most frequently used by startups in Romania during the market entry and growth phase (excluding the later stage/IPO phase). The SRL is a separate legal entity established by one or more shareholders (individuals or legal entities) who contribute cash or in-kind assets in exchange for ownership interests ("social parts"). Shareholders are not personally liable for the company's debts; their liability being limited to the subscribed contribution. The minimum share capital is RON 1, which must be fully paid up upon incorporation. The company is managed by one or more that can also be shareholders, or not.

Starting with January 2026 the minimum share capital of the SRLs shall be increased as follows:

- 500 lei (equivalent of 100 EUR) for the companies with an annual turnover under 400.000 lei (equivalent of 80.000 EUR)
- 5000 lei (equivalent of 1000 EUR) for the companies with an annual turnover starting with 400.001 lei.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

In the case of SRLs (the most common corporate form for startups in Romania), employee participation schemes started to be implemented more frequently in the last 4 years. The options for implementation:

Virtual Shares / Phantom Stock Option Plans (VSOP/PSOP) – These are contractual arrangements granting employees a right to receive a cash amount equivalent to the value of a certain number of "virtual" shares, usually triggered upon an exit event (share deal or asset deal), dividend distribution, or liquidation. Employees do not become shareholders and thus have no voting rights. Such schemes are governed by the parties' agreement, typically including vesting clauses (gradual accrual of rights over time) and good/bad leaver provisions.

Stock Option Plans under Law no. 227/2015 (Fiscal Code) – Although primarily used in SAs, these plans can also be structured for SRLs (subject to corporate law limitations). If conditions are met (e.g., a minimum one-year vesting period), the granting and exercise of the options may benefit from favourable tax treatment (taxation deferred until sale of the shares, and certain exemptions from social contributions). This grants them both economic rights (profit distribution, liquidation proceeds) and corporate rights (participation and voting in general meetings).

General rights/obligations depend on the participation form:

- Virtual Shares: Right to cash proceeds upon triggering event; no corporate rights; obligations to comply with plan rules (including leaver clauses), right to a pre-agreed share of profits; no corporate rights; contractual obligations as agree.
- Ordinary Shares: Rights to vote, receive dividends, and share in liquidation proceeds; obligation to contribute to share capital and comply with corporate governance rules.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

In Romania, there are no statutory thresholds or market standards mandating the size of an employee participation pool. In practice, the allocation depends on the company's maturity, capitalization, and the expectations of investors and employees. For early-stage startups, a pool in the range of 5–10% of the company's share capital is most common, while more mature growth companies may reserve a larger portion (up to 15% or more) to attract and retain key employees.

In the case of SRLs, creating such a pool may require repeated shareholder approvals for each capital increase, while SAs benefit from more flexible mechanisms (e.g., authorized capital or share buy-backs) to allocate participation rights to employees.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	The economic impact of employee participation plans in Romania is typically borne by the existing shareholders, whose holdings are diluted when new shares are issued under an ESOP. In early-stage startups, this usually affects the founders directly, as investors often request that the employee pool be carved out of the founders' stake prior to an investment round. At later stages, the allocation of the burden may be shared among all shareholders in proportion to their participation, depending on the contractual arrangements with investors and the financing documentation. For virtual arrangements (e.g., phantom stock), the company itself bears the economic cost, as employees are compensated in cash upon the occurrence of a liquidity event, without diluting shareholders.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee participations (actual shares acquired under an ESOP) are generally not freely transferable. Both SRLs and SAs are subject to statutory and contractual restrictions. • SRLs: The transfer of participation quotas to third parties requires the approval of shareholders holding at least 75% of the share capital, unless the articles of association provide otherwise. Transfers among existing shareholders are generally free, but additional contractual restrictions (vesting, good/bad leaver, right of first refusal, drag-along/tag-along) are typically included in the ESOP documentation. • SAs: Shares are, in principle, freely transferable, but ESOP schemes often include leaver and vesting provisions, put/call options, or restrictions linked to the employment relationship. In both cases, ESOPs usually provide that options or shares may be forfeited or redeemed in certain scenarios, such as termination of employment (with different treatment for good vs. bad leavers), failure to meet performance conditions, or in connection with an exit event (where drag-along obligations may apply).
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	The issuance of employee participations is subject to approval by the general meeting of shareholders: • SRL: Any capital increase or issuance of new quotas requires a resolution of the shareholders holding at least three quarters of the share capital, unless the articles of association provide for a higher majority. Each allocation of shares under an ESOP generally needs separate shareholder approval. • SA: The general meeting of shareholders (extraordinary general meeting – AGEA) is competent to approve share issuances for ESOP purposes. However, SAs may authorize the board of directors or directorate to implement capital increases within the limits of "authorized capital" (up to 50% of subscribed capital, for a maximum of 5 years), offering a more flexible mechanism for recurring allocations. For virtual plans (phantom stock), no corporate approvals are legally required beyond the signing of the plan by the company, although shareholder approval is often sought to ensure alignment of interests.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?

The formalities depend on the company type and the nature of the participation:

- SRL: Any issuance or transfer of participation quotas requires notarization of the shareholders' resolution and registration with the Trade Registry. The amended articles of association reflecting the capital increase or transfer must also be filed with the Trade Registry. Employees acquiring quotas become shareholders and must sign the updated articles of association.
- SA: The issuance of new shares requires a resolution of the general meeting of shareholders (notarial form of minutes in case of capital increases). Newly issued shares must be registered with the Trade Registry and the shareholder register maintained by the company (or by an independent registrar in case of listed companies).
- Virtual plans (phantom stock): No corporate formalities or registration requirements apply. A written agreement is sufficient, and electronic signatures are generally accepted in practice.

Thus, actual equity participations involve a relatively high degree of formality in Romania, particularly in SRLs, while virtual plans offer more flexibility and lower transaction costs.

Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?

Under Romanian law, there is no mandatory purchase price for employee participations. However, in order to qualify as a tax-favored stock option plan (ESOP) under the Fiscal Code, employees must acquire the shares at a preferential or nil price, after a minimum one-year vesting period between grant and exercise

What are the three most important topics to be covered/considered under an employee participation plan?

When implementing an employee participation plan in Romania, the following aspects are key:

1. Vesting and leaver provisions
The plan should clearly define the vesting schedule (time-based or performance-based), the conditions under which the rights become exercisable, and the consequences of employment termination (good vs. bad leaver scenarios).

2. Exercise price and timing.
To qualify for favorable tax treatment, the plan must provide at least a one-year period between grant and exercise and may allow acquisition of shares at a preferential or nil price (i.e. free of charge).

3. Corporate and tax compliance.
The plan must comply with corporate formalities (particularly for SRLs, where each issuance requires shareholder approval and registration) and be structured in line with the Romanian Fiscal Code to ensure the exemption of income tax and social contributions at grant and exercise.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?

Employees who acquire actual equity participations under an ESOP must be formally registered as shareholders:

- SRL: The new shareholders must be registered in the Trade Registry following the approval of the share transfer or capital increase. The updated articles of association reflecting the new ownership structure are also filed with the registry.
- SA: Shareholders are recorded in the company's shareholder register (for private SAs) or in the central depository (for listed companies).

By contrast, participants in virtual or phantom stock plans are not registered in any public or internal share register, since they do not acquire ownership rights in the company. Their participation remains purely contractual.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?

The tax treatment depends on the moment and nature of the income:

- When being granted: No income tax or social security contributions are due if the plan qualifies as a stock option plan (ESOP) under the Romanian Fiscal Code – meaning that the right is granted to employees, directors or managers, the exercise occurs after at least one year, and the shares are acquired at a preferential or nil price.
- At dividend distribution: Dividends received by employees as shareholders are subject to a 10% dividend tax, plus the health insurance contribution (CASS) of 10%, if the total annual income from such sources exceeds the statutory threshold.
- At sale/exit: Gains derived from selling the shares are taxed as capital gains at a 10% rate, with the same CASS thresholds applying.

For virtual or phantom stock plans, taxation occurs only upon payment of the cash benefit to the employee, which is treated as salary income, subject to 10% income tax and full social security contributions (CAS and CASS).

Are there any tax benefits available for employees under (virtual) participations?

Virtual stock plans do not benefit from any preferential regime under Romanian tax law. Any cash amounts paid to employees under such arrangements are treated as employment income, subject to 10% income tax and full social security contributions (CAS and CASS).

Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?

For qualified stock option plans (ESOPs), no taxes or social contributions are due by the company at the time of grant or exercise, provided that the statutory conditions under the Romanian Fiscal Code are met (i.e., minimum one-year vesting period and acquisition at a preferential or nil price). The employer has no withholding or reporting obligations at those stages.

Taxes become due only when employees receive actual income:

- On dividends, the company must withhold and pay the 10% dividend tax at the time of distribution, and report such payments to the tax authorities. Starting with 2016 the dividend tax shall be 16%.
- On capital gains, the employee is personally responsible for declaring and paying the applicable 10% tax (plus health contribution if the income exceeds the statutory threshold).

