

SESSION 1

# EQUITY COMPENSATION MASTERCLASS

Overview/Restricted Shares and RSUs/ESPPs

FINANCIAL EXPERTS  
NETWORK

# VALUE PROPOSITION—WHY EQUITY COMPENSATION EXPERTISE MATTERS

Several trillion dollar global equity market with \$400 billion new awards annually

Increased usage of equity compensation to attract and retain top talent

Equity often forms large component of compensation packages with great wealth building potential

Critical need for specialized advisory services around complexities in tax and strategies

Significant gap in advisor education and expertise

Unique opportunity for specialization and differentiation

Competitive advantage if position as indispensable expert in niche high value market

Clients expect sophisticated planning

Unlock significant revenue streams and enhance client retention

# AGENDA

**Session 1**—Restricted Stock Units (RSUs) and Restricted Shares and Employee Stock Purchase Plans (ESPPs)

**Session 2**—Stock Option Features/Non-Qualified Stock Options (NQSOs) and Incentive Stock Options (ISOs)/Exercise Strategies

**Session 3**—Tax Reporting/Termination Events/Other Equity Compensation Issues/Private Companies

**Session 4**— Private Companies/Other Types of Equity Awards/Concentrated Stock/Net Unrealized Appreciation (NUA)

# INTRODUCTION

---

FINANCIAL EXPERTS  
NETWORK

## TYPES OF EQUITY COMPENSATION AWARDS

### Stock Options

- NQSOs
- ISOs

### Restricted Stock and RSUs: Full Value

### ESPPs

### SARs and Phantom Stock

### Profits Interests



Plan  
Document



Award  
Agreement



Client  
Statements



Employment  
Agreement



Tax Returns

# IMPORTANT DOCUMENTS

FINANCIAL EXPERTS  
NETWORK

# DISCUSSION TOPICS

Features of Awards

Taxation

Strategies

Termination and Job Events

Other Considerations

# TAXATION

Ordinary vs Capital Gains

Withholding

AMT

Cost Basis

Tax Forms

# TAX RATES

Ordinary Income Rates—10%, 12%, 22%, 24%, 32%, 35%, 37%

Capital Gain Rates—LTTCG--0%, 15%, 20%

STCG taxed as ordinary income

AMT Rates—26% and 28%/Exemption Amount

NIIT—3.8% rate net investment tax above \$200K/\$250K of AGI

Liquidity

Valuation

Types of Awards

Strategies

Entity Type

# PUBLIC VS PRIVATE COMPANIES CONCERNS

FINANCIAL EXPERTS  
NETWORK

# PUBLIC VS PRIVATE COMPANIES

## Focus on Stock Options and RSUs

### Company Lifecycle

1. Early stage start-up: restricted stock awards and stock options
2. Later stage start-up: stock options and some RSUs, especially at higher valuations
3. Post-IPO: RSUs primarily
4. Mature public companies: mix of stock options and RSUs often with performance criteria

# RSUS, RSAS AND ESPPS

# RSAs & RSUs: KEY FACTS

---

Restricted because must vest—can't sell shares until then

---

Full value award—smaller number of award than stock options

---

Vested—when restrictions lapse and shares delivered

---

Lapse—no longer subject to “substantial risk of forfeiture”

---

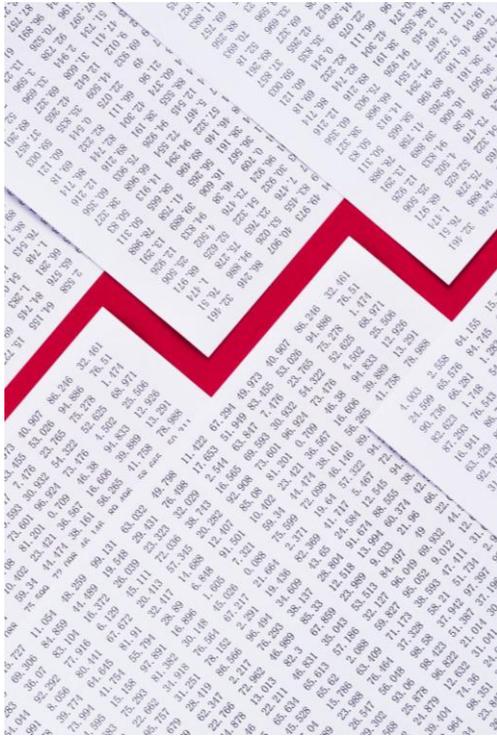
RSUs most common award in public companies

