Part I: Add Flexibility and Value to Long-Term Incentive Plans Through Deferral and Diversification of RSUs.

Time to Reexamine Your Equity Compensation Plan

Few would disagree that we live in the age of distraction, interruption, and the unexpected. Ask any CFO.

No longer spreadsheet crunchers, today' CFO doubles as strategic thinker and partner to the CEO, coping with broader responsibilities and divided attention spans.

On top of the US-China trade war and Federal Reserve monetary policy, CFOs worry about a looming recession. Fortunately, "80 percent of CFOs expect any downturn to be mild—an indication that companies are prepared to face the challenges ahead,"says Sanford Cockrell III, national managing partner of the U.S. Chief Financial Officer Program, Deloitte LLP.

Even so, with three generations in the workplace, CFOs also find themselves deeply involved in human resource utilization and challenged to find, retain, and reward the right talent.
Amid crammed schedules and spreading responsibility, how much can the average CFO know about the complexity of executive benefits, let alone the inner workings of an equity compensation plan?

So we ask, can you maximize equity compensation plans to attract coveted talent, grow retirement assets, reduce high taxes, and incentivize long-term performance?

Find the answers in our new four-part series, ***Add Flexibility and Value to Long-Term Incentive Plans Through Deferral and Diversification of RSUs..***

In our series, EBS will share valuable and actionable facts and analyses on the shift from stock options and restricted stock to restricted stock units (RSUs) and performance stock units (PSUs).

Learn about these wealth-building tools and their pros and cons in an equity compensation plan. Understand how they fit into your long-term incentive plan (LTIP).

Once informed, you can decide if a **RSU/PSU deferral and diversification program** serves the goals of your C-suite, then you'll be ready to step into the mechanics of program implementation and maintenance.

We intend to challenge conventional thinking.

And at the end of our series, we believe you'll think differently, too.

Part I: Deferring Restricted Stock Units

Inflection Point
Back in late 2004, the Financial Accounting Standards Board put out a statement that required companies to book an accounting expense for stock options issued, leveling the equity playing field.

Once preferred, stock options became entangled with scandals, so companies began to turn to other types of stock awards as recruitment leverage.
RSUs, usually reserved for top management, were granted to all levels of employees, and stock option grants by Fortune 1000 firms declined by 40 percent between 2003 and 2005, while RSUs increased by nearly 41 percent over the same period, cites Investopedia.

Widespread Trend
Stock continues as the largest component in equity compensation plans, increasing 10.2 percent in value from 2017, which accounts for 51.2 percent of total median pay, according to Equilar. However, plan design of executive compensation in the last decade shifted from stock options to a primary emphasis on RSUs and PSUs.

In fact, the percentage of Equilar 500 CEOs receiving performance-based awards has steadily risen, passing both time-based stock and options grants as the most prevalent long-term incentive vehicle. In 2018, 87.8 percent of Equilar 500 CEOs received performance-based awards.*

RSUs Double in Usage

In another look at the RSU/PSU trend, a comprehensive 2017 study of 325 companies by The AYCO Company reports 72 percent of respondents use RSUs in their long-term incentive compensation programs compared to only 37 percent a decade ago. The use of restricted stock fell to 13 percent in 2017, down from 41 percent in 2007, according to AYCO.

To gain a clear sense of how these forms of equity compensation breakdown comparatively, we highlight the software industry in the chart below to underscore the growth of RSUs/PSUs in 2018:

Vehicle Mix as a Percent of Total Value Delivered at Software Companies

	New Hire			Ongoing		
	Options	RSUs	PSUs	Options	RSUs	PSUs
Executive	25%	70%	5%	10%	75%	15%
Vice President	10%	85%	5%	10%	80%	10%
Director	5%	95%	0%	5%	95%	0%
Sr. Manager/Manager Technical	0%	100%	0%	5%	95%	0%
Sr. Manager/Manager Non-Technical	0%	100%	0%	5%	95%	0%
Career Technical	0%	100%	0%	5%	95%	0%
Career Non-Technical	0%	100%	0%	0%	100%	0%
Entry Professional Technical	0%	100%	0%	5%	95%	0%
Entry Professional Non-Technical	5%	95%	0%	5%	95%	0%

Source: 2018 Radford Long-Term Incentive Practices Report for Technology Companies

*The Equilar 500 index comprises the largest US-based companies, by revenue trading, on one of the major U.S. stock exchanges.

Part I: Deferring Restricted Stock Units

As stock options gave way to the popularity of RSUs and PSUs, a new set of questions arose for executive participants in deferred compensation plans:

- ***Do I defer or not?***
- ***What about vesting?***
- ***Can I diversify into other investments?***
- ***How will my decision impact tax liabilities?***

In our series, CFOs and plan sponsors will learn the answers to these questions. Better still, we'll share our methodology for deferring and diversifying RSUs/PSUs as an LTIP feature while, at the same time, maintaining your P&L stability.

Part II: Add Flexibility and Value to Long-Term Incentive Plans Through Deferral and Diversification of RSUs

Rethinking LTIP Design for Greater Flexibility, Effectiveness and Value.