For virtual or phantom stock plans, the amounts paid to employees are treated as salary income. In this case, the company acts as a tax withholding agent and must calculate, withhold and remit the 10% income tax and all social security contributions (CAS and CASS) in the month of payment.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

The most common corporate form for startups in Singapore, excluding those with charitable aims, is the **Private Limited Company (Pte. Ltd.)**. It's favoured for its limited liability, separate legal personality, and relative ease of incorporation. This structure generally allows for 100% foreign ownership, which is crucial for attracting investment, and offers flexibility in share structuring – important when considering future ESOP implementation.

While sole proprietorships and partnerships exist, they are rarely chosen for scalable growth due to unlimited liability. Limited Liability Partnerships (LLPs) are more common for professional services firms, but the Pte. Ltd. structure dominates the tech and innovation startup landscape driving market entry and expansion.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

Typical types of employee participation / incentive plans used by startups in Singapore are:

1. Employee Share Option Plan (ESOP)

- **Form:** Primarily utilises legally binding *Option Agreements* or *Grant Notice* granting employees the right – but not obligation – to purchase ordinary shares in the company at a predetermined Exercise Price.
- **Commonality:** The most popular form, particularly during early growth phases.
- **Employee Rights/Obligations:** Employees gain the potential for share ownership. Obligations include meeting vesting conditions (time-based or performance-based), paying the exercise price to acquire shares, and adhering to any accompanying restrictions (e.g., confidentiality, transfer restrictions). Upon exercise, they may gain certain shareholder rights, depending on the class of shares: voting, dividends (if declared), and a claim on assets upon liquidation.

2. Employee Share Ownership Plan (ESOW)

- **Form:** Encompasses plans granting *actual* share ownership, rather than just the *option* to buy.
- **Commonality:** In order to maintain a lean cap table (limit number of shareholders), ESOW plans are less common, and usually only reserved for founders or key employees.
- **Employee Rights/Obligations:** Employees are shareholders *immediately*. They have full shareholder rights and obligations from that point. However, vesting schedules, transfer restrictions and potential forfeiture provisions apply.

3. Cash Incentive Schemes

- **Form:** Broad category including:
    - **Phantom Stock Plans:** Grants employees the right to receive a cash bonus equivalent to the value of a specified number of shares, or the appreciation in share value, at a future date. Not actual share ownership.
    - **Profit Participation Rights:** Entitle employees to a share of company profits, without conferring ownership.
    - **Discretionary Bonuses:** Performance-based cash rewards.
- **Commonality:** Phantom Stock is less frequent; profit participation is relatively uncommon. Discretionary bonuses are standard practice.
- **Employee Rights/Obligations:** Employees receive a contractual right to a cash payment. Obligations are typically related to performance metrics. Tax is levied as ordinary income. These schemes offer alignment without dilution of ownership, but lack the same level of psychological ownership as equity-based schemes.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	The amount of share capital reserved for employee participation plans in Singapore startups varies significantly depending on the phase, funding rounds, and overall company strategy. In the early phases we would usually see a reserved pool of around 5%-10%.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	The economic burden of issuing and benefits deriving from employee participations in Singapore startups is distributed across multiple parties, evolving as the company progresses through financing rounds. The initial dilution is absorbed by founders and early investors. Subsequent dilutions during option exercises/vesting are shared between the company, existing investors, and new investors. Employees bear the tax burden but benefit from potential equity gains.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee participations in Singapore startups are generally *not freely transferable*. Standard plans include contractual restrictions – lock-in periods, rights of first refusal, and drag/tag-along rights – to protect company interests and confidentiality. Transferability is further influenced by whether an employee is classified as a "good leaver" (voluntary departure) or "bad leaver" (termination for cause), with the latter typically resulting in forfeiture of unvested, and often vested, shares. Transfer or redemption of participations primarily occurs upon *employment termination, a company sale/IPO, or a change of control*. Good leavers usually retain rights to exercise vested options/shares, subject to lock-up periods, while bad leavers typically forfeit all unvested and potentially vested equity. The company often retains the right to repurchase shares in certain breach of contract scenarios, and while less common, can redeem unvested options/shares.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	The company itself (the Pte. Ltd. entity) is entitled to issue employee participations in Singapore, requiring director approval for plan terms and typically shareholder approval for any resulting share issuance – often obtained through a general mandate at a general meeting. There are no general regulatory approval requirements for an employee participation plan in Singapore, however, tax and social security regulations have to be complied with, and depending on the plan, regulations on the issuance of securities need to be taken into account.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?

Issuing employee participations in Singapore is commonly based on a legally binding written agreement (option agreement or grant notice) approved by a board resolution, and potentially shareholder approval depending on share capital limits. E-signatures are generally widely accepted in Singapore nowadays. Upon exercise of options or vesting of shares, new shares have to be formally issued by the company, and the company's electronic register of members would need to be updated accordingly.

Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?

It is not mandatorily required for an employee to pay a purchase price for the receipt of participations. However, it is common for the participant to give consideration for the participation, which would be additional to the exercise price and cannot be part of it. The purchase price is payable to the company, but it is usually a nominal amount.

What are the three most important topics to be covered/considered under an employee participation plan?

Commonly, the following topics are an important part of every employee participation scheme in Singapore

- **Vesting Schedule & Forfeiture Provisions (Alignment & Retention):** The plan must clearly define a vesting schedule (time-based, performance-based, or hybrid) dictating when employees gain ownership of their awards. Explicitly delineate "good leaver" (voluntary departure, etc.) and "bad leaver" (termination for cause) scenarios, specifying the treatment of unvested and vested awards in each case.
- **Dilution Management & Share Pool Refresh (Shareholder Value):** Plan should establish a dedicated share pool reserved for employee participation, expressed as a percentage of total issued share capital. The plan should further include a mechanism to "refresh" this pool during subsequent funding rounds to avoid excessive dilution of existing shareholders.
- **Tax Implications & Compliance (Employee & Company Responsibility):** The plan documentation should acknowledge and address the tax implications of the scheme for both employees (benefit-in-kind tax upon exercise/vesting) and the company (reporting obligations).

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?

If employees hold shares, then they will be listed as shareholders in the register documents of the company. Other than that, employee participation should be recorded in an internally maintained register. All Singapore companies have to maintain and file a Register of Registrable Controller (RORC). This RORC is a register containing the particulars of the registrable controllers (commonly known as beneficial owners) of companies. However, it is unlikely that minor shareholding from an employee scheme would result in controller status.

For a company listed on the Singapore Exchange (SGX-ST) or any of its subsidiaries, share option plans must comply with the SGX-ST listing manual.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?

Gains and profits arising from employee participation schemes are generally subject to income tax if the plans are granted to an employee while employed in Singapore. The timing of taxation depends on the plan type:

- **Share Ownership Plans (ESOW) (no vesting period):** Taxation is generally triggered upon *granting* of the shares. The taxable benefit is generally the open market price (alternatively net asset value) of the shares at the grant date less any price paid for the shares. If there are selling restrictions in place, the gains are generally only taxable once the selling restrictions are lifted.
- **Share Ownership Plans (ESOW) (with vesting period):** Taxation is generally triggered upon *vesting* of the shares. The taxable benefit is generally the open market price (alternatively net asset value) of the shares at the vesting date less any price paid for the shares. If there are selling restrictions in place, the gains are generally only taxable once the selling restrictions are lifted.
- **Share Option Plans (ESOP):** Taxation is generally triggered when the options are *exercised*. The taxable benefit is the difference between the open market price (alternatively net asset value) of the shares on the exercise date and the exercise price. If there are selling restrictions in place, the gains are generally only taxable once the selling restrictions are lifted.
- **Pure Virtual/Economic Participations (Phantom Stock, Profit Participation):** Generally taxed upon *payout* as ordinary income.

Dividends & Capital Gains

- **Dividends:** Dividends received on shares are generally tax-free in Singapore.
- **Capital Gains:** While Singapore *does not have a general capital gains tax*, capital gains arising from the sale of shares acquired through employee participation schemes *may* be subject to tax if the employee is considered a "professional investor" or if the gains are deemed to be income in nature (e.g., frequent trading). It depends on individual circumstances.

The above serves as a general overview. There are specific provisions that can affect timing and reporting of taxable gains. For instance, under the "deemed exercise" rule, a foreign employee is deemed to have derived gains from the unexercised/restricted ESOPs and unvested/restricted ESOWs which the employee has at the time the employee ceases to work in Singapore with the employer which granted the ESOP or ESOW.

Are there any tax benefits available for employees under (virtual) participations?

There is a Qualified Employee Equity-based Remuneration Scheme (Qualified EEBR Scheme) which allows for payment of tax on gains arising from stock options/shares to be deferred for up to five years subject to an interest charge.

Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?