---

Don't confuse with “restricted securities”—not registered with SEC

---

Private companies—83b election for RSAs--RSUs usually have double trigger



# RSAS

Stock issued at grant

Holders have voting rights

Entitled to dividends

No deferral feature

Ability to make 83(b) election at grant

FINANCIAL EXPERTS  

---

NETWORK

# RSUS

Most common form of awards granted

Stock not issued until release at vesting

Holders have no voting rights

No dividends paid but may receive “dividend equivalents”

Potential deferral feature—beware 409A

Potential 5-year deferral under Code Section 83(i) for private company RSUs

# VESTING

Public company—receive full value--no money paid to company

Unrestricted ownership at vesting

Time-based vesting most common—3-4 years graded, cliff or hybrid

1. Graded—25% at each anniv over 4 yr period
2. Cliff—100% vest after 3 yrs
3. Hybrid—25% vest on one yr anniv and then mthly/qrly vesting for remaining 48 mths

Performance-based vesting for execs—usually 3-year cycle

Treatment upon change of control

Impact of termination event

1. Job loss
2. Death/disability
3. Retirement

FINANCIAL EXPERTS  
NETWORK

# TAX TREATMENT FOR RSAS/RSUS

No tax at grant unless 83(b) election for RSAs only

Full value of stock taxed as W-2 ordinary income at vesting when forfeiture risk removed—for RSUs when shares released—no control over timing

Withholding at vest for federal/state/FICA taxes

Flat rate federal supplemental wage income applied at 22% or 37% if income >\$1mm

Share withholding most common method

No AMT issues as with ISOs

Election to defer share delivery for RSUs—subject to 409A

Dividends before vesting supp wage income except w/83b election for RSAs

# TAXATION ON SALE OF RSAS/RSUS

Basis=amount included in W-2 income at vest

At sale proceeds reported on 1099-B but likely 0 basis—adjust on Form 8949

Capital gains holding period begins at vest or grant w/83b election

## Tax At Vesting: Most Common Taxation Example— 4,000 RSUs vest 25%/yr price at grant=\$15

Year from Grant date	Stock price at vest	Ord inc	Taxable/withholding
One: 1000 shares vest	\$20	\$20,000	At vest date
Two: 1000 shares vest	\$25	\$25,000	At vest date
Three: 1000 shares vest	\$30	\$30,000	At vest date
Four: 1000 shares vest	\$35	\$35,000	At vest date

# TAX AT VESTING CONT'D

**Total:** \$110,000 in ordinary income. **Each vest has separate cost basis.** Sell all the stock two years after the last shares vest, when the price is \$50 (\$200,000 for the 4,000 shares).

1. **Capital gain is \$90,000** (\$200,000 minus \$110,000).
2. Withholding at vesting often in shares, so number of shares in account to sell will not equal number of shares vested.