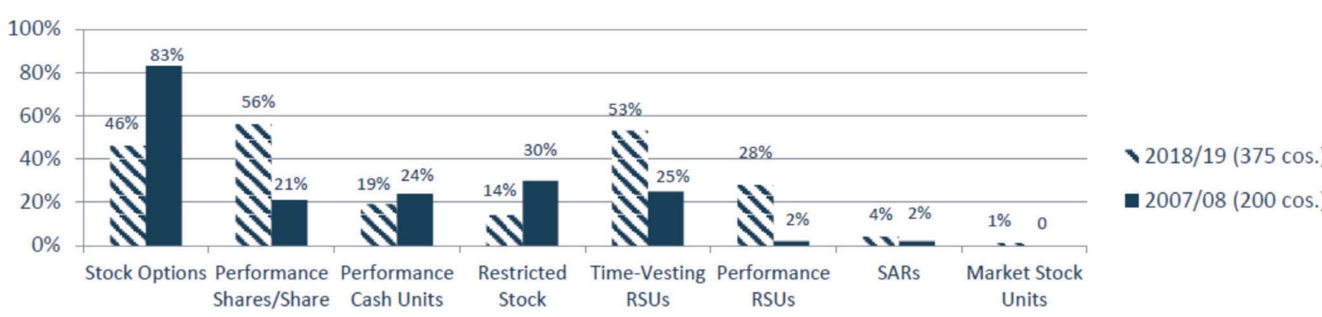
In the first of our four-part series on Executive Stock Compensation we noted the trend in Long-Term Incentive Plan design from a significant reliance on stock options to a portfolio approach using a mix of equity incentives including Restricted Stock Awards (RSAs), Restricted Stock Units (RSUs), Performance Shares and Performance Stock Units (PSUs).

In this second blog in the series, we highlight the advantages of RSUs and PSUs and focus on one of the most important - the opportunity for tax deferral.

A Meaningful Trend

Stock compensation issued under a Long-Term Incentive Plan typically represents the most significant portion of the total rewards package for senior corporate executives. Ayco, a Goldman Sachs company, recently surveyed 375 client companies, in an update to earlier surveys, to understand the extent to which employers rely on LTIP awards.

In the chart below, notice the trend to an increasing emphasis on RSUs and PSUs over the last ten years as the prevalence of the use of stock options declined.



Source: AYCO Compensation and Benefits Digest, March 15, 2019

Part II: Deferring Restricted Stock Units

Why did this happen? As you may know, fifteen years ago, the Financial Accounting Standards Board began requiring companies to recognize an accounting expense for stock options issued which, in effect, leveled the equity playing field. As a result of the issuance of FASB Statement 123R (later incorporated into ASC Topic 718), many publicly-traded companies shifted from a concentration on the use of stock options to a portfolio approach to executive compensation planning including a range of equity incentives. Today, the use of RSUs and PSUs dominate many executive total rewards packages because of the flexibility of plan design, the tax advantages and the relative ease of administration.

The Advantages of RSUs / PSUs

In comparison to other forms of equity LTIP awards, the use of RSUs and PSUs provide a number of advantages, including:

- *Greater flexibility of plan design*:
    - For example, PSUs offer a greater range of potential value. Subject to the achievement of specific performance criteria, grants often range from 0% to 200% of target, which may provide a more appropriate balance of retention and performance
    - Secondly, it is possible to separately determine the timing of vesting and of distribution. This could avoid the triggering of taxation upon eligibility for retirement rather than at actual retirement, if there is accelerated vesting upon eligibility for retirement.
- *Potential tax benefits:* If the LTIP is coordinated with a deferred compensation plan, executive participants may be able to:
    - Regain control over the timing of taxation they once had with stock options
    - Elect to defer certain grants *after the date of grant* (explained more fully, below)
    - Manage the timing of distributions to meets savings needs
    - Possible realize state income tax savings, if they were to move in retirement to a state with a lower tax rate that the state in which the compensation was earned
    - Meet share ownership requirements more easily
    - Diversify net worth, from an over-weighted concentration of assets linked to share price
- *Simplified stock administration*: Since no shares are issued at the time of grant, share administration is simplified if performance targets or time vesting requirements are not met.

In summary, the use of RSUs and PSUs offers greater flexibility for the plan sponsor to design an equity incentive program with an appropriate mix of performance and retention incentives, and greater perceived value to participants.

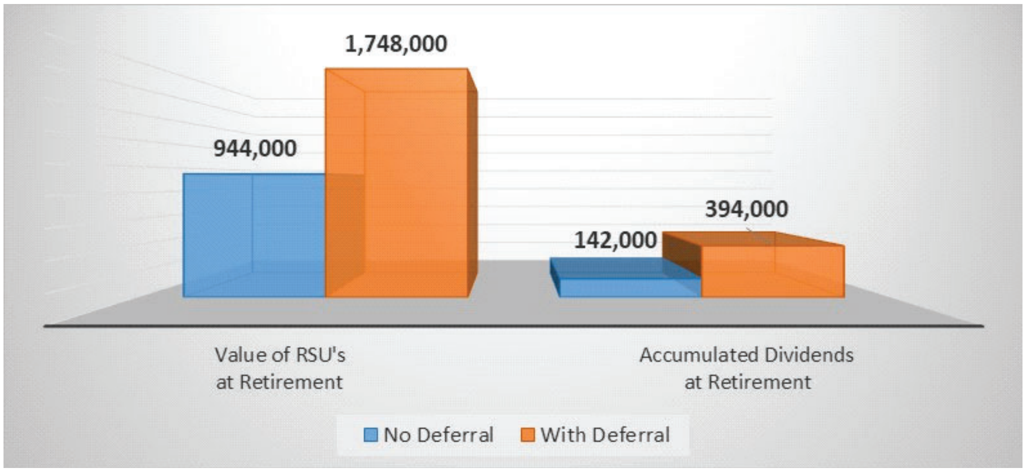
The Advantage of Tax Deferral – A Hypothetical Example