For Singapore citizen and permanent residents social security contributions (CPF) apply for both the employer and the employee. CPF contributions are generally payable on cash remuneration or wages. Whether CPF contributions are payable on employment share participations depends on the exact structure of the employee participation plan.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

The most common corporate form for startups in Spain is the *Sociedad de Responsabilidad Limitada* (S.L.), a limited liability company. Since the enactment of Law 18/2022 on the Creation and Growth of Companies, the minimum share capital requirement has been reduced from EUR 3,000 to EUR 1, which must be subscribed and fully paid in upon incorporation. Until the company's share capital reaches EUR 3,000, specific safeguards apply, such as mandatory allocation of a portion of annual profits to the legal reserve and a special liability of shareholders for the difference in case of liquidation. Shareholders' liability is otherwise limited to their contributions, and management may be entrusted to a sole director, several joint or individual directors, or a board of directors.

The Startup Law (Law 28/2022) has further simplified the incorporation process by introducing streamlined digital procedures, reducing costs, and providing tax incentives for qualifying "emerging companies". These reforms consolidate the S.L. as the preferred legal form for startups at the entry and growth stages in Spain.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

In Spain, the most commonly used forms of employee participation in startups are stock options and phantom shares (virtual shares).

Stock options entitle employees to acquire company shares (or quotas in the case of an S.L.) at a predetermined price, usually upon the occurrence of a liquidity event (such as a sale or IPO). Employees thereby become shareholders with the corresponding economic and, where applicable, political rights attached to the acquired shares. Historically, the tax treatment of stock options was unfavourable; however, the Startup Law (Law 28/2022) introduced significant improvements, raising the annual exemption to EUR 50,000 and deferring taxation until the moment of disposal of the shares, an exit, or listing. This reform has made stock options a more attractive tool for employee participation in Spain.

Phantom shares (virtual shares) grant employees the right to receive a cash payment linked to the company's valuation or proceeds from a liquidity event, without becoming actual shareholders. They are governed by contract, offer flexibility for companies and employees, and are widely used given the legal restrictions on the transfer of quotas in S.L.s. Employees benefit economically as if they held shares, but without political rights.

In practice, employee participation schemes in Spain usually include vesting schedules (often over four years with a one-year cliff) to encourage retention, good leaver/bad leaver provisions defining the treatment of unvested rights upon termination and drag-along or tag-along clauses to align employees with founders and investors in exit scenarios. In stock option plans, employees also assume the obligation to pay the exercise price in order to acquire shares once vested.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

There is no statutory requirement in Spain regarding the percentage of share capital to be reserved for employee participation plans. In practice, the size of the pool depends on the stage of the company and is usually negotiated with investors.

For early-stage startups (seed or Series A), it is common to reserve around 5–10% of the company's share capital for employee stock option plans. In later rounds (Series B and beyond), the pool may be increased to up to 15%, particularly at the request of institutional investors seeking to ensure long-term retention and alignment of key employees.

In the case of phantom share plans, no share capital is reserved, as employees do not become shareholders. Instead, the company assumes a contractual obligation to make payments linked to the company's valuation or exit proceeds.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

The economic burden of employee participation schemes in Spain depends on the structure of the plan and the stage of the company.

For stock option plans, the issuance of new shares upon exercise typically results in dilution of existing shareholders. At the early stage, this dilution is usually borne by the founders, since investors generally require the option pool to be created before their investment. In later rounds, dilution arising from option exercises is often shared among all shareholders on a pro rata basis.

For phantom share plans, no new shares are issued. Instead, the company undertakes a contractual obligation to make cash payments to employees based on the company's valuation or exit proceeds. In this case, the economic burden lies directly with the company, and indirectly with all shareholders through reduced distributable value.

In practice, the allocation of such economic costs is a matter of negotiation with investors and is frequently addressed as part of the investment round documentation.

Transfer restrictions/obligations:

- *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?*
- *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*

In Spain, employee participations under stock option or phantom share plans are generally subject to contractual transfer restrictions to ensure alignment with the company's long-term strategy and investor protections.

Stock options are not transferable and may only be exercised by the beneficiary employee. Shares acquired after exercising options (quotas in an S.L.) are subject to the legal restrictions on transfer established by the Spanish Companies Act (*Ley de Sociedades de Capital*), which require consent of the general meeting for transfers to third parties, unless the articles of association provide otherwise.

In addition, option plans typically include contractual restrictions, such as prohibitions on transfer, drag-along and tag-along rights, or obligations to sell in case of a change of control. Also, leaver clauses are standard: unvested options lapse automatically, while vested options may be exercised within a short window or redeemed depending on whether the employee is a good leaver (e.g., resignation for good reason, dismissal without cause) or a bad leaver.

Phantom shares are purely contractual rights and cannot be freely transferred or pledged. They usually terminate automatically upon cessation of the employment relationship, with compensation depending on whether the employee qualifies as a good or bad leaver.

Payment obligations are generally triggered by a liquidity event (sale of the company, IPO, or distribution), and employees may be obliged to sell or redeem their phantom rights simultaneously with the founders and investors.

In summary, employee participations in Spain are not freely disposable. Transfers, redemptions, and lapses are governed by statutory rules in the case of real shares and by detailed contractual provisions (vesting, leaver events, exit scenarios) in the case of stock option and phantom share plans.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?

For stock option plans, the general shareholders' meeting (junta general) is the competent body to approve the plan and authorise the issuance of new shares upon exercise. If the plan requires a capital increase, this must also be approved by the shareholders' meeting with the qualified majority established in the Spanish Companies Act or the company's articles of association. Once authorised, the directors (sole director, joint directors, or board of directors, depending on the company's governance) are responsible for implementing the plan and granting options to employees within the authorised limits.

For phantom share plans (virtual shares), no capital increase is involved. These are contractual arrangements and may, as a matter of law, be executed by the company's management body without shareholder approval.

In practice, however, whether the plan is based on stock options or phantom shares, the adoption of an employee participation plan is frequently designated as a "reserved matter" in shareholders' agreements. This means that, even where the law would otherwise allow the management body to act alone (in the case of phantom shares),or requires only a shareholders' resolution (in the case of stock options), implementation will typically be subject to the prior consent of key investors.

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?

For stock option plans, the formal requirements depend on the underlying mechanics; (i) the approval of the plan and any related capital increase must be documented in the minutes of the general shareholders' meeting, which in the case of an S.L. must be notarised and registered with the Commercial Registry, (ii) the issuance of new shares upon exercise requires execution of a public deed before a notary, amendment of the company's articles of association, and registration with the Commercial Registry, and (iii) the individual option agreements between the company and the employees are usually executed in writing, with wet-ink or simple electronic signatures being common in practice.

For phantom share plans, there are no statutory formalities, as they are purely contractual. In practice, the company enters into written agreements with the participating employees, generally signed with wet-ink or electronic signatures. For evidentiary and governance purposes, it is common for these agreements to be expressly approved by the shareholders' meeting or investors (as a reserved matter), even if not legally required.

In both cases, the key mandatory steps are: (i) approval of the plan by the competent corporate body, (ii) execution of participation agreements with employees, and (iii) in the case of stock options, completion of the corresponding corporate formalities (public deed, registry filing) when new shares are actually issued.

Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?

For phantom share plans, no purchase price is payable by the employee, as these rights are purely contractual and do not involve the acquisition of shares.

For stock option plans, employees are generally required to pay the exercise price upon acquiring the shares. The exercise price is usually set at the fair market value at the time of grant, although in some cases it may be set at nominal value or with a discount, subject to applicable tax rules. The amount is paid directly to the company, since the exercise typically coincides with a capital increase and the issuance of new shares.

What are the three most important topics to be covered/considered under an employee participation plan?

- Vesting and leaver provisions.
- Triggering and settlement of rights.
- Tax regime and the company's withholding obligations.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?

Employees participating through phantom share plans are not registered in any public or internal corporate register, as these rights are contractual and do not confer shareholder status.

Employees who acquire shares through the exercise of stock options must be recorded in the company's shareholders' register book. In an S.L., the transfer or issuance of quotas must also be documented in a public deed before a notary and registered with the Commercial Registry, where the updated share capital and ownership structure are reflected.

Spain also maintains a Register of Ultimate Beneficial Owners (UBO Register) where registration is only required if an employee's interest reaches the general threshold of 25% or more of the share capital or voting rights.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?

For stock option plans, the taxable event under the general regime arises at the time of exercise, when the employee acquires the shares. The taxable base is the difference between the fair market value of the shares and the exercise price, which is treated as in-kind employment income and subject to Personal Income Tax at progressive rates of the general taxable base (up to 54%, depending on the region of residence). This results in the well-known problem of "dry income" taxation, as the employee may incur a tax liability without realizing liquidity.

The Startup Law (Law 28/2022) introduced a special regime for certified emerging companies. Under this framework, the annual exempt amount for stock options -granted to the startup employees within the company's general remuneration policy- was increased to EUR 50,000 (applicable from January 1, 2023). Besides, taxation of the excess is deferred to the earliest of: (i) the transfer of the shares, (ii) the listing of the company, or (iii) ten years from the grant of the options. In practice, this means up to 10-year tax imputation deferral for non-exempt income from delivery of shares.

