FINANCIAL EXPERTS
NETWORK

Helping Clients with Restricted Stock Units (RSU)

Lawrence Pon
CPA/PFS, CFP, EA, USTCP, AEP
Pon & Associates
www.larryponcpa.com
linkedin.com/in/lawrencepon

Today’s Presenter

- Lawrence Pon
  - Lawrence Pon is a Certified Public Accountant, Personal Financial Specialist, Certified Financial Planner, Enrolled Agent, United States Tax Court Practitioner, and Accredited Estate Planner in Redwood Shores, CA
  - Mr. Pon has been in practice since 1986 and speaks regularly to tax professionals and financial advisors on the latest tax planning and preparation topics nationally.
  - Mr. Pon teaches Income Tax at the College of San Mateo
  - Mr. Pon received his BS in Business Administration from UC Berkeley and MS in Taxation from Golden Gate University in San Francisco

Helping Clients with RSUs

- How RSUs work and how they compare to other equity compensation plans
- How RSUs are taxed and strategies for minimizing their taxation
- How to best incorporate RSUs into a financial plan

Restricted Stock Units

- Form of compensation issued by employer to employee in the form of company shares
- Vesting plan
  - Required performance milestones
  - Based upon a particular length of time
  - Combination of the above
- Taxed as compensation
  - Supplemental income withholding
    - Federal = 22%
      - If over $1 million = 37%
      - Page 19-20 Circular E

Restricted Stock Units

- Stock grants
  - Usually at hire
  - Performance reviews
  - No tax at the time of the grant

Examples of Vesting

- Annually
- Quarterly
- Monthly
- Cliff
- Three years
- Five years

Restricted Stock Units

- Vesting
    - Tax on fair market value of stock at time of vesting
        - Example:
            - Vesting = 100 shares at $100/share
                - Income = $10,000
                    - Federal withholding = 22% = $2,200
                    - FICA = 6.2% = $620
                    - Medicare = 1.45% = $145
                    - California = 10.23% = $1,023
                        - Total withholding = $3,988
                        - 39.88 shares withheld for tax withholding
                        - Brokerage account = 60 shares deposited
                            - Cost basis = $100/sh.

Restricted Stock Units

- Tax planning
  - Will the supplemental withholding be enough?
    - Review Underpayment of Estimated Tax Penalty rules
      - Additional withholding on paycheck?
      - Adjust withholding % for vesting?
      - Make estimated payments?
      - Underpayment of estimated tax safe harbor

Restricted Stock Units

- Sell shares at vesting?
  - Hold for long term capital gains?
  - What about stock market risk?

Performance Stock Units

- Given to managers & executives only if certain company-wide performance criteria are met
  - Earnings per share
  - Cashflow
  - Stock price
- Not time based like RSUs
- Amount varies based upon these metrics
- Hard to plan ahead
- After the fact

Section 83(i) election

- Election to Defer Income from Qualified Equity Grants (§83(i))
  - Make an election under §83(i) that allows a qualified employee to defer the inclusion of income from the exercise of an RSU or option of the qualified stock of a nonpublicly-traded corporation for up to five years.
    - Election can be made for stock options exercised and RSUs settled after December 31, 2017, even if the stock options or RSUs were granted before 2018
  - IRS has not provided guidance on how to make this election.
    - Similar to an §83(b) election

Section 83(i) election

- Deferred income included at the earliest of
  - The first date the qualified stock becomes transferable
  - The date the employee becomes an excluded employee
  - The first date on which stock is readily tradable on an established security market
  - The date that is five years after the first date the employee’s rights in the stock are transferable or aren’t subject to a substantial risk of forfeiture, whichever occurs first; or
  - The date on which employee revokes the 83(i) election

Section 83(i) election

- Employer can deduct the deferred compensation when employee recognizes income.
- If FMV of stock decreases, tax is based on the FMV of the date the stock is received.
- For FICA and FUTA purposes, income is not deferred.
  - Employers still withhold FICA and FUTA
- Stock plans may bar 83(i) elections

Section 83(i) election

- §83(i) election must be made no later than 30 days after the first date the employee's rights in the stock are transferable or are not subject to a substantial risk of forfeiture, whichever is earlier.
- No §83(i) election if §83(b) election is made.
- Send signed statement to IRS Service Center

August 20, 2020

Internal Revenue Service
Fresno Service Center
Fresno, CA 93888

The undersigned taxpayer hereby elects, pursuant to IRC Sec. 83(i) of the Internal Revenue Code of 1986, as amended, to defer the inclusion in gross income as compensation for services the excess (if any) of the fair market value of the qualified equity grants described below over the amount paid for the property.