EBS has developed an RSU Modeler to quickly estimate the potential advantage of tax deferral. The example below illustrates the potential increase in value at retirement, and the projected increase in after-tax retirement income with and without tax deferral. The analysis reflects the following assumptions for one sample executive participant in an RSU plan:

- Current age: 55
- Expected age at retirement: 65
- Grant: 50,000 RSUs on 3/1/2020
- Vesting: 12,500 units per year for 4 years on the anniversary of the date of grant
- Elected distribution of benefits: 10 annual installments beginning at retirement
- Share price at the date of grant: $20.00
- Expected annual appreciation: 6.0%
- Annual dividend: 3.00%
- Executive combined federal and state income tax rate: 45% / Capital Gains tax rate: 28%
- Medicare tax upon vesting: 2.35%

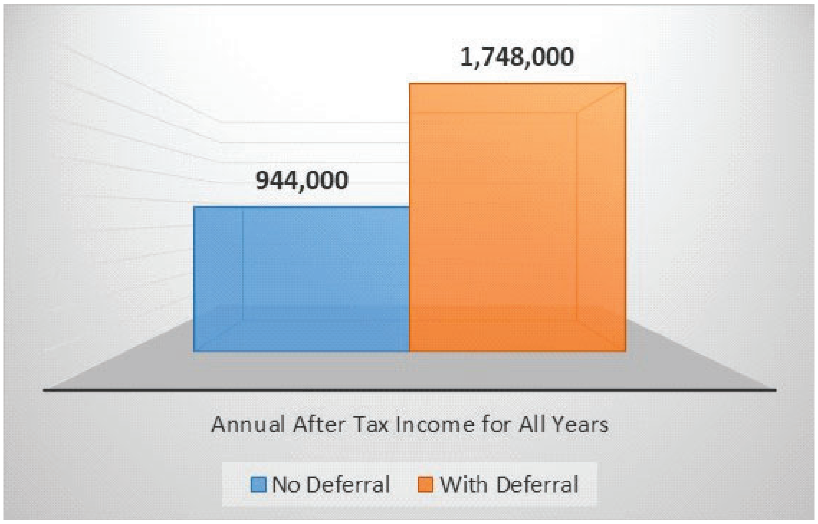
Projected Value at Retirement
Based on the above assumptions, the projected value of the RSUs at retirement with and without deferral is illustrated below. The key differentiating factor is that, in the case of no deferral, 45% of the RSUs are sold upon vesting to cover taxes which, in turn, reduces the dividends received.

Part II: Deferring Restricted Stock Units



However, note that without deferral, while nearly one-half of the shares are sold to pay taxes, the subsequent sale of the remaining units at retirement would be subject to lower capital gains taxes.

Projected Retirement Income
Based on the projected value of the RSUs at retirement above, the projected after-tax retirement income over 10 years is illustrated in the bar graph below



In summary, this hypothetic analysis illustrates the structural advantage of tax-deferred accumulation. The executive can control the timing of taxation through management of distributions from the Deferred Compensation Plan and may even be able to avoid state income taxes, in the event that he/she moves in retirement to a state with a lower income tax rate (which potential advantage is not included in the above projections).

Management of Distributions from the Deferred Compensation Plan

One of the more flexible features of a deferred compensation plan (briefly mentioned above), is the ability to re-defer a scheduled distribution. For example, assume an executive has established an In-Service Distribution Account that is scheduled to be paid out on January 1, 2023. The executive can change the payment date of that In-Service Distribution account, as long as:

- The election to change is made at least 12 months prior to the current distribution date,
- The new distribution date is at least 5 years later than the current distribution date and,
- The change election does not take effect for at least 12 months.

Part II: Deferring Restricted Stock Units

By using this "subsequent deferral" rule under Section 409A, a participant can actively manage distributions to meet his or her savings needs and, at the same time, mitigate creditor risk.

The following series of graphics illustrate the ability to allocate deferred compensation to multiple In-Service Distribution "buckets," and then re-defer (or extend the period of deferral) from one In-Service Distribution bucket to another with a later distribution date (as long as the distribution change rules outlined above are closely followed).

STEP 1
Allocate compensation deferred to an In-Service Distribution bucket three years out (the minimum deferral period under the plan)

2021 Grant

2020	2021	2022	2023	2024
December Open Enrollment	March Annual Grant 30,000 RSUs	Tranche 1 Vests 10,000 RSUs	Tranche 2 Vests 10,000 RSUs	Tranche 3 Vests 10,000 RSUs

2022 Grant

2021	2022	2023	2024	2025
December Open Enrollment	March Annual Grant 36,000 RSUs	Tranche 1 Vests 12,000 RSUs	Tranche 2 Vests 12,000 RSUs	Tranche 3 Vests 12,000 RSUs

Part II: Deferring Restricted Stock Units

2023 Grant

2022	2023	2024	2025	2026
December Open Enrollment	March Annual Grant 45,000 RSUs	Tranche 1 Vests 15,000 RSUs	Tranche 2 Vests 15,000 RSUs	Tranche 3 Vests 15,000 RSUs

STEP 2
At any time more than 12 months prior to the originally-scheduled 2025 distribution date, make a subsequent deferral election to re-defer the balance in that bucket to a 2030 in-service distribution bucket.