Regarding its valuation, it is established that said value will be determined by (i) the value subscribed to by an independent third party in the last capital increase carried out in the year prior to delivery or, failing that, (ii) the market value at the time of the delivery.

Once the shares are disposed of, dividends and capital gains are taxed under the savings income regime, at rates currently ranging from 19% to 30%.

For phantom share plans, the situation is simpler. Payments received by employees are classified as employment income and taxed at the progressive Personal Income Tax rates (up to 54%, depending on the region). Taxation is triggered only when the employee actually receives the cash payout, which avoids the "dry income" issue associated with stock options under the general regime.

In all cases, the company acts as withholding agent, being obliged to withhold and pay the corresponding Personal Income Tax to the Spanish tax authorities at the time the taxable event occurs.

Are there any tax benefits available for employees under (virtual) participations?

Spanish law provides certain tax benefits for employees under stock option plans, particularly after the reform introduced by the Startup Law (Law 28/2022). The Startup Law increased the annual amount exempt for stock options from EUR 12,000 to EUR 50,000, provided the options are granted by a company certified as an "emerging company" within its general remuneration policy. In addition, taxation of amounts exceeding this threshold is deferred until the earlier date of: (i) the disposal of the shares, (ii) the listing of the company, or (iii) ten years from the grant. This regime substantially improves the attractiveness of stock options by mitigating the "dry income" problem.

Outside of this special regime, stock options -granted by companies which do not qualify as "emerging companies"- remain taxable as employment income at exercise, without deferral, and only benefit from the general exemption up to EUR 12,000 per year if granted under the conditions established in the Personal Income Tax Law (among others: offer made to all active workers in the same conditions, 3-year maintenance period, joint shareholding by the employee and its relatives must be less than 5%).

By contrast, phantom share plans do not enjoy specific tax benefits. Payments made to employees under these plans are fully treated as employment income and subject to progressive Personal Income Tax rates upon receipt.

Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?

In Spain, the company is required to act as withholding agent in respect of any taxable income arising from employee participation plans. Accordingly, when a taxable event occurs (exercise of stock options, payout under phantom share plans, distribution of dividends, or disposal of shares if subject to deferred taxation under the Startup Law), the company must withhold and remit the corresponding amount of Personal Income Tax to the tax authorities.

In addition, if the benefit is classified as employment income (which is the case for both stock options at the time of exercise and phantom share payouts), the company is also liable to pay employer social security contributions on the value of the benefit, and to withhold and pay the employee's share of social security contributions. These obligations are triggered at the same time as the taxable event for the employee.

Where the income qualifies as savings income (e.g., dividends or capital gains derived from shares acquired through the exercise of stock options), no social security contributions apply. In such cases, the company is responsible for withholding the applicable savings tax rate (currently withholding tax of 19%) when distributing dividends, while capital gains are self-reported by the employee in the annual tax return.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

A limited liability company (S*we: Aktiebolag*) is the most common corporate form used in Sweden, whether it is a startup, scaleup or a well-established corporation. It is a separate legal entity established by one or more shareholders – either individuals or legal entities – who contribute capital (in cash or in kind) to the company in exchange for shares. Shareholders are generally not personally liable for the company's debts. The minimum share capital is SEK 25,000. The company is represented by its board of directors. As a rule, at least half of the board members must be residents within the EEA, although exemptions may be granted. If no board member resides in Sweden, the company must appoint a person (an individual) for service of process (S*we: delgivningsbar person*) who is resident in Sweden. Legal entities, minors, bankrupt individuals, persons under guardianship, or subject to a business prohibition cannot serve as board members. Apart from these restrictions, there are no other limitations on who may be appointed. Appointing a managing director is optional for unlisted companies.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

Employee option plans can be equity-based (i.e. a right to buy or subscribe for shares in the company) ("**ESOP**") cash-based (synthetic or virtual options) ("**VESOP**"). For ESOP, the most commonly used plan for a startup is qualified employee stock options *(Swe: kvalificerade personaloptioner)* ("**QESO**"). It is also common to issue warrants (Swedish: *teckningsoptioner*).

QESO is the most tax-efficient alternative for early-stage Swedish companies. They give the employees of the program the right to acquire shares after a minimum of three years, provided certain employment and company criteria are met (e.g. the company must be unlisted, younger than ten years, and below specified size limits). The employees obtain no shareholder rights until the option is exercised and shares issued. If the option is correctly constituted and qualifies as QESO, no tax is due when the option is granted or exercised – tax arises only upon sale of the shares (subscribed for according to the option right) as capital gains – and for the company, no employer contributions need to be paid.

In relation to the employees, a ESOP can be entirely contract-based, meaning there is no legal requirement for the company – when entering into a stock option agreement– to take specific measures to ensure compliance, such as issuing any securities. However, **warrants**, which provides some security for the employees, are often used, particularly when QESO conditions cannot be met and the employee must pay an option premium to avoid unwanted tax effects. The employee receives a right to subscribe for shares in the future at a fixed price but does not obtain shareholder rights until exercised. Warrants are also sometimes used as an underlying security in QESO programmes.

Ordinary shares, if used, are often offered to key employees, granting full ownership, voting rights, and dividend entitlements. If shares are acquired below market value, the discount is taxed as employment income at acquisition, while subsequent gains are taxed as capital income.

Synthetic or virtual options (Swedish: *syntetiska optioner*) ("VESOP") provide a cash-based bonus linked to share value development but do not confer any ownership or shareholder rights. Payouts are taxed as salary income or as capital income depending on whether or not the option rights are classified as securities (*Swe: värdepapper*).

ESOPs involving the issuance of warrants/option rights or direct allocation of ordinary shares are typically combined with a vesting agreement, pre-emption rights in the shareholder's agreement and/or right of first refusal. Most of the option plans includes vesting periods, leaver restrictions, and in respect of ESOPs, employees to adhere to a shareholders' agreement.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?

Around 3-10% for companies in startup phase.

For QESO, there are legal restrictions on the aggregate amount the company may issue in options, based on net asset value *(Swe: substansvärde)* or market value if there are previous transactions. The restrictions apply both at the individual level (meaning to the individual employee) and in total for the company.

Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?

It is common for the company to bear the administrative costs for the participation plan and the following cost for issuance of shares etc. However, depending on the situation, we may see other types of arrangements, e.g. if it takes place in connection with a new investor who requires that a participation plan shall be introduced.

The employees rarely bear the administrative costs, but they must bear their own tax effect that may arise and, if applicable, pay an option premium. In some cases, the company helps the employees to pay such premium through a loan, advance salary or bonus payment. Option premiums are usually valued according to the Black and Scholes model.