The information required to make this election pursuant to Reg. 1.83-2(e) is as follows:

1. The name, taxpayer identification number, address of the undersigned, and the taxable year for which this election is being made are:

   Taxpayer's Name: Sheldon Cooper

   Taxpayer's Social Security Number: 123456789

   Taxpayer's Address: 240F Twin Dolphin Drive, Redwood City, CA 94065

   Tax Year: December 31, 2020

2. The property which is the subject of this election is qualified stock as defined in IRC Sec. 83(i)(2) received from: Cyberdyne; 123456789.The employer has certified that the stock is qualified stock eligible for the Section 83(i) election.

3. The property was transferred to the undersigned on August 20, 2020.

4. The property is subject to the following restrictions: Corporation has right of first refusal.

5. The fair market value of the property at the time of transfer [determined without regard to any restriction other than a nonlapse restriction as defined in Reg. 1.83-3(h) of the Income Tax Regulations] is: $100.

6. For the property transferred, the undersigned paid $100.

7. The amount to include in gross income is $0. (The result of the amount reported in Item 5 minus the amount reported in Item 6.)

The undersigned 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 the person for whom the services were performed. The undersigned is the person will recognize income at the end of the deferral period based on the stock's value on the earlier of when the stock first became transferable or not subject to a substantial risk of forfeiture even if the stock declines in value during the deferral period. The income, when recognized by the undersigned for income tax purposes, will be subject to federal income tax withholding at the maximum rate in effect for individuals. The undersigned agrees to ensure that the withholding requirements are met.

Signed: ______________________ ______________________
Taxpayer Date

Lawrence Pon
CPA/PFS, CFP, EA, USTCP, AEP

www.larryponcpa.com
linkedin.com/in/lawrencepon

WEALTHSPIRE
ADVISORS

Helping Clients with Restricted Stock Units (RSUs) – 3/14/2024

Kevin J. Brady, CFP®

Vice President, Advisor

https://www.wealthspire.com/our-team/kevin-brady-cfp/

FINANCIAL EXPERTS NETWORK

Common Misconceptions - RSUs

#1 – The share price on the grant date determines what RSUs will be worth and how many shares are received.

- INCORRECT!
- The share price on the grant date is irrelevant when determining the amount of value (in $) received!
- The share price on the vesting date determines the number of shares for public-sector RSUs
  - Anchoring bias

Common Misconceptions - RSUs

#2 – A company offer letter with a set dollar amount of RSUs (e.g. $100,000) means that is the amount guaranteed to be received over time.

- INCORRECT!
- Offer letters quote a total dollar award of RSUs based upon the share price on THE GRANT DATE. This is then spread out per the vesting schedule.
  - Ex – “$100,000 of RSUs vesting over 4 years, vesting 25% per year after a one-year cliff.”
  - Depending how the stock does over time, the employee could receive more or less at years 1, 2, 3 and 4 at each vesting date.

Common Misconceptions - RSUs

#2 – A company offer letter with a set dollar amount of RSUs (e.g. $100,000) means that is the amount <u>guaranteed</u> to be received over time.

- AMZN vs. PTON

	Company	**Amazon**	
	Share Price on Grant Date	$97.70	
	Grant Dollar Amount	**$100,000**	
	Grant Date	3/1/2020	
	Shares Granted	1024	
Vesting Schedule	**Shares Vesting**	**Share Price**	**Income**
3/1/2021	256	$157.31	$40,271.36
3/1/2022	256	$151.14	$38,691.84
3/1/2023	256	$92.17	$23,595.52
3/1/2024	256	$178.22	$45,624.32
Total	**1024**		**$148,183.04**

Note: Sample RSU grant and vesting data is hypothetical and provided for illustrative purposes only.