# 83(B) ELECTION

Taxes due on value of stock at grant not vest--Election not available for RSUs

Election w/in 30 days of grant (or exercise w/priv co early-exercise options) Send Form 15620 to local IRS office

Restrictions still apply on selling shares until vest

Tax for compensation income should be lower and start capital gains holding period at time of 83(b) election

Risk of no tax credit or deduction for taxes paid if shares never vest and are forfeited

# 83(B) ELECTION FORM 15620

Form <b>15620</b> (October 2024)	Department of the Treasury - Internal Revenue Service <b>Section 83(b) Election</b>	OMB Number 1545-0074
<p>The undersigned taxpayer hereby elects, pursuant to § 83(b) of the Internal Revenue Code of 1986, as amended, to include in gross income as compensation for services the excess (if any) of the fair market value of the property described below over the amount paid for the property.</p>		
1. The taxpayer's name, taxpayer identification number (TIN), and address:		
Taxpayer's name		Taxpayer's TIN
Address (number and street)		
City	State or province	ZIP or postal code
Country		
2. The property which is the subject of this election is (describe property and quantity below)		
3. The date the property was transferred		
4. Taxable year for which the election is being made (taxable year that includes the date the property was transferred as reported in Box 3)		
5. The property is subject to the following restrictions (describe applicable restrictions below)		
6. The total fair market value of the property at the time of transfer is		
a. Value per item	b. Quantity	c. Total fair market value
	x	=
7. For the property transferred, the taxpayer paid a total of		
a. Price paid per item	b. Quantity	c. Total price paid
	x	=
8. The amount to include in gross income for the taxable year is (the result of the amount reported in Box 6(c) minus the amount reported in Box 7(c))		
9. Name, TIN, and address of the person for whom the taxpayer is providing services in connection with the transfer of property:		
Name		TIN
Address (number and street)		
City	State or province	ZIP or postal code
Country		
<p>The undersigned taxpayer is the person performing the services in connection with which the property was transferred. The taxpayer will file this election with the Internal Revenue Service office with which taxpayer files his or her annual income tax return not later than 30 days after the date of transfer of the property. A copy of the election also will be furnished to (i) the person for whom the services were performed and (ii) the transferee of the property if the taxpayer and the transferee of the property are not the same person. Under penalty of perjury, the undersigned taxpayer declares that, to the best of undersigned taxpayer's knowledge and belief, the information entered on this Form 15620 is true, correct, complete, and made in good faith.</p>		
Taxpayer signature		Date signed
Catalog Number 95376D		Form <b>15620</b> (10-2024)
www.irs.gov		

# 83(B) ELECTION FOR RESTRICTED SHARES—FROM PREVIOUS EXAMPLE

Timely 83(b) election at grant

W-2 comp inc of \$60,000 ( $\$4,000 \times \$15$ ) in yr of grant

Cap gain of \$140,000 at sale--\$200,000-\$60,000 basis (\$110,000 basis w/out 83b election)

Election allows to convert \$50,000 ord inc into cap gains--\$140,000 w/83b election vs \$90,000 w/out 83b election

# COMPARISON RESTRICTED SHARES AND RSUS

Feature	Restricted Shares	RSUs
Time of share issue	Grant (held in escrow)	Vesting or delivery if later
Voting rts	Yes	Not until after shares delivered
83(b) election	Yes	No
Soc Sec and Medicare taxes	At vesting	At vesting
Income tax	At vesting	At share delivery
Deferral	No	Yes with proper 409A election
Dividends	Yes	No but may have div equiv

# 409A DEFERRAL ELECTION FOR RSUS

Deferral election for new grants made w/in 30 days of grant

Permitted deferral of delivery of no more than 2 1/2 months after end of vesting year

Redeferral election for payout made at least 12 months prior to scheduled payout date

Redeferral payout must be deferred for at least 5 years

20% additional tax for violation of 409A

# DOUBLE- TRIGGER RSUS

Later stage pre-IPO companies may grant RSUs with double-trigger—time vest and also need second trigger--liquidity event to fully vest

Liquidity event typically IPO or sale of company

No tax when service vest but potentially large tax bunching upon liquidity event

Grants typically have expiration date if liquidity event doesn't occur within time frame stated at grant

Trend towards private companies creating liquidity event such as tender offer

# SECTION 83(I)

Eligible election for private company RSUs and NQSOs but not for RSAs and ISOs

Grants must be to at least 80% of employees

Election with IRS within 30 days after vesting of RSUs/exercise of NQSOs

Deferral of federal income tax—not FICA or state taxes—for five years unless deferral ends earlier due to IPO, acquisition or choose to pay taxes earlier