Transfer restrictions/obligations: • *May (virtual) participations freely be transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Contractual transfer restrictions are typically included in the contract with the employee, in such means that the participation is personal and cannot be transferred to a third party, or to be encumbered for the benefit of a third party. This applies to both ESOP and VESOP. Generally, transfers by the employee are not permitted until securities or option rights are fully vested, and then only in accordance with shareholders' agreement. Redemption of securities or option rights may typically occur in case of non-compliance with the provisions of the programme, termination of employment, an exit event or similar.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	For ESOP, the general meeting of shareholders must approve the issuance of shares, warrants, or convertible instruments to employees, often through a direct resolution or by authorizing the board of directors to decide on the issuance. For VESOP which are cash-based and not equity-based, no formal approval is required, but the board typically adopts and approves the program on behalf of the company.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	For ESOPs that includes warrants, the issuance of warrants requires a general meeting resolution, or board authorization if previously granted and registered with the Swedish Companies Registration Office *(Swe: Bolagsverket)*. Subscribers sign a subscription list or the meeting minutes, pay according to the resolution, after which the board allocates the number of warrants to each subscriber. The company must notify Swedish Companies Registration Office of the issuance, including the resolution and subscription details. The subsequent exercise of the warrants must also comply with requirements for share issuance, including general meeting resolution, board registration and share register entry. The same applies for ESOPs without warrants. Shares can be issued based on a resolution of the general meeting with a majority of at least two thirds of affirmative votes. All company documents can be signed with an e-signature, but submission to the Swedish Companies Registration Office must normally be done with a handwritten signature. Notarization is not required (in general, notarization is rarely a requirement in Sweden).
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	There are no legal requirements to charge an option premium for participation, however, the shares must be paid (at the time the option is exercised). Charging an option premium is rather driven by tax reasons, as by paying a market-based option premium you can avoid the creation of an employee benefit that should be taxed as income. When determining the size of the option premium, the Black and Scholes model is normally used. Within the frameworks of a QESO, an option premium is not required for tax purposes.
What are the three most important topics to be covered/considered under an employee participation plan?	*a)* *Program design and purpose* – Type of participation (shares, options, warrants etc.), total amount issued, cap table impact, and wanted/unwanted tax effects for the employees and for the company. *b)* *Vesting and leaver rules* – Vesting schedule, acceleration, forfeiture, and consequences for leaving employees. *c)* *Trigger and exit events* – Conditions for exercising participation rights and treatment in case of a sale or acquisition of the company. A warrant programme most often has the effect on being a registered security that needs to be managed in an exit process, thus having a value as an obstacle.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Only ESOPs that include warrants are registered with the Swedish Companies Registration Office, but only the fact that the company has issued warrants, and how many, is registered. The employees are not registered as holders of securities. Other ESOPs (and VESOPs) are never registered. Consequently, the fact that the company has issued options to employees is not always visible to third parties.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Employers are obliged to deduct wage tax from the wages paid to its employees, so that the employer can transfer such amounts to the tax authority. Not only the regular (monthly) monetary payments to an employee are subject to wage taxation, but also all other non-monetary benefits granted to employees. This means that the benefit inherent in the option under an ESOP or VESOP is, as a rule, subject to income or capital taxation (exceptions are made for QESO programmes). A benefit arises if the participant receives options at a discount (or for free) in relation to the market value. If, under an ESOP, the employee pays a market-based option premium or if the program is a QESO, the employee is only taxed when the share (gained through the option programme) is sold, and as capital gains - currently 20-30% (various rules apply for various categories of companies). Dividends and capital gains are normally taxed the same way and at the same rate, and during the same year as the right to receive proceeds arises. For ESOPs that are not QESOs, or if shares or any other securities are received at a price below market value, tax needs to be paid upon receipt of the benefit, i.e. when the option right or security is granted or transferred to the employee. A person's tax rate is always dependent on the circumstances of each case, such as the amount earned during the calendar year etc.
Are there any tax benefits available for employees under (virtual) participations?	As abovementioned, in a QESO plan, when the statutory conditions are met, this benefit is not taxed as employment income, and the company is not liable for employer social security contributions; taxation instead occurs in the capital income category when the employee sells the shares acquired upon exercise of the option rights.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	For QESO, no taxes or social security contributions are triggered for the company/employer if all legal requirements are met. For shares or warrants acquired at market value, no employer charges arise either. However, if the benefit is granted at a discount or through VESOP, the value may be treated as salary income, and the company must pay employer social security contributions and withhold income tax when the benefit is paid or exercised. If a VESOP is defined as granting the employee a security, taxation may in some cases be treated as capital gains.

Wenger Vieli Ltd.

Wenger Vieli advises companies and individual clients on matters of domestic and international law and taxation. Our wealth of experience and expertise in all areas of commercial law – from corporate and tax matters to start-up and innovation-related questions – enables us to deliver precisely what our clients need.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

1. Most commonly, startups will use the company limited by shares ("**AG**"). An AG is a separate legal person with its own identity. The minimum share capital of an AG is CHF 100,000. Upon incorporation, at least 20% of the nominal value of each share must be paid in, and the total paid-in capital must amount to at least CHF 50,000.

An AG allows for different classes of shares (e.g. shares with enhanced voting rights or liquidation preferences). AGs can also issue participation shares without voting rights. They also allow for large flexibility for convertible instruments, options and employee participation programs, with instruments such as the conditional capital and the capital band allowing the board of directors to issue new shares within the limits set by the shareholders' meeting.

2. Another common form is the limited liability company ("**GmbH**"). A GmbH is similar to an AG, also constituting its own legal person, however, a GmbH benefits from a reduced minimum share capital of CHF 20,000, all of which has to be paid in. In contrast to an AG all shareholders are publicly visible in the commercial register. Unlike an AG, a GmbH cannot use a capital band or conditional capital. As a result, delivering equity to employees under an ESPP or ESOP usually requires either (i) a transfer of existing shares (either treasury shares or from existing shareholders) which necessitates approval by the shareholders' meeting, if the articles of association do not provide otherwise regarding the consent requirement, or (ii) an ordinary capital increase, which requires a notarial deed, registration with the competent commercial register and typically respects existing members' pre-emptive (subscription) rights.

An AG or a GmbH can be formed by one or multiple founder(s) (which can be individuals or other legal entities) in front of a notary. The company must be registered with the commercial register of the canton of its domicile and receives legal status after successful registration in the commercial register and publication in the Swiss Official Gazette of Commerce (*SHAB*). It is important to note that shares may only be issued once the incorporation or capital increase of the company has been successfully registered with the commercial register. Accordingly, new shareholders may only be entered in the share register after such registration. Shares issued before registration are seen as void.

Both AGs and GmbHs are popular legal structures for startups due to the general freedom they offer and the fact that shareholders generally are not liable for company liabilities. Whilst some startups choose to incorporate as a GmbH in the early phases due to the reduced share capital requirements compared with an AG, it is noteworthy to mention that AGs present the preferred form for potential investors that in particular do not wish for their investment to be publicly visible in the commercial register. This typically forces startups to convert their GmbH into an AG at a later date, which may then be connected with notarial/registry work, legal counsel, potential tax consequences and balance-sheet clean-ups, which may result in higher costs.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

The most common forms of employee participation are Employee Share Purchase Plans ("**ESPP**"), Employee Stock Option Plans ("**ESOP**") and, increasingly, Virtual or Phantom Employee Share Option Plans ("**VESOP**" /"**PSOP**"). These instruments are contractual in nature, meaning the specific rights and obligations of the employee can vary. ESPPs and ESOPs typically entitle employees to acquire a pre-determined number of shares either following a vesting period or immediately, subject to reverse-vesting conditions and a company buy-back right. As soon as employees hold shares — whether following the exercise of vested options or under a reverse-vesting provision — they may benefit from full voting and dividend rights.

Employees benefiting from a VESOP/PSOP typically receive contractual rights to a cash payment equivalent to the value of company shares in case the respective options are vested at a pre-determined exercise date. VESOPs/PSOPs offer greater flexibility to the company, as no shares need to be issued or transferred upon exercise and the employee does not acquire shareholder rights – i.e., no administrative complications for the Company with regard to shareholder's rights (especially voting and information rights) of the beneficiary.

Regardless of the type of participation plan, vesting periods typically range from two to four years. A typical structure includes a one-year cliff with 25% vesting after the first year, followed by linear monthly, quarterly, or annual vesting. However, timeframes and vesting conditions can be tailored to the company’s needs.

Beneficiaries generally acquire their rights under an employee participation plan upon exercising the option. To ensure proper implementation, the exercise of the option should be subject to both transfer restrictions and automatic expiry mechanisms, typically governed by good leaver and bad leaver provisions.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	Common practice is to allocate 5 - 10% of the company's share capital for the purpose of employee participation, especially in the early stages of a startup. This may increase to between 15 and 20%; an allocation above 20% is uncommon as it presents risks to a company's flexibility in its financial planning.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	The economic burden typically lies with the existing shareholders, including the founders, through the dilution of their shareholding. ESOP/VESOP/PSOP pools are usually factored into pre-money valuations during financing rounds, meaning existing shareholders bear the loss in value.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee participation shares, no matter which kind, are generally subject to contractual transfer restrictions. These include in particular a prohibition of transfer to third parties, pre-emptive purchase rights of the company and approval requirements (AG: approval by the board of directors, GMBH: approval by the shareholders' meeting, unless otherwise stipulated in the articles of association). Such shares are typically subject to vesting and (good/bad) leaver provisions, which allow the company to repurchase or refund the (unvested and/or vested) shares under certain conditions, e.g. if the employment is terminated before a certain number of years or if the employee causes harm to the company. Transfer restrictions by way of a blocking period on employee shares (ESPP or ESOP, provided the shares have already been acquired by the employee) profit from a reduced formula value of 6 % for every year the transfer restriction is in place over the respective shares.[1] The blocking period may not exceed 10 years. However, if the blocking period expires prematurely, then a tax-effective adjustment takes place.
Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	AG: The implementation of employee participation plans usually falls within the responsibility of the board of directors, unless otherwise delegated. However, where the participation plan includes the issuance of shares (e.g., under an ESOP), a resolution by the shareholders' meeting is required, particularly in the context of capital increases or the creation of conditional capital. Internal documents, such as the articles of association, the shareholders' agreement or the organizational regulations, may also specify specific quorums with regard to resolutions related to the granting of options and/or shares. Furthermore, within a shareholders' agreement the existing shareholders typically consent to a certain employee participation pool (with an undertaking by the shareholders to waive their pre-emptive (subscription) rights and consent to any capital increase and/or share transfer that may be needed for the allocation of employee shares). GmbH: The authority to adopt and implement employee participation plans lies with the company's management. In addition to the issuance of shares (similar to the AG), the transfer of existing shares in a GmbH also requires a resolution of the shareholders' meeting (unless otherwise provided for in the articles of association) and registration with the commercial register. As with AGs, the articles of association and internal agreements may impose additional approval requirements and/or undertakings by the existing shareholders.