Common Misconceptions - RSUs

#2 – A company offer letter with a set dollar amount of RSUs (e.g. $100,000) means that is the amount <u>guaranteed</u> to be received over time.

- AMZN vs. PTON

	Company	**Peloton**	
	Share Price on Grant Date	$27.92	
	Grant Dollar Amount	**$100,000**	
	Grant Date	3/1/2020	
	Shares Granted	3582	
Vesting Schedule	**Shares Vesting**	**Share Price**	**Income**
3/1/2021	896	$123.81	$110,933.76
3/1/2022	895	$27.62	$24,719.90
3/1/2023	896	$12.66	$11,343.36
3/1/2024	895	$4.60	$4,117.00
Total	**3582**		**$151,114.02**

- *Note: Sample RSU grant and vesting data is hypothetical and provided for illustrative purposes only.*

Common Misconceptions - RSUs

#3 – There is a tax advantage to holding RSUs as they vest.

- INCORRECT!
- RSUs are taxed as *ordinary* (compensation) *income* based on the <u># of shares x the market price on the vesting date</u>.
  - RSUs are not taxed at long-term capital gains (LTCG) rates if shares are held > 1 year from the vesting date!
  - Only the difference between:

Share price at future sale date
<u>LESS:</u> *<u>Share price at the original vesting date</u>*
EQUALS: Taxed at 15-23.8% LTCG rates (if a gain exists!).

- Holding vested shares from RSUs depends on other factors: risk tolerance, concentration, other financial goals, etc.
  - Should be done **sparingly**.

Common Misconceptions - RSUs

#4 – You can make Section 83(b) election with RSUs and reduce future taxes owed

- INCORRECT!
- RSUs are already recognized and taxed as compensation income at the vesting date(s).
- Section 83(b) elections apply to restricted stock, early exercise of options, and profits interests.

Common Misconceptions - RSUs

#5 – RSUs are treated differently than a cash bonus.

- INCORRECT (sort of)!

- RSUs are a part of an employee's total compensation package and no different from cash compensation (except the value is tied to a fluctuating share price).

  - $100,000 cash bonus vs. $100,000 bonus of PLTN RSUs

  - **Would you buy an equivalent amount of employer stock (PLTN) if you received cash ($100,000)?**

    - If yes, consider holding at vest.
    - If no, consider selling.

Common Misconceptions - RSUs

#6 – There is no need to pay additional tax from RSU vests because withholding will be sufficient.

- INCORRECT (often)!
- 22% = Federal statutory withholding rate for supplemental pay < $1M
- 37% = Federal statutory withholding rate for supplemental pay > $1M
- Companies will often refuse to adjust RSU withholding unless total income > $1M.
  - But 22% withholding often insufficient for highly-compensated employees - what to do?
- Quarterly estimates and/or higher paycheck withholding
  - avoid underpayment penalties (worst case)
  - surprise tax bill (best case)

Common Misconceptions - RSUs

#7 – Form 1099-B from the custodian holding vested shares from RSU grants is all the tax preparer needs for the return.