2023
December Open Enrollment

In December 2023 (more than 12 months in advance of the originally-scheduled distribution date), participant elects to re-defer RSUs scheduled to be distributed in January 2025 for 5 additional years - until January 2030).

In summary, through active management of the distributions from the Deferred Compensation Plan, you have the flexibility to meet both your long-term and short-term savings needs while mitigating the exposure to creditor risk.

Electing to Defer an RSU / PSU Grant Made in a Previous Year

The general rule under Section 409A for the timing of an election to defer compensation is referred to as the "year before the year" rule. In the case of RSUs and PSUs, this means that an election to defer must be made in the year before the year of grant.

However, as is always the case, there are exceptions to the general rule, one of which permits the election to defer a grant of RSUs anytime more than 12 months prior to the vesting date. For example, if a grant of 10,000 RSUs was made in March 2020 which vests ratably over years, an election to defer the second, third and fourth vesting tranches could still be made in December 2020 since those tranches are scheduled to vest March 2022, 2023 and 2024.

Part II: Deferring Restricted Stock Units

This is an extremely valuable option. We often are consulted for assistance with the implementation of Deferred Compensation Plan just after the hiring of a new senior executive who received a very significant grant of RSUs at the time of hire. Convention thinking is that it is too late to elect to defer a grant already made. However, the conventional thinking may be incorrect.

Other Considerations
As is always the case, the many advantages of RSUs and PSUs in comparison to other forms of equity awards do not come without some additional considerations:

- Creditor risk inherent in a non-qualified deferred compensation plan,
- Loss of the opportunity for capital gain treatment for post-vesting appreciation,
- Loss of the opportunity to make a Section 83(b) election (which may be good news or bad news),
- Required compliance with Section 409A rules relating to deferred compensation plans,
- Lack of shareholder voting rights and,
- No actual payment of dividends (although dividend equivalents are often credited on vested and deferred shares).

Part III: Add Flexibility and Value to Long-Term Incentive Plans Through Deferral and Diversification of RSUs

The Deferral and Diversification of Restricted Stock Units

Introduction

In the first blog in this series we discussed how the design of long-term equity compensation plans has evolved from a primary emphasis on stock options to the portfolio approach commonly used today. And within the portfolio of equity compensation awards, Restricted Stock Units, both time-vested and performance-vested, have become the vehicles of choice for many companies because of the flexibility of plan design, potential tax advantages and simplified stock plan administration.

In the second blog we provided a hypothetical analysis illustrating the potential advantage of the deferral of taxation upon vesting and discussed the issues associated with participation in a non-qualified deferred compensation plan including; the timing of deferral elections in general, and the opportunity for a "look back" election with respect to prior year grants. In addition, we reviewed the potential benefit of the active management of distributions.

In this third blog in the series, we address the issue of diversification; that is, the ability of a participant in a non-qualified deferred compensation to reallocate some or all of the RSUs deferred to other notional fund choices offered under the plan (such as a notional S&P 500 fund).

Deferral and Diversification

There can be significant advantages to permit the deferral of taxation on RSUs upon vesting through a non-qualified deferred compensation plan. Federal income taxes can be deferred and, in some cases, state income taxes can be reduced or eliminated entirely. In addition, distributions can be managed in a manner consistent with the executive's overall financial and tax plans.

As a result, a number of publicly traded companies permit the deferral of RSUs; however, few permit diversification. This creates a unfair disadvantage of deferral as it precludes the opportunity to diversify company stockholdings as an executive might do if he/she accepted delivery of the shares upon vesting, paid the related income taxes and then diversified the remaining shareholdings to avoid a concentration of net worth linked to company stock.

The reason most cited by plan sponsors for not offering diversification of RSUs deferred is that permitting the reallocation of the RSUs to other notional investment choices in the deferred compensation plan and the payment of benefits in cash at the end of the deferral period, would trigger accounting issues.

That is not necessarily the case. If the conditions on which diversification is permitted are properly structured, "liability" accounting treatment would not be required until such time as an executive chooses to reallocate the RSUs deferred to other notional fund choices in the deferred compensation plan. The conditions for diversification might be a specified holding period for the RSUs deferred, a specified age, retirement, or upon a change in control.

Result

The net P&L impact of permitting the deferral and diversification of RSUs through a properly designed non-qualified deferred compensation plan would be comparable to that for RSUs that are distributed as shares at the time of vesting; that is:

•

- The date of grant value would be recognized as compensation expense over the vesting period,
- Any appreciation in value of RSUs deferred from the date of grant to the date of diversification would not impact the P&L,
- If and when an executive choses to diversify the RSUs deferred through reallocation to other notional funds offered in the deferred compensation plan, "liability" accounting would kick-in and the value of the participant's deferred compensation account would be marked to market through the P&L from that point forward.
- However, that expense would be offset by the investment income from the rabbi trust assets purchased to hedge the deferred compensation plan liability (e.g., an S&P 500 Index Fund).

Part III: Deferring Restricted Stock Units

In Summary

It may be possible to significantly enhance the value of the total rewards package for senior executives by permitting the voluntary deferral and (subject to specific requirements) diversification of RSUs deferred without triggering accounting issues.

