

High Flying Equity Programs

Internal Issues for Private & Public Companies

Purpose of Equity Plan: Why have a plan? Simply keeping track of investors? Motivate employees?

Documents: Company must be incorporated & have formal documents for all equity programs

Policies & Procedures are critical for an expanding company so that nothing is overlooked, delayed or incorrect. SEC, IRS, SOX, FASB, International compliance are all critical

Software: With more than 10 investors or employees a comprehensive software program is essential

Board of Directors approves equity programs and equity awards

Taxation – Employees' withholding must be done for transactions on certain option exercises & reported timely to appropriate agencies

Accounting: Expensing for options needs to be reported regularly in company financials

Human Resources: HR is instrumental in determining the individual equity awards for employees

Employee Education is vital to achieve the purpose of the Plan & ensures employees benefit from these valuable programs

International Issues: investors and/or employees with equity add another layer of complexity

Legal oversees equity documents, insider trading policy & Section 16 reporting to the SEC

Payroll works with Equity Programs to report W-2 income for option exercises & restricted stock

Auditors: As the company grows, internal & external auditors get involved

Mergers & Acquisitions: Accurate, up to date, complete data is essential for a smooth transition

Public Companies have these added complexities:

Brokers & Transfer Agents are chosen before an IPO & are critical for smooth operation when employees exercise their options or sell company shares purchased through the ESPP

Employee Stock Purchase Program (**ESPP**) enables employees to purchase company shares at a discount.

Outside Influences – Private and Public Companies have no control over these but they have a major impact on your programs

Internal Revenue Service (**IRS**): taxation of employees whenever they benefit from company stock

Securities & Exchange Commission (**SEC**) Regulates equity programs, requiring certain timely filings

Sarbanes Oxley (**SOX**) Stringent policies & procedures required for financial reporting

FASB determines accounting requirements for the financial reporting of equity plans

International Issues include security filings, accounting, taxation by each country involved

Competitor's Programs: Employees know what other companies are giving their employees

Taxation Entities: Federal, State, and local tax authorities have stringent reporting rules

* Blue is required by all companies; Green is required by public companies.

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