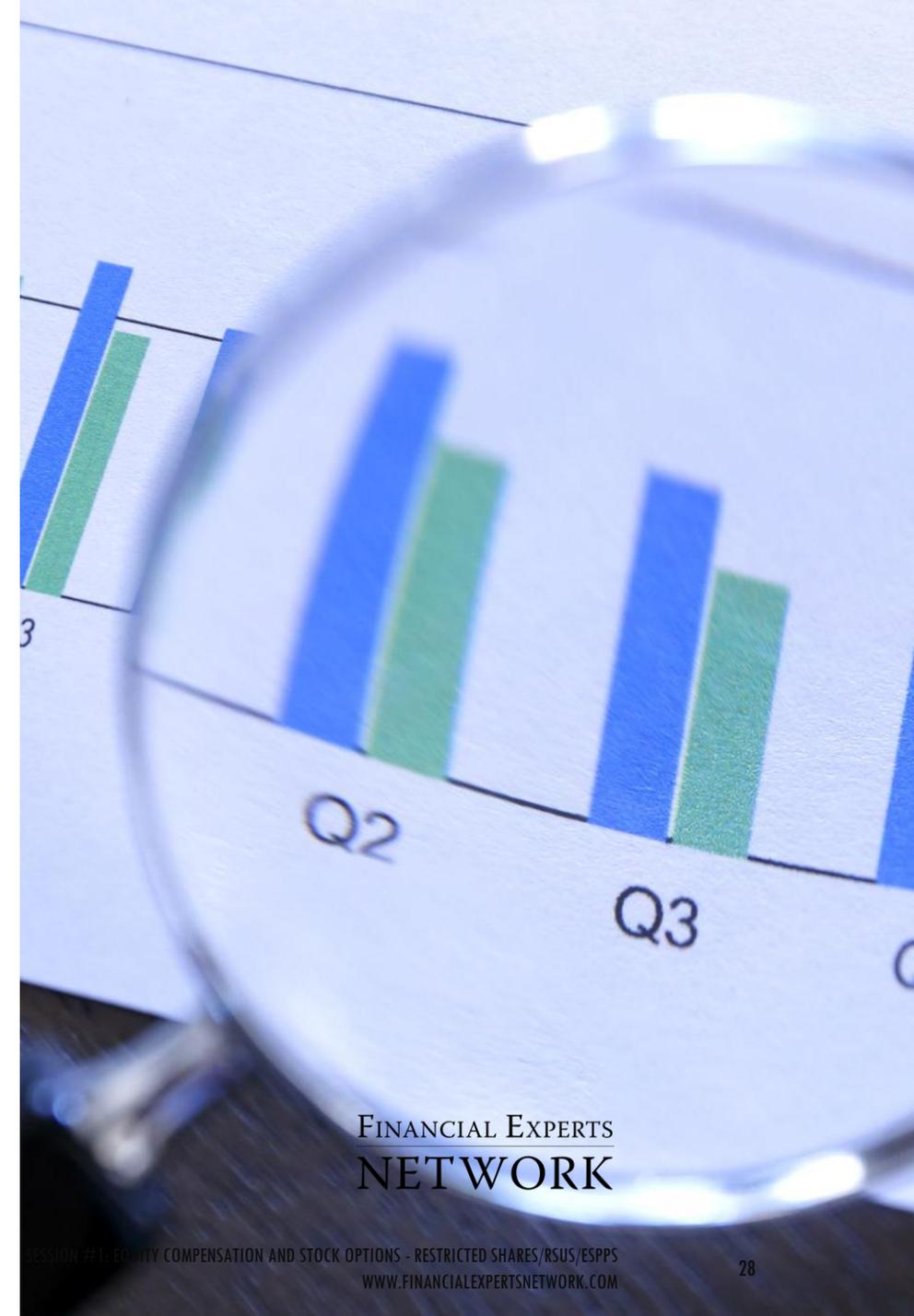
# PERFORMANCE SHARES--PSUS

Usually part of long-term incentive plan

Payout earned in shares by meeting targets tied to company performance--stronger link of pay and performance esp for executives and officers