Caveat

EBS is an executive benefit consulting firm. It does not provide accounting or tax advice. The tax and accounting treatment described above for the deferral and diversification of RSUs is based on the firm's experience working with its clients and their advisors on similar plan designs.

Part IV: Add Flexibility and Value to Long-Term Incentive Plans Through Deferral and Diversification of RSUs

The Deferral and Diversification of Restricted Stock Units

Introduction

In the first blog in this series we discussed how the design of long-term equity compensation plans has evolved from a primary emphasis on stock options to the portfolio approach commonly used today. And within the portfolio of equity compensation awards, Restricted Stock Units, both time-vested and performance-vested, have become the vehicles of choice for many companies because of the flexibility of plan design, potential tax advantages and simplified stock plan administration.

In the second blog we provided a hypothetical analysis illustrating the potential advantage of the deferral of taxation upon vesting of RSUs and discussed various issues associated with participation in a non-qualified deferred compensation plan.

In the third blog, we addressed the issue of diversification; that is, the ability of a participant in a non-qualified deferred compensation to reallocate some or all of the RSUs deferred to other fund choices offered under the plan (such as a notional S&P 500 fund). We noted that, contrary to conventional thinking, it may be possible to design a plan that permits the voluntary deferral and diversification of RSUs deferred without triggering accounting issues.

In this fourth and final blog in the series, we will turn our attention to the critical importance of professional, on-going plan administration and participant communications; specifically, related to the timing of RSU deferral elections and the management of distributions.

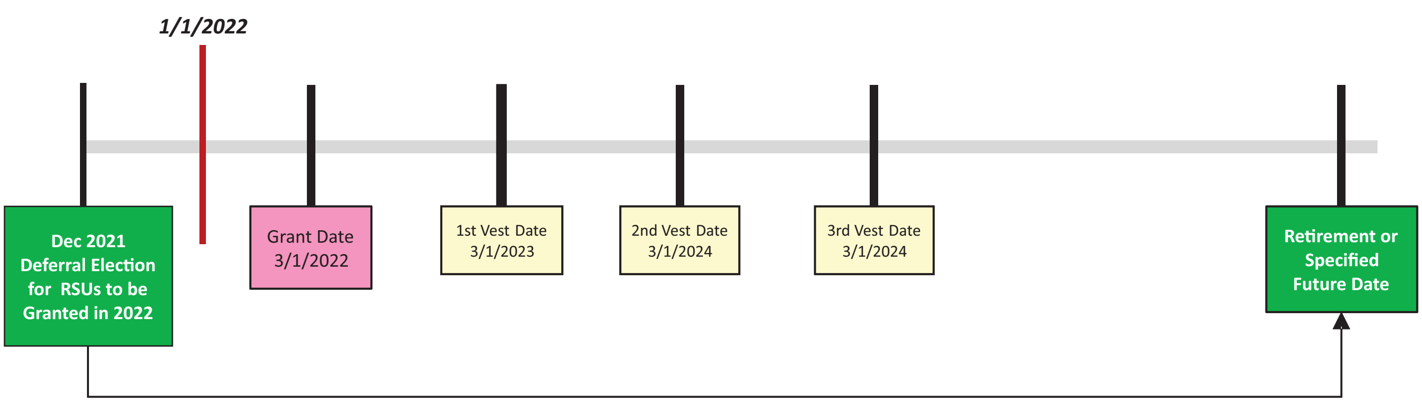
Deferral Election Timing - Introduction

An election to defer income taxes on RSUs beyond the vesting and payment date must be made in compliance with Section 409A, the Code section that deals with the taxation of non-qualified deferred compensation arrangements. The rules are quite specific but allow for a good deal of flexibility as to the timing of a deferral election, and the timing and form of the elected benefit distributions.

The following is an overview of the general deferral election timing rule and a few valuable exceptions to the general rule.

Deferral Election Timing – Time-Vested RSUs: General Rule

- A deferral election must be made in the year before the year of grant, e.g., December 2021 for RSUs to be granted in 2022.
    - A separate election is made for each vesting tranche including: the percentage of the RSUs granted to be deferred, the period of deferral (to retirement or to a specified date), and the form of benefit payments (in a lump sum or in installments).
- Note that the deferral election applies to income taxes (which are deferred until distribution) but not to FICA and Medicare taxes, which are due upon vesting.