1 Under Swiss tax law, the formula value is either determined internally by established accounting methods, commonly by the practitioner's method (*Praktikermethode*), in cooperation with the relevant tax authorities in order to determine the price and value of each share where no market value has been determined by sale or investment to/of an unrelated third party. The formula value is determined based on financial statements per financial year (typically the 31 December) and is valid for share allocations for 6 months following the end of the financial year (e.g. 30 June).

Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	AG: The ESOP itself can be executed by simple signature but must be passed by a resolution of the competent authority, usually the board of directors. Likewise, the granting of option rights is subject to approval by the competent corporate body. If the participation involves the issuance of new shares, a shareholders' meeting must pass a notarized resolution to create either a capital band or a conditional capital (allowing for new shares to be issued by board resolution or exercise of option rights) or conduct an ordinary capital increase, all of which are subject to a shareholders' resolution and an amendment of the articles of association; the notarized documents and articles of association then have to be filed with the commercial register. Any assignment of actual shares (e.g., if employees receive their shares from another shareholder or the company) must be executed by way of wet-ink or qualified electronic signature. Finally, when an option is exercised the board of directors records the subscription, transfers the necessary shares (respectively ensures that they are transferred) or files for their subscription with the commercial register, updates the share register and, as applicable, issues and endorses physical share certificates. GmbH: As with an AG, the ESOP itself may be executed by simple signature but must be approved by a resolution of the competent authority, usually the company's management. Granting shares to an employee requires either a share transfer by way of (i) wet-ink or qualified electronic signature, if the shares are held by the company or another shareholder, or (ii) a notarized ordinary capital increase; each with subsequent registration with the commercial register. In the former case company and employee shall enter into a written assignment agreement which indicates the shareholder duties as set out in the company's articles of association, unless the employee already is a shareholder. The shareholders and/or the company's management, as the case may be, shall then give their consent to the transfer and the company's management shall register the employee as new shareholder with the commercial register. Where new shares are issued, the shareholders' meeting has to adopt a resolution in form of a public deed, amends the articles of association files the deed and capital increase with the commercial register. The employee is then entered in the commercial register and, upon registration, becomes a shareholder. AG and GmbH: For a VESOP or PSOP simple written form suffices, however a resolution of the competent authority is still typically requested; the employee's participation agreement can be accepted by qualified e-signature or ordinary handwritten signature. No notarization, no commercial-register filing and no stamp duty arise.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	The employee typically receives options for free, and upon exercise, they pay a low price, usually just the nominal value. The same applies when they receive direct shares; in such cases, they generally pay the nominal value. In cases where new shares are issued, the nominal value must be paid in (e.g., by the employee) into a blocked bank account.
What are the three most important topics to be covered/considered under an employee participation plan?	• Nature and scope of **(virtual) shares/options** to be issued, i.e., the type and number of (virtual) shares/options. • **Vesting**, acceleration of vesting and forfeiture of vested shares, i.e., the vesting period with or without a cliff of usually one year, certain events where all shares are considered immediately vested as well as forfeiture of already vested shares after certain years. • **Leaver scenarios** and their consequences, i.e., good and bad leaver scenarios with the respective re-purchase right of the company and/or other shareholders as well as the price determination in such leaver cases.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	AG: Not in the case of virtual shares, however all shareholders have to be registered in a non-public share register and, as applicable, a register of beneficial owner, both of which are kept by the company. GmbH: Not in the case of virtual shares, however, all shareholders have to be registered in the commercial register, which is publicly accessible by anyone, and an internal share register and, as applicable, register of beneficial owner.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?

Preliminary Remarks
Under Swiss tax law, according to the general rule any economic advantage that an employee receives in connection with an employment relationship is taxable and subject to social-security contributions. That includes "all benefits received in cash or in kind," whether paid periodically or on a one-off basis. Thereon, also employment participations are generally subject to tax and subject to social-security contributions. The tax and social security implications could differ based on the employment participation instrument.

ESOP (stock options) The allocation of non-listed options has no tax consequences. The exercise of options has the same consequences as the allocation of employee shares (see tax implications for ESPA) and therefore also the sale of shares could trigger tax consequences. Once the shares are acquired, mechanics are generally the same as under an ESPA (direct allocation). Any capital gain realized upon the sale of non-listed employee options triggers income tax and social security implications.

ESPA (restricted or unrestricted)
Shares that are not acquired within the foundation of a company resp. that are not acquired at fair market value in connection with a previous, current, or future employment relationship (including board of director activities), generally qualify as employee shares. Such employee shares could trigger tax implications at the time of acquisition as well as at the time of sale.

Should the employee receive or acquires employee shares at a purchase price below fair market value (or in case no fair market value is available, below the formula value), then such difference constitutes income subject to income tax and social security contributions. A blocking period reduces the fair market value resp. the formula value at the time of grant by 6% per blocking year . A maximum of 10 years can be agreed.

The formula value is calculated using the practitioner's method. A specific formula can also be agreed via a tax ruling, but the value cannot fall below the substance resp. nominal value.

The holding period itself does not result in any taxable events for the employee, with the exception of the wealth tax and an initial public offering, which essentially has the same consequences as a sale of the shares to a third party. Any dividends constitute taxable income but are not subject to social security contributions.

Upon sale of employee shares to a third party, the employee realizes a tax-free capital gain in the amount of the difference between the fair market value (i.e. or formula value) at the time of acquisition and the fair market value (i.e. or formula value) at the time of sale. In consequence, any capital gain above the fair market value (i.e. or the formula value) at the time of sale could be subject to income tax and social security contributions. After a holding of 5 years, the shares could be sold tax-free.

Upon sale of employee shares to an existing shareholder or to the employer company (e.g. due to a repurchase clause, as is common for certain events), the difference between the sales price and the fair market value (i.e. or formula value) is always subject to income tax and social security contributions, i.e. no entire tax-free capital gain could be generated after a certain holding period.

VESOP / PSOP
Phantom Stock grants employees a right to a mere payment whose amount is connected to a value or performance measure. No actual shares are granted. As no equity is transferred, the grant of virtual shares is tax-neutral. The cash amount (or market/formula value of stock, if the plan settles in shares) that the employee ultimately receives on an exit, IPO or other liquidity event, however, is fully taxable and subject to social security implications as employment income at the payout date. Capital-gains relief does not apply in this case, as the employee never holds or receives shares.

Are there any tax benefits available for employees under (virtual) participations?

Under Swiss tax law, only genuine equity investments offer tax advantages (e.g., capital gains relief). Payouts from VESOPs or phantom stock plans are considered taxable income in full and are subject to income tax and social security contributions. Since no shares are acquired, there is no lock-up discount, capital gains exemption or dividend relief. Virtual equity plans therefore offer no specific tax advantages.

Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?

In case of any event subject to income tax resp. social security contributions, the employer company has to disclose such taxable benefit on the employees´ salary statements. If the employee is subject to source tax, which is rather unusual, then any source tax on the taxable benefit in connection with employee participations must be levied by the employer company. Moreover, any social security contributions must also be levied and declared by the employer company, the employee part of the social security contributions must be invoiced to the respective employee. In addition, the social security contributions include also an employer part.

In case of any dividend distribution, the company is faced with implications in connection with the withholding tax. Finally, in case of any share issuance, at the level of the company a stamp duty of 1% is triggered.

Global Advocacy & Legal Counsel

Global Advocacy and Legal Counsel ("**GA**") is a leading Middle Eastern law firm. Established in 2002, we have offices in Abu Dhabi, Dubai, Muscat, Amman, and Ras Al Khaimah providing local, regional, and international clients with a full business law service.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?

In the UAE, the corporate form most commonly adopted by startups (excluding charitable or non-profit ventures) for market entry and the growth phase is the Limited Liability Company (LLC). Historically, under the old UAE law (Federal Law No. 2 of 2015 on Commercial Companies), an LLC required that a UAE national hold at least 51% of the share capital, with foreign investors limited to a maximum of 49% ownership. However, following recent amendments to the UAE Companies Law (Federal Decree-Law No. 32 of 2021 on Commercial Companies (effective from January 2, 2022)), the majority of business activities no longer require a local partner, allowing 100% foreign ownership in many sectors, thereby providing greater flexibility for startups to structure their ownership.

The LLC remains attractive for startups because it:

- Shareholders' liability is limited to their share in the company's capital. Personal assets are generally protected, which is a key advantage for startups and investors.
- Allows for a broad scope of business activities, including commercial, industrial, and professional activities.
- Facilitates capital raising and market entry, particularly for onshore operations.

In addition to onshore LLCs, startups frequently consider incorporation in a free zone. Free zone companies offer the following advantages:

- 100% foreign ownership without the requirement for a UAE national partner.
- Simplified registration procedures and regulatory frameworks tailored to specific sectors.
- Specialized free zones exist to support certain industries—for example, Dubai Internet City for technology, Dubai Media City for media and communications, and Abu Dhabi Global Market for financial services.