Performance targets over measurement period—usu 3 years—payout can range from 0% to 100% or even 150 or 200% with payment in stock, cash or combination

Performance measures include total shareholder return (TSR), profit, capital efficiency, revenue, cash flow and other metrics



# Employee Stock Purchase Plans (ESPPs)

# KEY FEATURES OF ESPPS

Employees enroll in plan

Salary deduction--% or \$ amt elected

Offering period when salary deducted

Post-tax from salary—not pre-tax like 401k

Specific purchase date for co stock

Stock purchased at discount

Special tax treatment upon sale for tax-qualified plan when shares meet statutory holding period

Qualified ESPP Section 423 vs Nonqualified ESPP

# ESPP TERMINOLOGY

Enrollment period

Offering period range from 6-27 months—offering or grant date

Purchase period included within offering period—usually 3 or 6 months

Withdrawal/increase/decrease contributions

Discount up to 15%/lookback feature

Statutory holding period—2 years from beginning offering period  
**and** 1 year from date of purchase

Qualifying/disqualifying disposition—determines tax treatment

# TAX-QUALIFIED ESPP—SECTION 423

Eligibility—all F/T ees except 5% owners

Max amt of purchase--\$25,000/yr based on undiscounted price at start of offering period

Plan specifies offering period length, purchase discount up to 15%, max contribution, shares per person

No taxation at purchase—taxation at sale depending on whether qual or disqual disposition

# ESPP \$25,000 LIMIT

Limit on purchase of no more than \$25,000 of stock each calendar year—divide \$25,000 by undiscounted stock price at beginning of offering period to get max shares can purchase—does not matter what purchase price calculation based on

Max shares specified as flat share limit or formula—fixed and determinable amt at beginning of offering

Max amount contributed will be less than \$25,000 due to discount

Example—Employer allows contributions up to statutory max of \$25,000 and plan has 15% discount with lookback.

- Stock at beginning of offering=\$10,
- Stock at end of offering=\$15,
- Purchase price with lookback=\$8.50.
- Max shares can buy= $\$25,000/\$10=2,500$  shares, not  $\$25,000/\$8.50=2,941$  shares.
- Max \$ purchase= $2,500$  shares X  $\$8.50=\$21,250$