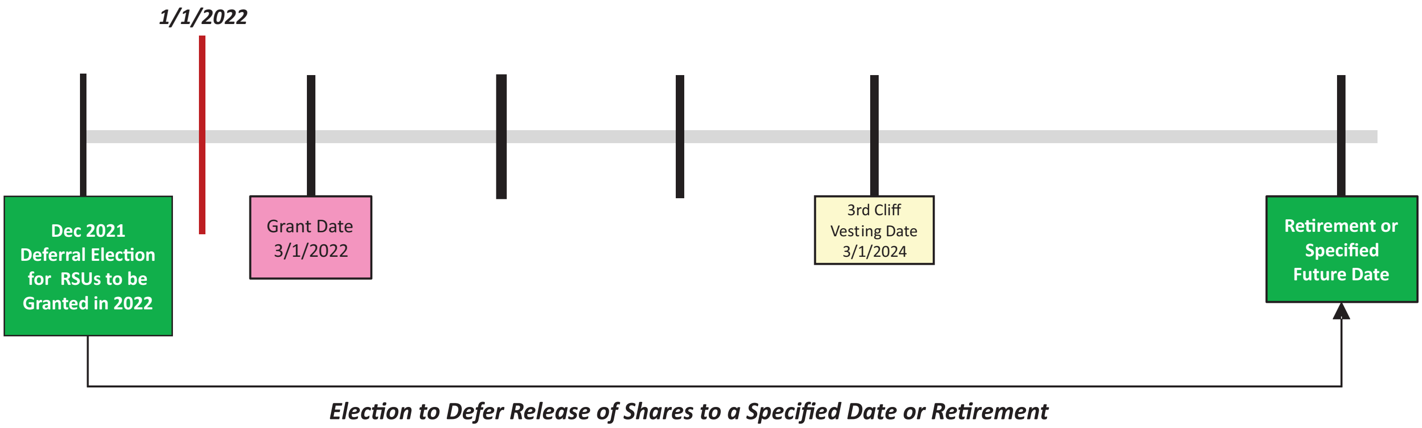


Election to Defer Release of Shares to a Specified Date or Retirement

Part IV: Deferring Restricted Stock Units

Deferral Election Timing – Performance-Based RSUs: General Rule

- Once again, the deferral election must be made in the year before the year of grant as illustrated in the graphic below.



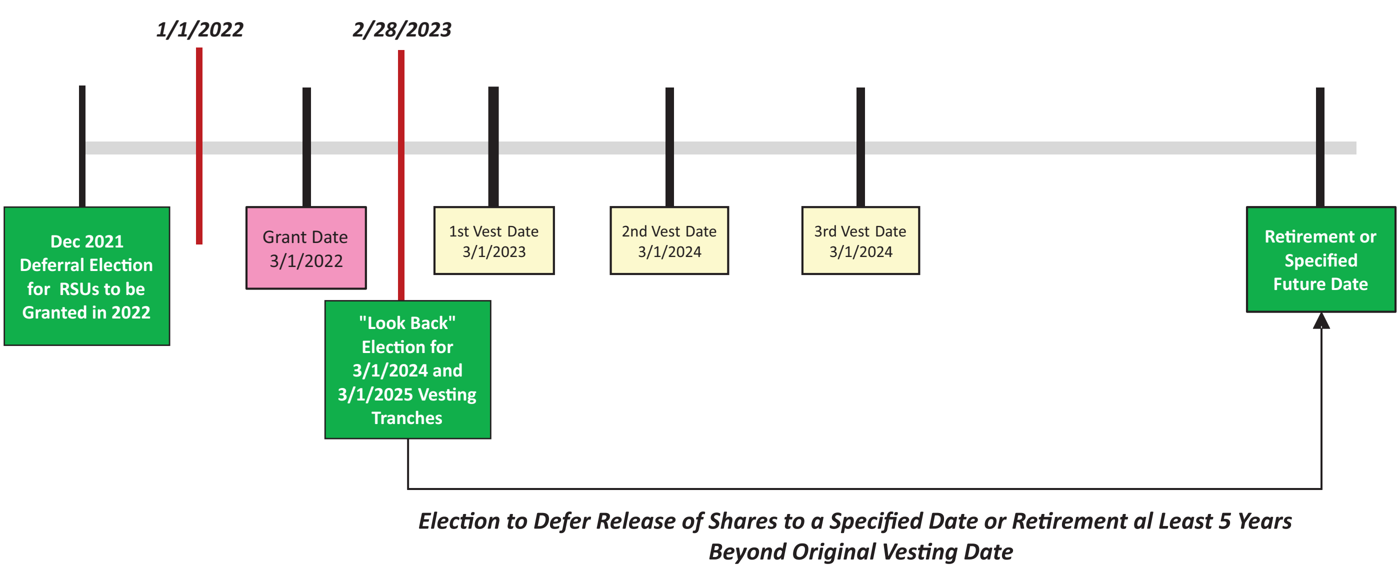
Deferral Election Timing: Exceptions to the General Rule

There are a few important and potentially valuable exceptions to the general rule regarding the timing of deferral elections.

- *12 Month / 5 Year Exception*: Under this exception, it is possible to make deferral election at any time up to 12 months prior to the vesting date as long as the elected distribution date is at least 5 years after the originally scheduled distribution date (upon vesting). This exception is applicable to either time vested or performance vested RSUs.
  - *"Look-back" Deferral Election*. As illustrated in the graphic below, an election to defer RSUs that are part of a vesting traunch that is more than 12 months out, could be made ***after the date of grant***. Once again, this exception to the general rule could be used for either time-vested or performance-vested RSUs.