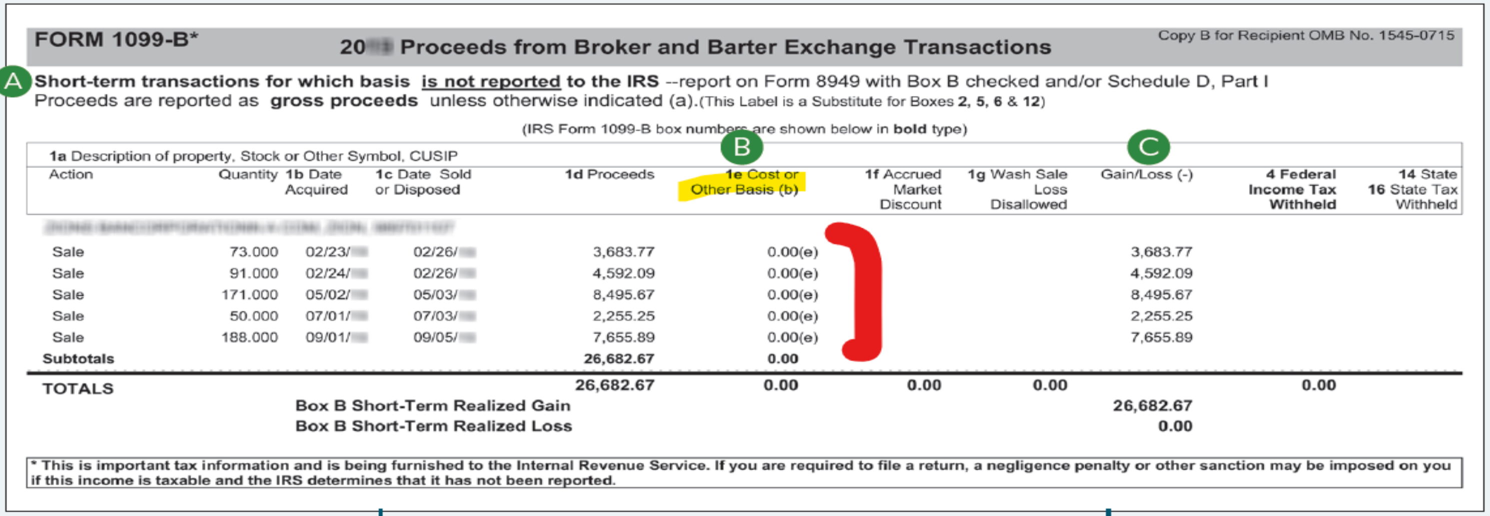
- INCORRECT (possibly)!
- Form 1099-B will often say "$0" for cost basis of shares of stock sold from vested RSUs during the calendar year (due to IRS rules).
- The "Supplemental Information" form is CRITICAL and will reflect the *adjusted cost basis* not shown on the 1099-B.
  - Adjusted cost basis includes the ordinary income tax paid at vest as compensation.
- The "Supplemental Information" form (along with the 1099-B and W-2) will help prevent *overpaying tax*.

Common Misconceptions - RSUs

- Sample Form 1099-B (source: Fidelity - Stock Plan Services)

SHORT-TERM OR LONG-TERM TRANSACTION A

This is where you'll see if you had a short-term or long-term transaction. It will help determine which version of Schedule D and Form 8949 you need.



FORM 1099-B* — **20[illegible] Proceeds from Broker and Barter Exchange Transactions** — Copy B for Recipient OMB No. 1545-0715

A **Short-term transactions for which basis <u>is not reported</u> to the IRS** --report on Form 8949 with Box B checked and/or Schedule D, Part I
Proceeds are reported as **gross proceeds** unless otherwise indicated (a).(This Label is a Substitute for Boxes **2**, **5**, **6** & **12**)

(IRS Form 1099-B box numbers are shown below in **bold** type)

1a Description of property, Stock or Other Symbol, CUSIP

Action	Quantity	**1b** Date Acquired	**1c** Date Sold or Disposed	**1d** Proceeds	B **1e** Cost or Other Basis (b)	**1f** Accrued Market Discount	**1g** Wash Sale Loss Disallowed	C Gain/Loss (-)	**4 Federal Income Tax Withheld**	**14** State **16** State Tax Withheld
[illegible]										
Sale	73.000	02/23/[illegible]	02/26/[illegible]	3,683.77	0.00(e)			3,683.77		
Sale	91.000	02/24/[illegible]	02/26/[illegible]	4,592.09	0.00(e)			4,592.09		
Sale	171.000	05/02/[illegible]	05/03/[illegible]	8,495.67	0.00(e)			8,495.67		
Sale	50.000	07/01/[illegible]	07/03/[illegible]	2,255.25	0.00(e)			2,255.25		
Sale	188.000	09/01/[illegible]	09/05/[illegible]	7,655.89	0.00(e)			7,655.89		
Subtotals				**26,682.67**	**0.00**					
TOTALS				**26,682.67**	**0.00**	**0.00**	**0.00**		**0.00**	
	Box B Short-Term Realized Gain							**26,682.67**		
	Box B Short-Term Realized Loss							**0.00**		

* This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

COST OR OTHER BASIS B

- This is provided to the IRS and may need to be adjusted when you report the sale on Form 8949. If adjusted, you'll find that value on the Supplemental Information form.
- If this is $0,* reference your Supplemental Information form for the adjusted amount. This will help you avoid overpaying taxes.

