IPSA GUIDE TO RESTRICTED STOCK UNITS (RSUs)

Background

A Restricted Stock Unit ("RSU") is an agreement or a promise by a company to issue an employee a share of stock (or cash to the value of such shares) provided certain "vesting" requirements have been satisfied. The stock is restricted because the employee is not entitled to the actual shares until such vesting requirements are met.

In many companies this requirement can be continued employment for a specified period, individual performance and/or the achievement of corporate goals. Typically, the employee will not receive dividend or voting rights on the underlying shares unless and until the RSU actually vests, however, see "Payment of Dividend Equivalents" below. When vesting requirements have been met, RSUs are converted to shares (stock) in the company and the employee acquires the underlying shares (or cash to the value of such shares) along with any corresponding dividend and voting rights, if applicable.

The Vesting Period

The Vesting Period refers to the period of time over which the vesting condition is satisfied and the RSU is released to the employee. Vesting periods can also vary from one company to another. One RSU plan might provide for "cliff vesting", under which each tranche of RSU grants held will vest at a predetermined point. Another might provide for stepped vesting under which a proportion of each tranche of RSU grants held will vest on a staged basis over a predetermined period of time. A stepped vesting schedule of equal increments over a 4-year period is quite common i.e. 25% per annum. Either way, at each vesting point some or all of the RSUs are released and the employee earns the right to acquire actual shares or stock through the conversion of the RSUs.

Purposes of RSUs

As part of a stock benefit within a company's overall compensation plan, RSUs can help support a company's compensation philosophy to:

- attract, retain, and motivate employees necessary to enhance the company's longer-term growth and profitability;
- reward employees for their personal performance;
- encourage employees to help to drive the company's long-term growth and share in resultant company success;
- align employee's goals and interests with those of the company and its shareholders.

Grant of RSUs

There are several ways in which a company can grant or award stock benefits such as RSUs to employees, depending on its particular business needs, these might be:

- on the date the employee is hired:

- as part of the reward delivered where compensation is linked to an employee's annual performance review
- on the anniversary of the employee joining the company.

As an RSU is not Revenue approved there are no requirements to be satisfied regarding employee participation and the number of RSUs to be granted. This gives a company flexibility over the employees to whom RSU's are offered and the number of RSUs granted.

Expiration

When vesting requirements have been satisfied, RSUs are automatically converted to stock (or cash to the value of such shares). RSUs have no expiration once the vesting period has been met. Most companies cancel all outstanding un-vested RSUs when an employee terminates his/her employment with the company.

Constitution

An RSU scheme is governed by written rules. In the case of quoted companies, the rules will normally be approved by shareholders at a general meeting and will also need to comply with relevant institutional investor guidelines. The timing of the implementation of an RSU scheme will therefore need careful consideration.

Taxation

An RSU is a taxable emolument of the employment and is within the scope of the PAYE system.

There are no personal taxation implications when an employee is granted an RSU.

A RSU is treated as income (Schedule E) at share vesting, or earlier if delivered in stock or cash, and the "income" (i.e. the total value of the stock at vesting) is subject to income tax, the universal social charge and employee PRSI.

There is no employers PRSI when a RSU vests.

Any income tax, USC or employee PRSI due is collected through payroll in the month in which the RSU vests. RSUs are not considered an Approved Scheme by the Revenue and as such do not qualify for any preferential tax treatment.

If an RSU is immediately disposed of at vesting, there are generally no further issues to consider. However, if an employee chooses to retain the converted RSU (i.e. the underlying shares) and disposes of them at some later date, the capital gain/loss will be subject to the normal capital gains tax rules.

Payment of Dividend Equivalents

In some instances, an employee/director who has been granted an RSU may be entitled to amounts equivalent to the dividends accruing to the shares promised by way of the RSU.

These dividend equivalents are taxable emoluments of the employment/ office of the employee/director and are subject to the normal payroll deductions.

The foregoing reflects current tax rules and Revenue practice which is subject to change. This document is of a general narrative only and should not be regarded as a substitute for professional advice. Such advice should always be taken before acting on any of the matters discussed.

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