Example 1: "Look-Back" Deferral Election for Time-Vested RSUs

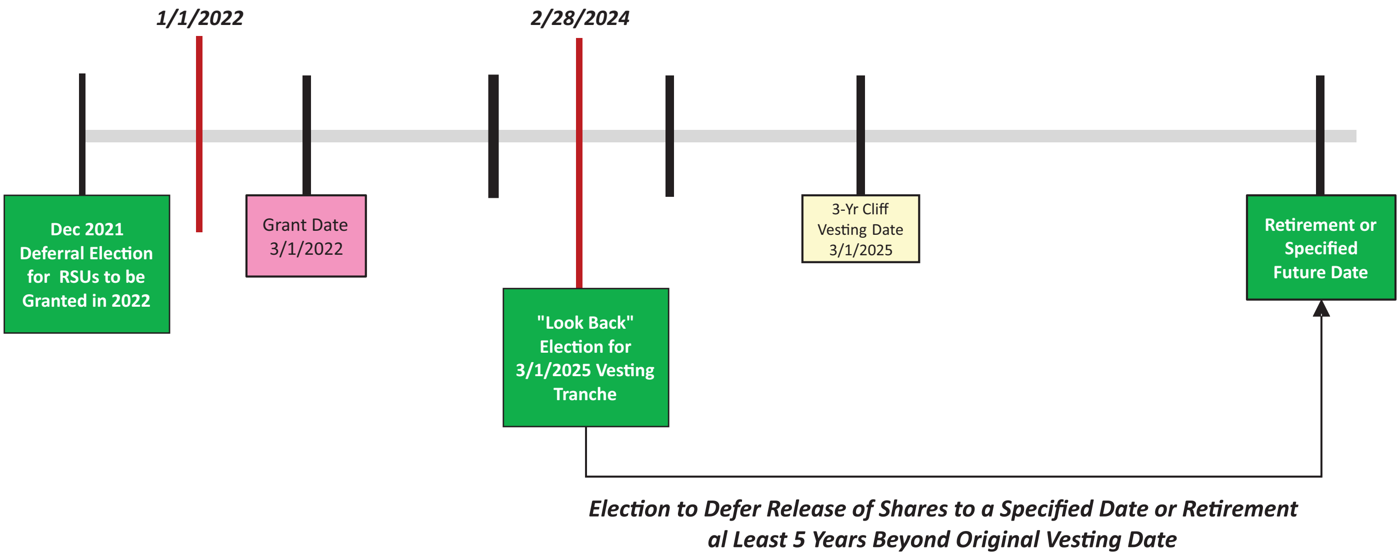
- The graphic below illustrates such a "look-back" election made more that 12 months before the vesting date for the March 1, 2024 and 2025 vesting tranches. Once again, the elected deferral would have to be for minimum of 5 years.



Part IV: Deferring Restricted Stock Units

Example 2: "Look-Back" Deferral Election for Performance-Vested RSUs

- As illustrated below, a deferral election could be made anytime at least 12 months prior to the original cliff vesting / distribution date, as long as the new distribution date is at least 5 years later than the original date.



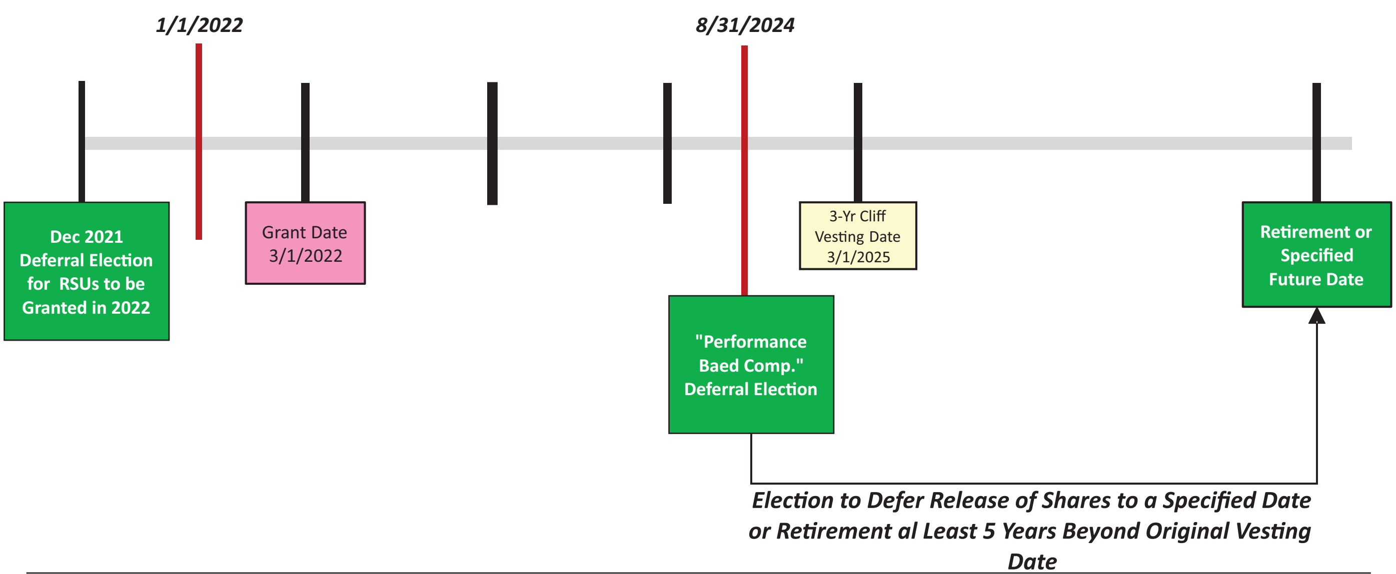
Deferral Election Timing: Exceptions to the General Rule (Cont.)

A second valuable exception to the general deferral election timing rule is for "performance-based compensation" as defined under Section 409A.

- In this case, a deferral election can be made anytime up to 6 months prior to the end of the performance measurement / vesting period if:
  - Vesting is contingent on the attainment of pre-established performance criteria and,
  - The award qualifies as "Performance-Based Compensation" as defined in Section 409A.