GAIN/LOSS C

- Capital gain or loss from the sale of shares. This amount may also need to be adjusted. In that case, you'll find that value on the Supplemental Information form.

Common Misconceptions - RSUs

- Sample “Supplemental Information” Form (source: Fidelity - Stock Plan Services)

SHORT-TERM OR LONG-TERM TRANSACTION A

This is where you’ll see if you had a short-term or long-term transaction. It will help determine which version of Schedule D and Form 8949 you need.

Fidelity Investments

20 SUPPLEMENTAL INFORMATION

Account No. | Customer Service: 800-544-6666
Recipient ID No. | Payer’s Fed ID Number:

Note: This information is not reported to the IRS. It may assist you in tax return preparation.

Detail Information | **Supplemental Stock Plan Lot Detail**

Based on the disposal method you have selected, the lots that appear on your 1099 Supplemental may differ from the lots on the 1099-B.

A **Short-Term Transactions**

Description of Property, Stock or Other Symbol, Cusip

Grant Type (w)	Quantity	Date of Acquisition (x)	Date Sold or Disposed	Proceeds	Ordinary Income Reported (y)	B Adjusted Cost or Other Basis (z)	Wash Sale Loss Disallowed	C Adjusted Gain/Loss
RSU	73.000	02/23/	02/26/	3,683.77	3,722.27	3,722.27	0.00	-38.50
RSU	91.000	02/24/	02/26/	4,592.09	4,640.09	4,640.09	0.00	-48.00
RSU	171.000	05/02/	05/03/	8,495.67	8,461.08	8,461.08	0.00	34.59
RSU	50.000	07/01/	07/03/	2,255.25	2,316.50	2,316.50	0.00	-61.25
RSU	188.000	09/01/	09/05/	7,655.89	7,480.52	7,480.52	0.00	175.37
		Totals		26,682.67		26,620.46		
			Short-Term Adjusted Realized Gain					209.96
			Short-Term Adjusted Realized Loss					-147.75
			Wash Sale Loss Allowed				0.00	

ADJUSTED COST BASIS B

- This amount is used to recalculate your gain/loss. It’s equal to the ordinary income at vesting plus the cost basis on your 1099-B.
- You’ll want to use the adjusted amount to calculate your cost basis on Form 8949 to avoid paying those taxes again.*

ADJUSTED GAIN/LOSS C

- This amount is recalculated based on your adjusted cost basis. It shows your proceeds minus your adjusted cost basis.
- This amount and the adjusted cost basis are not reported to the IRS. You’ll want to understand this information when reporting your taxes to avoid paying more than necessary.

Hypothetical Case Study - RSUs

- Sarah & Bob Smith (31, 35)
- MFJ
- NYC tax domicile
- $500,000 total gross income

- Sarah – AMZN Software Engineer
  - $350,000 gross income – including monthly vests of AMZN RSUs
- Bob – Computer programmer (self-employed)
  - $150,000 net income – Sch C

- Goals:
  - Reduce effective tax rate
  - Donate to charity
  - College planning for (future) children

Note: Case study clients, circumstances, goals/priorities, and conclusions are hypothetical and provided for illustrative purposes only.

Hypothetical Case Study - RSUs

- Sarah & Bob Smith (31, 35)
- MFJ
- NYC tax domicile
- $500,000 total gross income

- Tax Planning priorities:
  - Bob
    - **Solo 401K:**
      - Pre-tax employee contribution - **$23,000**
      - Pre-tax employer contribution - **$30,000** (20% x net Sch C compensation)
    - OR SEP IRA:
      - Pre-tax employer contribution - $30,000 only
  - Sarah
    - **Amazon 401K:**
      - Pre-tax employee contribution - **$23,000**

Note: Case study clients, circumstances, goals/priorities, and conclusions are hypothetical and provided for illustrative purposes only.