# ESPP LIMIT CONT'D

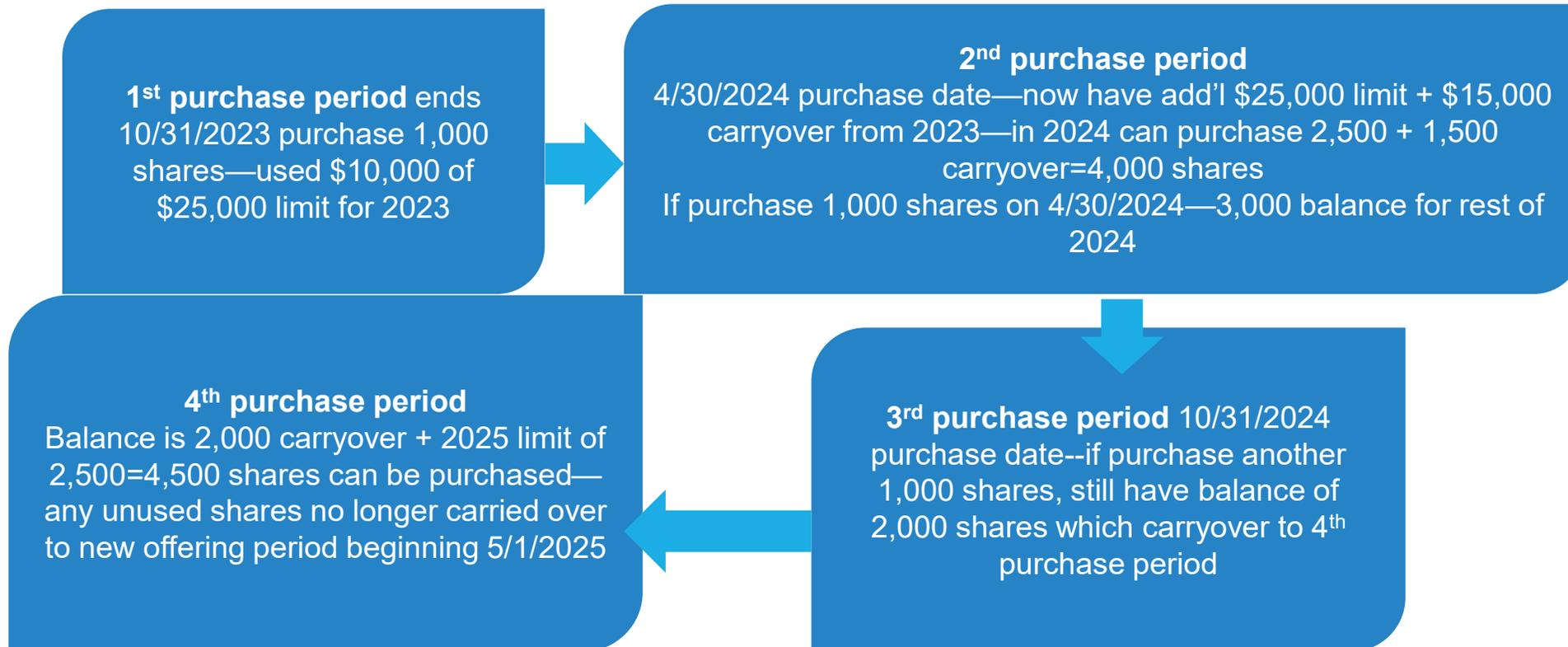
If stock price at beginning was \$20 and declined to \$10 by close of purchase period, purchase price still \$8.50, but max shares can purchase limited to  $\$25,000/\$20=1,250$  shares

Unused \$25,000 limit amts may be carried forward to following year if offering period covers more than one calendar year

Carry forward applies where have longer offering period containing multiple purchase periods

## ESPP Limit Example w/24 Month Offering Period w/Four 6 Month Purchase Periods

Offering period and first 6-month purchase period begins 5/1/2023 stock price=\$10—2023 max share limit=\$25,000/10=2,500 shares



# TIMELINE FOR ESPP OFFERING PERIOD WITH 2 SIX-MONTH PURCHASE PERIODS

Enrollment period shortly before purchase period begins

Offering or grant date—when 12 month offering period begins

First six-month purchase period within offering period with purchase date at end of six-month period

Second six-month purchase period begins day after first purchase period ends with purchase date at end of six-month period

Offering period ends after second purchase period

Lookback feature for second purchase period relates to original offering date not beginning of purchase period unless price reset due to price drop during first purchase period

# ESPP LOOKBACK EXAMPLE: RISING STOCK PRICE

**January 1, 2025**  
Offering period starts 12  
months (2 six-month  
purchase periods)  
Stock price \$10



**July 1, 2025**  
First purchase date  
Stock price \$12  
Stock purchased at \$8.50 (15% off  
\$10 rather than \$12)  
29% discount from \$12 market price  
on purchase date

# ESPP LOOKBACK EXAMPLE: FALLING STOCK PRICE

**January 1, 2025**  
Offering period starts 12  
months (2 six-month  
purchase periods)  
Stock price \$12



**July 1, 2025**  
First purchase date  
Stock price \$10  
Stock purchased at \$8.50 (15% off  
\$10 rather than \$12)  
15% discount from \$10 market price  
on purchase date