While free zone entities offer significant operational advantages, they are generally restricted from directly trading in the UAE onshore market without the use of a local distributor or obtaining a special license. Therefore, the choice between an onshore LLC and a free zone company depends on the startup's intended market, activities, and growth strategy.

What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?

While employee participation schemes (such as equity grants, phantom shares, or profit participation rights) are common in many jurisdictions, their application in UAE startups is very limited in practice, particularly for private companies (LLCs or free zone entities).

1. Share-Based Schemes Are Legally Limited
    - Any issuance or transfer of ordinary shares in an LLC must be reflected in the Memorandum of Association (MoA) and attested by a notary public, and filed with the relevant authority such as the Department of Economic Development, making equity participation cumbersome for small or early-stage startups.
    - As a result, direct equity grants to employees are rare, and most startups rely on contractual arrangements instead of formal share transfers.
2. Contractual Participation Arrangements
    - Startups typically grant employees profit participation, bonus rights, or certain financial rights through employment agreements or separate participation contracts.
    - These arrangements create a contractual obligation of the company/startup to pay the employee a share of profits, a bonus, or a cash-equivalent linked to company performance, without conferring formal ownership or voting rights.
    - Rights and obligations of employees under these arrangements generally include:
        - Entitlement to payment per the agreed formula or performance KPIs
        - Compliance with confidentiality and non-compete obligations under UAE Labor Laws.
        - No management or decision-making powers, unless expressly provided in the contract
3. Silent Partnerships
    - Under UAE law, profit-sharing arrangements that imply ownership without formal registration (such as a "silent partner" contributing labor or capital) are not recognized as valid corporate ownership for LLCs or private companies.
    - UAE courts have consistently refused to enforce unregistered silent partnership claims in LLCs, holding that any participation in profits that amounts to de facto ownership must be formally reflected in the company's Memorandum of Association (MoA) and registered with the relevant authorities.

How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	In the UAE, employee participation schemes are almost always contractual rather than formal share issuance, due to the legal formalities required for issuing actual shares in LLCs or free zone companies. Nevertheless, when a startup wishes to plan for future equity or participation, it is common to "reserve" a portion of the company's capital or potential allocation for employees. Noting that no UAE-specific legal requirement for a minimum or maximum reserve. Usually employee share options schemes get circa 5-10% of the company's share capital. Shareholder approval needs to be obtained at the inception of the scheme if the share options are going to be physical shares and not virtual /phantom shares as the latter do not dilute the current shareholders.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	In the UAE, employee participation schemes—whether in the form of phantom shares, profit participation rights, or contractual "virtual" participation—are generally structured as obligations of the company/start-up rather than direct transfers of existing shareholder equity. Hence, the company is the primary obligor. In practice, the company itself bears the cost of the participation. This means that any cash payments, profit-sharing, or phantom share payouts are paid from company funds, whether from profits, proceeds of a financing round, or liquidity events, and since most UAE startups do not issue actual shares to employees at early stages, the existing shareholders' legal ownership does not change. The financial impact is therefore reflected in company resources rather than reduction of founders equity. As for the Pre-Funding / Seed Stage: If participation is granted before any financing from external resources, the company or founders may bear the cost indirectly, for example, by reserving a portion of future equity or agreeing to contractual payouts. Post-Financing / Series A or Later: Often, a "pool" of participations is carved out from the company's capital during the investment process. In this case: • The investors' economic interest may be reduced proportionally along with existing shareholders, because the participation pool is considered part of the total equity structure. • The company formally accounts for such obligations under the participation plan, and payouts may be funded from either company profits or proceeds from a funds event.

Transfer restrictions/obligations:
 	
• *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?*
 	
• *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*
	In the UAE, employee participation schemes in startups—whether in the form of phantom shares, profit participation rights, or other virtual participations—are generally contractual rather than equity-based. Accordingly, their transferability is governed entirely by the terms of the participation agreement.
	
	As mentioned, virtual participations do not confer actual ownership in the company. They are rights to receive financial benefits, usually conditional upon vesting, performance. As such, they cannot be automatically transferred, because the asset (whether shares or profits) remains with the company.
	
	A usual UAE employee participation agreements include mandatory transfer restrictions, for example:
	
	• Non-transferability: Employees may not assign, pledge, or sell their participation rights to a third party without the company's prior written consent.
	
	• Company Consent Requirement: Any permitted transfer (rare) usually requires the company's approval and may be subject to right of first refusal by the company or other shareholders.
	
	• Exit Event Causes: Payment or realization of virtual participations is generally conditional on specific events (e.g., sale of the company, financing round, or IPO).
	
	• Formal Equity (if issued): Even if actual shares are issued under an employee participation scheme, UAE LLC law requires that share transfers comply with the MoA and notarial formalities, including:
	
	  ○ Approval by other shareholders (often via a pre-emption right)
	
	  ○ Notarization of the share transfer
	
	  ○ Registration with the relevant authority (e.g., DED for mainland LLCs, free zone authority for free zone companies).

Virtual participations are redeemable or settled by the company, not transferable by the employee. Common scenarios include:

- Exit Events:
  - Sale of the company (trade sale, acquisition)
  - Initial Public Offering (IPO)
- Performance:
  - Achievement of individual or company performance milestones
  - Completion of a vesting period (e.g., 3–4 years of continuous employment)
- Termination of Employment:
  - Upon resignation or termination, some agreements may allow redemption of vested participations or provide for loss of unvested participations
  - Redemption amounts may be pro-rated based on the period worked or company discretion

In practice, (virtual) participations are almost always non-transferable, because they are contractual rights and do not constitute formal equity. Any permitted transfer (rare) typically requires a shareholder's resolution. Unauthorized transfer would be unenforceable, as the participation rights exist solely against the company, not as registered shares in the company's capital.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	Since virtual shares are granting benefit's equal to share value to recipients without issuing real shares, they are treated as financial benefits and not real shares therefore no shareholder rights are affected and no approvals are needed.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	No registration is required if its not actual shares.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	There is no legal requirement under UAE law for an employee to pay a purchase price to receive virtual participations. Since these participations are usually contractual and not actual shares, the company grants them as an incentive.
What are the three most important topics to be covered/considered under an employee participation plan?	When preparing an employee participation plan for a UAE startup—whether based on phantom shares, profit participation rights, or other virtual participations—the plan should address rights and benefits (including eligibility, vesting, formula for calculating benefits and clearly stating that virtual participations do not confer shareholder rights), transfer, redemption and termination, regulatory compliance with the UAE Companies Law, and UAE Labor Law.

Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	Employees receiving virtual participations are not required to be recorded as UBOs, because their rights are contractual and do not amount to actual shareholding. Moreover, employees with virtual participations are not registered in the commercial register, as they are not shareholders in the legal sense. As for internal registration, it is advisable for the company to maintain an internal register or ledger documenting.
Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	As for corporate tax, since these participations are usually rights against the company and not actual shares, any financial benefit (cash payout, bonus, or profit share) is treated as income from employment or contractual bonus, rather than dividends from registered equity. For income tax, the UAE currently does not have personal income tax on salaries, bonuses, or other employment-related income, including payouts from virtual participation schemes. Accordingly, employees are not subject to tax on phantom share payments or profit participation rights received as part of their employment compensation, unless they are subject in their own jurisdiction (e.g. US nationals).
Are there any tax benefits available for employees under (virtual) participations?	N/A
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Social Security Contributions • UAE Nationals: For Emirati employees, companies are generally required to contribute to the General Pension and Social Security Authority (GPSSA). However, contributions are calculated on basic salary and defined allowances, not on variable contractual bonuses or virtual participation payouts, unless explicitly included in the defined wage. • Expat Employees: No mandatory social security contributions apply to expatriate employees in the UAE, including payouts under virtual participation schemes, and is not included in the contribution for End of Service gratuity.