Hypothetical Case Study - RSUs

- Sarah & Bob Smith (31, 35)
- MFJ
- NYC tax domicile
- $500,000 total gross income

- Tax Planning priorities (continued):
  - Both
    - **Health Savings Account (HSA)** - $4,150 / **$8,300**
      - Depends on coverage
      - $8,300 contribution is total amount allowed for both
    - **Donor Advised Fund (DAF)**
      - *Bunch contributions for next 3-5 years*
      - $10,000 / year = **30,000**
    - **New York State 529 - $10,000**
      - State tax deduction for up to $10K (no fed deduction)

Note: Case study clients, circumstances, goals/priorities, and conclusions are hypothetical and provided for illustrative purposes only.

Hypothetical Case Study - RSUs

- Sarah & Bob Smith (31, 35)
- MFJ
- NYC tax domicile
- $500,000 total gross income

- Tax Planning priorities (continued):
  - Both
    - Back-Door Roth IRA contributions?
    - Short-term rentals (STR "loophole")?
    - REPS status?

- **Conclusions:**
  - $84,300 above-the-line deductions (solo 401K, 401K, & HSA) - 32-35% marginal rate
  - $30,000 below-the-line deductions (DAF) - 32% marginal rate
  - $10,000 state tax deduction (529) – 6.85% marginal rate

Note: Case study clients, circumstances, goals/priorities, and conclusions are hypothetical and provided for illustrative purposes only.

Disclosures

- *Wealthspire Advisors LLC is a registered investment adviser and subsidiary company of NFP Corp.*
-
- *Financial Experts Network and Wealthspire Advisors are not affiliated companies. Neither Wealthspire Advisors nor Financial Experts Network received direct or indirect compensation from the other party for their participation in this presentation, and such participation should not be construed as a current or past endorsement of Financial Experts Network by Wealthspire Advisors or vice versa.*
-
- *Certified Financial Planner Board of Standards, Inc. (CFP Board) owns the certification marks CFP®, Certified Financial Planner™, and CFP® (with plaque design) in the United States, which it authorizes use of by individuals who successfully complete CFP Board's initial and ongoing certification requirements.*
-
- ***Please Note: Limitations.*** *The achievement of any professional designation, certification, degree, or license, recognition by publications, media, or other organizations, membership in any professional organization, or any amount of prior experience or success, should not be construed by a client or prospective client as a guarantee that he/she will experience a certain level of results or satisfaction if Wealthspire is engaged, or continues to be engaged, to provide investment advisory services, nor should it be construed as a current or past endorsement of Wealthspire Advisors by any of its clients, or a third party.*
-
- *This material is provided for informational purposes only and was created to provide accurate and reliable information on the subjects covered. It should not be construed as a recommendation, offer to sell, or solicitation of an offer to buy a particular security or investment strategy, and should not be relied upon for accounting, legal, or tax advice. The services of an appropriate professional should be sought regarding your individual situation. You should not act or refrain from acting on the basis of this content alone without first seeking advice from your tax and/or legal advisors. While the material was prepared using public information and is deemed reliable, Wealthspire Advisors cannot guarantee its accuracy, completeness, or suitability for any purpose, and makes no warranties with regard to the results to be obtained from its use.*
-
- *Wealthspire Advisors and its representatives do not provide legal or tax advice, and Wealthspire Advisors does not act as law, accounting, or tax firm. Services provided by Wealthspire Advisors are not intended to replace any tax, legal or accounting advice from a tax/legal/accounting professional. Certain employees of Wealthspire Advisors may be certified public accountants or licensed to practice law. However, these employees do not provide tax, legal, or accounting services to any of clients of Wealthspire Advisors, and clients should be mindful that no attorney/client relationship is established with any of Wealthspire Advisors' employees who are also licensed attorneys.*
-
-