Blogs
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The Tricky World of Reporting Stock-Settled RSUs on Form 4s

Not too many choices exist in the technical world of Form 4 reporting. But there is a choice to be made for reporting grants of *stock-settled, time-based* restricted stock units (RSUs). For Section 16 nerds like me, this is as thrilling as it gets. These grants can be reported on a Form 4 in either Table I as an acquisition of common stock (even though still subject to vesting) or in Table II where derivative securities are reported. Practices vary by companies. From time to time, in-house counsel may be asked by their Section 16 insiders about why the company reports its RSUs in the manner selected. Let's dig into the nerdy stuff: To report RSUs in Table II of Form 4:

- Report the grant in Table II and footnote the vesting schedule.
- On each later vest date, report in Table II the conversion of the RSUs into underlying shares.
- On each later vest date, also report in Table I the acquisition of the underlying shares.

To report RSUs in Table I of Form 4:

- Report the grant in Table I. Footnote about vesting is not required but can be included.
- No later reporting on each vest date is required.

But in either case, shares withheld for taxes or sold to cover taxes need to be reported as a separate line-item in Table I. The insider can't report the net shares received if reporting vesting in Table I. For this reason, some companies will decide to report RSU grants in Table II if they know they've got a tax transaction coming up later to report at vesting at any rate. For RSU grants reported in Table I, the entire number of shares shows up as beneficially owned by the insider. Whoa! Here's where you can really help out your insider so they don't suffer a heart attack. Explain to them so they understand that shares are not being over-reported for them on their Form 4s. Incidentally, this also means the number of shares reported as beneficially owned in the company's proxy statement may not match the Form 4, Table I report - which could also be the case for other reasons. There really is no right answer when faced with this choice. You - and your insider - may have a preference for doing it one way over another as part of your internal Section 16 compliance program. You can even switch methods of reporting after reporting it one way at any time. You're not locked in just because your insider initially reported it a particular way. It's important to note that these alternatives don't apply to RSUs that can be settled in cash instead of stock - which is a minority practice - or to performance RSUs where performance is based on metrics besides the company's stock price. Those are subject to different reporting rules. And a tale for another day.

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