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Which corporate form is commonly used by startups (excluding startups with a charitable/non-profit purpose) in your jurisdiction for market entry and growth phase (excluding later stage/IPO phase)?	A C-corporation, typically formed under the laws of the State of Delaware, USA, is a commonly used form by for-profit startups in the U.S. C-corporations are taxed at a corporate rather than shareholder/partner level, and therefore use of the C-corporation structure is preferred by many investors, particularly those located outside of the U.S. or that have limited partners who are located outside of the U.S., in order to avoid exposure to direct U.S. income tax liability. Because most startups do not pay dividends to their stockholders, "double taxation" (i.e., taxation at both the corporate and shareholder level) is not usually a significant concern, and lower U.S. federal income tax rates for C-corporations should result in more after-tax cash available to reinvest or to pay down debt. Additional U.S. tax incentives may be available to shareholders if the stock of the C-corporation is "qualified small business stock." Furthermore, corporations, unlike limited liability companies or partnerships, are subject to robust corporate governance requirements that protect investors from founder abuse.
What legal forms of employee participations are available for/commonly used by such startups in your jurisdiction (e.g., virtual shares, ordinary shares, profit participation rights, silent partnerships, etc) and what are the general rights/obligations of an employee deriving from such form of a participation?	Startup founders typically receive "restricted stock" awards that are subject to vesting requirements and potential forfeiture in the event that the founder ceases to be continuously employed by the company prior to vesting or in the event of egregious conduct. The use of such restricted stock awards takes advantage of lower tax values and also protects co-founders and early-stage investors from so-called "freeloading" by an exited founder. Non-founder employees are most commonly issued equity in the form of stock options. The use of stock options allows employees to receive an equity-like interest in the startup without being subject to income tax exposure until the options are exercised (or later). Upon the exercise of a non-qualified stock option ("**NSO**"), which usually occurs either (1) within a short window following the termination or resignation of such employee from the company, or (2) a liquidity event involving the company, the employee pays, or is deemed to have paid, the "strike price" for the option, with only the appreciation on the difference between the strike price and the actual fair market value of the stock being subject to income taxation. Additional taxation benefits, including potential avoidance of income taxation on exercise, are available to employees with respect to statutory "incentive stock options" (or ISOs); provided, however, that alternative minimum taxes must be considered. Strike prices for options are set by securing a valuation from a certified valuation firm – termed a "409A valuation". Less commonly, employees may be awarded phantom shares, stock appreciation rights, or other forms of equity compensation. However, such awards may not always be as tax-efficient or understandable to recipients as the award of stock options.
How much (virtual) share capital is typically reserved for issuance under an employee participation plan (depending on the startup's phase)?	Upon formation, it is common for approximately 10% of the company's stock, calculated on a fully-diluted basis, to be reserved for employees. Upon receipt of additional investment, particularly from professional and/or institutional investors, this employee option pool is oftentimes "refreshed" such that sufficient available options continue to remain available for award to current and future employees.
Who is economically bearing the issuance of and benefits attached to/deriving from (virtual) participations (e.g., the company, the founders, the shareholders based on their participation after completion of certain financing round)?	Existing shareholders generally bear the economic burden of issuing equity-based compensation, although it is important to note that optionholders are not deemed to be shareholders until options are actually exercised and underlying shares are acquired. As a result, this "overhang" of options outstanding but not exercised are often not detrimental to shareholder value until an exit event.
Transfer restrictions/obligations: • *May be (virtual) participations freely transferred to or encumbered for the benefit of a third party (i.e., are such (virtual) participations freely disposable) or are there any mandatory/typical contractual (under employee participation plans) transfer restrictions to be complied with when selling (virtual) participations?* • *In which scenarios are (virtual) participations to be transferred by or redeemable from the employee?*	Employee stock options are typically non-transferable during the holder's lifetime and may be exercised only by the holder, with limited exceptions (e.g., by will or the laws of descent and distribution, or, if permitted by plan terms, certain transfers to family members or family trusts). Shares acquired upon exercise are often subject to company-imposed restrictions, including rights of first refusal and/or repurchase on termination of service, and market stand-off or lock-up agreements in connection with public offerings. Securities law constraints commonly apply, which further limit transferability. Additional limitations may arise under tax rules (e.g., ISO disqualifying dispositions) and plan or award agreement provisions that tailor transfer and resale restrictions to the issuer's capitalization, governance, and compliance needs.

Which corporate body is entitled to issue (virtual) participations to employees and are there any mandatory approval requirements?	The issuance of stock options and other equity-based incentive awards must be approved by the board of directors or, sometimes, a sub-committee of the board of directors, which are generally subject to the terms and conditions of a plan. To issue ISOs, the plan must also be approved by Company shareholders. The establishment and, if applicable, expansion or reduction of an employee stock option pool can be approved by the board of directors if the company remains founder-owned, provided that there are sufficient underlying shares of common stock authorized under the company's charter. If a sufficient number of shares are not authorized under the charter, the holders of a majority of outstanding shares of common stock must authorize the increase of shares of common stock of the company. Additionally, most organizational documents established following a venture capital financing will require that preferred stock investors (i.e., venture capital investors) have the right to approve, as preferred stockholders, the establishment or increase of any option pool.
Which formal requirements apply for the issuance and assumption of (virtual) participations (e.g., notarization, handwritten signatures, simple e-signatures) and what steps are mandatorily required in order to effectuate the issuance and assumption of such participations?	Stock option plans must be adopted by the board of directors of the company and, sometimes, certain stockholders (see above). Such plans, amendments, and issuances can be adopted by resolution of the board/stockholders. Recipients of employee equity are issued stock option award agreements, which typically require the signature of both the recipient employee and a company officer. No governmental filings are required, although state-level securities filings may be advisable.
Is a purchase price mandatorily or commonly payable for receipt of (virtual) participations by the employee and, if yes, to whom and in which amount?	Stock options have a "strike price" which requires the employee to purchase the stock at a fixed valuation upon exercise. No amount is payable upon the award or vesting of the option – only upon exercise.
What are the three most important topics to be covered/considered under an employee participation plan?	<u>Plan design, pool size, and vesting economics</u>: It is important to make sure the plan design considers current and near-term hiring needs while managing dilution across founders and investors. Setting market-standard vesting (e.g., four years with a one-year cliff) and determining eligibility is also important in this regard. <u>Pricing, tax, and regulatory compliance</u>: It is important to maintain a defensible fair market value for option exercise pricing (e.g., independent 409A valuation) to avoid deferred compensation penalties. Choosing between ISOs and NSOs based on workforce mix and tax objectives, and implementing processes for ISO limits, holding periods, and disqualifying dispositions, is also important. It's also imperative to monitor securities law considerations at both the federal and state levels. <u>Liquidity, termination, and exit/change-in-control terms</u>: It is important to set clear post-termination exercise windows (e.g., 90 days for ISOs, considering whether to extend as NSOs), and define treatment for death/disability and cause. Companies should include company protections—rights of first refusal, repurchase rights on unvested shares, and transfer restrictions—while balancing employee liquidity needs. Lastly, it is important to plan for change-in-control treatment (single- vs. double-trigger acceleration), and change-in-control alternatives for handling outstanding awards to ensure smooth execution during financing and exit events.
Shall employees be registered in any public register (e.g., UBO register or commercial register) or internally maintained register (e.g., share ledger) with their (virtual) participations?	There is no public register for stockholders of privately-held companies in the U.S. This includes stock option holders. However, companies are required under Delaware law to maintain internal stock ledgers. Although not required under statute, it is standard for companies to include in their capitalization table a list of option holders and their respective equity holdings. This permits companies to prepare fully-diluted cap tables, which allows investors to determine their share of proceeds in the even of a liquidity event.

Which tax rate applies for earnings (e.g., dividends, exit proceeds) received by the employee from the (virtual) participation and when are such taxes triggered?	Tax treatment depends on jurisdiction and option type, but in the U.S. the general rule is: for NSOs, the "spread" (fair market value minus exercise price) is taxed as ordinary wage income at exercise at the optionholder's marginal income tax rate and, for employees, is typically subject to withholding and payroll taxes (Income/Social Security/Medicare); later appreciation or loss in stock value from exercise to sale is capital gain or loss (short- or long-term based on the post-exercise holding period). The long-term federal capital gain tax rate is substantially lower than the U.S. federal ordinary income or short-term capital gain tax rate. The required holding period for long-term capital gain treatment is more than one year. For ISOs, no regular tax is due at exercise, but the spread is an alternative minimum tax (AMT) preference; if the employee exercising the ISO then makes a qualifying disposition (holding >2 years from grant and >1 year from exercise), the entire gain over the exercise price is long-term capital gain at sale; a disqualifying disposition triggers ordinary income up to the spread at exercise, with any excess treated as capital gain. For non-employee service providers (e.g., contractors), NSO income is generally ordinary income at exercise reported on Form 1099 and may be subject to self-employment tax payable by the holder; subsequent sale of the stock produces capital gains/losses.
Are there any tax benefits available for employees under (virtual) participations?	See above.
Are there any taxes/social security contributions payable by the startup/company (as issuer) for the employee's (virtual) participation and, if yes, when are such payments triggered?	Compared to optionholder proceeds, for restricted stock without an 83(b) election, tax is generally triggered at vesting (i.e., when the substantial risk of forfeiture lapses) on the fair market value at that time minus any purchase price, with withholding and payroll taxes for employees; post-vesting gains are eligible for capital gain treatment. A timely Section 83(b) election on an award of restricted stock shifts ordinary income taxation to the grant date (on grant-date value minus any price paid), converting all subsequent appreciation to capital gain, but if the stock is later forfeited, the recipient cannot recover the tax already paid (the recipient may only claim a capital loss up to any amount actually paid for the shares). For non-employee service providers, the same timing and character rules apply (ordinary income at vest/grant with 83(b)), but income is reported on Form 1099 and may be subject to self-employment tax payable by the recipient depending on the facts.

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