# LOOKBACK EXAMPLE

12 month offering period—stock price is \$10 at start and \$12 at end of first 6-month purchase period

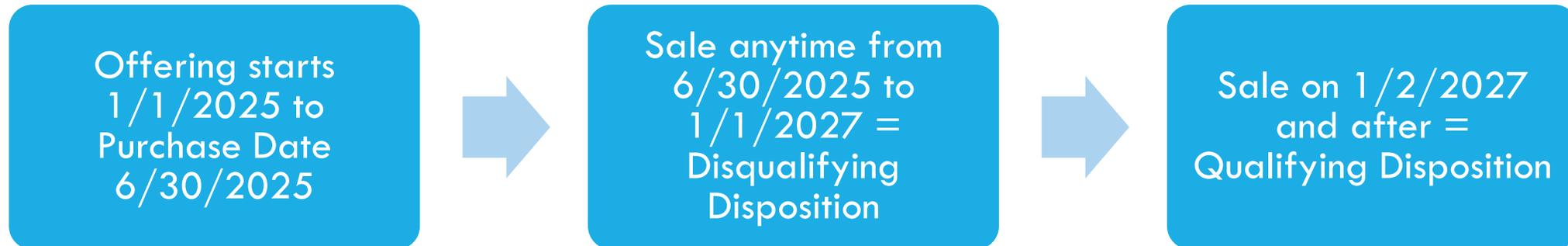
15% discount on purchase date based on lower of price at purchase date or at start of offering period

Stock purchased at \$8.50—15% off lower offering date price—represents 29% discount from \$12 purchase date price

If stock price were \$12 at start of offering period and \$10 at purchase date—stock still purchased at \$8.50—represents 15% discount from \$10 purchase date price

If stock price dropped during first purchase period, offering price for second purchase period would be reset at lower \$10 price

# TIMELINE FOR SALE OF ESPP SHARES— QUALIFYING VS DISQUALIFYING DISPOSITION



# ESPP TAXATION

No tax at purchase—no w/holding or FICA even on sale

Taxation only at sale—ord inc reported on W-2—employer deduction on disq disp

Disqualifying disposition—Sale less than one year after purchase or two years after offering start date—er may require shares held w/plan admin until holding period satisfied

Qualifying disposition— Sale at least one year after purchase and two years after offering start date

Tax treatment disq disp—ord inc on spread of discounted purchase price

Tax treatment of qual disp—in rising mkt—most gain taxed at cap gains rates—always small amt of ord inc

Ord inc on qual disp in yr of sale equal to lesser of actual gain on sale or purchase price discount at beginning of offering

Discount for purchase and amt of ord inc often don't match in down mkt

# IRS FORM 3922

**Form 3922 for ESPPs: translation of IRS terms into common ESPP terms**

CORRECTED

CORPORATION'S name, street address, city or town, state or province, country, and ZIP or foreign postal code		1 Date option granted <b>Date offering started</b>	OMB No. 1545-2129 <b>Form 3922</b> (Rev. September 2016)	<b>Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c)</b>
		2 Date option exercised <b>Purchase date</b>		
CORPORATION'S federal identification number	EMPLOYEE'S identification number	3 Fair market value per share on grant date \$	4 Fair market value per share on exercise date \$	<b>Copy B For Employee</b>  This is important tax information and is being furnished to the Internal Revenue Service.
EMPLOYEE'S name		5 Exercise price paid per share \$ <b>Purchase price</b>	6 No. of shares transferred	
Street address (including apt. no.)		7 Date legal title transferred <b>Date of purchase</b>		
City or town, state or province, country, and ZIP or foreign postal code		8 Exercise price per share determined as if the option was exercised on the date shown in box 1 \$		
Account number (see instructions)				

Form **3922** (Rev. 9-2016) (keep for your records) www.irs.gov/irs Internal Revenue Service