Example 3: Deferral Election Timing – Performance-Vested RSUs: "Performance-Based Compensation" Exception to the General Rule

- Assuming the P-V RSUs meet the Section 409A definition of "performance-based" compensation, a deferral election could be made anytime at least 6 months prior to the end of the performance measurement / vesting period.



Part IV: Deferring Restricted Stock Units

Proxy Research / Analysis

EBS has developed a standard process for the review of proxy statements to identify situations where the deferral of RSUs could be of significant value to executives, especially in the case of a “look-back” election for RSUs previously granted.

The following is an example of a report produced by the review process. Note:

- In Column 13 an indication of whether that specific vesting trance is eligible for deferral,
- In Column 15, the market value of the RSUs eligible for deferral and,
- In Column 16, an estimate of the income taxes that would be due upon vesting without a deferral election.

ABC CORP. 9/9/21

Based on Proxy for Fiscal Year Ending December 31, 2020

$ 221.03 *<== Closing Share Price on 06/25/2021*

Original Grant					Outstanding Units		Vesting of Outstanding Units						Potential Deferrals		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11) 12/15/21	(12)	(13) 12/15/21	(14)	(15)	(16)
Grant Date	Grant Type	Original # of Units Granted	Date of Grant Share Price	Date of Grant Market Value	Unvested Units Disclosed in Proxy	Current Market Value	Units Vesting	Current Market Value	Vest Date	Vested as of 12/15/21?	Latest Deadline for Deferral Election	Eligible for Deferral in Dec 2021?	Shares Eligible for Deferral	Market Value of Eligible Shares	Taxes Due Upon Vest @ 37.00%
Dagny Taggert, Chief Executive Officer															
Units Disclosed in Last Proxy That Hadn't Vested as of 12/31/20															
08/01/19	PSUs	48,820	204.85	10,000,777	48,820	10,790,685	48,820	10,790,685	12/31/21	No	12/30/20	No			
08/01/19	RSUs	25,019	204.85	5,125,142	25,019	5,529,950	25,019	5,529,950	06/29/22	No	06/28/21	No			
02/28/20	PSUs	25,920	197.73	5,125,162	25,920	5,729,098	25,920	5,729,098	12/31/22	No	12/30/21	Yes	25,920	5,729,098	(2,119,766)
02/28/20	RSUs	12,960	197.73	2,562,581	12,960	2,864,549	12,960	2,864,549	02/28/23	No	02/27/22	Yes	12,960	2,864,549	(1,059,883)
		112,719		22,813,662	112,719	24,914,281	112,719	24,914,281					38,880	8,593,646	(3,179,649)
Potential Units Granted in 2019 (2)															
02/25/21	PSUs	27,407	187.00	5,125,162	27,407	6,057,831	27,407	6,057,831	02/25/23	No	02/24/22	Yes	27,407	6,057,831	(2,241,398)
02/25/21	RSUs	13,704	187.00	2,562,581	13,704	3,028,916	13,704	3,028,916	02/25/24	No	02/24/23	Yes	13,704	3,028,916	(1,120,699)
		41,111		7,687,742	41,111	9,086,747	41,111	9,086,747					41,111	9,086,747	(3,362,096)
					Total - Including Potential 2021 Grants=>		153,830	34,001,028					79,991	17,680,393	(6,541,746)

***Notes:**

 # For the 8/1/2019 one-time integration PSU grant, the maximum payout reported as unearned was used in the analysis; and for the 2/28/2020 grant for the 2020-2022 performance period, the target payout was used.

 # For illustrative purposes, the total reported for RSUs and Restricted Stock Awards were shown as RSUs.

 # For illustrative purposes, it was assumed that ABC Corp. granted PSUs and RSUs similar in value to that awarded in 2020.

In Summary

First, from a plan design standpoint, it may be possible to structure a non-qualified deferred compensation plan that could significantly enhance the value of the total rewards package for senior executives by permitting the voluntary deferral and (subject to specific requirements) diversification of RSUs deferred.

Secondly, it is essential that such a plan be managed professionally on an on-going basis by a firm that understands the nuances of the non-qualified deferred compensation tax rules, and stock plan administration. For example, as noted above, the opportunity for a “look-back” election to defer RSUs previously granted could potentially generate significant tax savings with respect to RSUs grants made in the past, such as the receipt of a signing bonus in the form of a significant RSU grant.

If you are interested in having EBS complete a review of the company's proxy statement to identify the potential value of RSU deferral and diversification or if the company currently sponsors a non-qualified deferred compensation program that doesn't offer this feature, please contact one of the firm's Managing Directors and we would be glad to set up an exploratory call.

Caveat

EBS is an executive benefit consulting firm. It does not provide accounting or tax advice. The tax and accounting treatment described above for the deferral and diversification of RSUs is based on the firm's experience working with its clients and their advisors on similar plan designs.

EBS Executive Benefit Solutions

EBS is an independent executive benefits consulting firm which provides total plan management services with respect to programs specifically designed for key employees and professionals. Those services include:

- Consulting with respect to plan design,
- The structuring of related financing and benefit security arrangements,
- The design and management of the participant communication, education and enrollment processes,
- Management of any informal funding assets and,
- On-going plan administration and technical support.

More information about the firm can be found at: www.executivebenefitsolutions.com.

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