**Company stock price at purchase** (points to Box 4)

**Company stock price on first date of offering** (points to Box 5)

**Number of shares purchased** (points to Box 6)

**Purchase price for the stock, as if the discount is off the price at start of offering (Box 1) regardless of lookback** (points to Box 8)

# ESPP TAX EXAMPLE

Assume 15% discount with lookback to lower of value of stock on first and last day of offering period

Price at beginning/end of offering period--\$10/\$18

Purchase price--\$8.50

Sale price--\$24

## Qual disp sale

Ord inc: \$1.50 (15% of \$10)  
 Basis: \$10 (ord inc of \$1.50 + purch price of \$8.50)  
 LTCG at sale: \$14 (\$24 sale price - \$10 basis)

## Disq disp sale

Ord inc: \$9.50 (\$18 purch date price - \$8.50 off date price discount)  
 Basis: \$18 (\$9.50 ord inc + \$8.50 purch price)  
 Cap gain at sale: \$6 (\$24 sale price - \$18 basis)

# DISQUALIFYING DISPOSITION TAXATION—RISING MARKET

Price at start of offering	\$10
Price on purchase date	\$15
Purchase price	\$8.50
Sale price	\$18
Ordinary income	$\$15 - 8.50 \text{ purchase price} = \$6.50$
Cost basis	$\$6.50 \text{ ord inc} + \$8.50 \text{ purchase price} = \$15$
Capital gain	$\$18 \text{ sale price} - \$15 \text{ cost basis} = \$3$

# Disqualifying disposition taxation—falling market

Price at start of offering	\$10
Price on purchase date	\$15
Purchase price	\$8.50
Ordinary income	\$15-\$8.50 purchase price=\$6.50 regardless of how much stock price drops
Sale price	\$9—above purchase price
Capital loss	\$9-\$15 cost basis=\$6 cap loss
Sale price	\$7—below purchase price
Capital loss	\$7-\$15 cost basis=\$8 cap loss

# QUALIFYING DISPOSITION TAXATION—RISING MARKET

Price at start offering	\$10
Price on purchase date	\$15
Purchase price	\$8.50
Sale price	\$18
Ordinary income	15% of \$10=\$1.50
Cost basis	\$8.50 purchase price + \$1.50 ord inc
Capital gain	\$18-\$10 cost basis=\$8 cap gain

# QUALIFYING DISPOSITION TAXATION—FALLING MARKET

Sale price	\$9.50
Ordinary income	\$1—lesser of actual gain (\$9.50-\$8.50) or purchase discount of \$1.50
Capital gain	\$0
Sale price	\$7
Ordinary income	\$0—lesser of actual gain (\$7-\$8.50) or purchase discount of \$1.50
Capital loss	\$7-\$8.50 purchase price=\$1.50 cap loss

# NONQUALIFIED ESPPS

No IRS rules or limits, although same procedures as qualified ESPPs

More flexibility in who is eligible and who can be excluded

Discount taxed like exercise spread of NQSO

Match possible in stock or cash

Ordinary income, withholding, and FICA on spread, with W-2 reporting

# TAX TREATMENT OF RSAS/RSUS/ESPPS

Type of grant	Grant	Vesting	Exercise/ purchase	Withholding	Sale
RSA no 83b	no	Ord inc and FICA	N/A	At vesting	Cap gain
RSA w/83b	Ord inc and FICA	no	N/A	At grant	Cap gain
RSUs	no	Ord inc and FICA	N/A	At vesting	Cap gain
Perf shares	no	Ord inc and FICA	N/A	At payout	Cap gain
PSUs	no	Ord inc and FICA	N/A	At payout	Cap gain
Qual ESPP	no	N/A	None	no	Cap gain/ord inc
Nonqual ESPP	no	N/A	Ord inc and FICA	At purchase	Cap gain

THANK YOU

---

Questions?

---

Aric Jacobson

---

[aric.jacobson@grantdequity.com](mailto:aric.jacobson@grantdequity.com)