

Navigating the Complexities of Restricted Stock Units in Illinois Divorces

Restricted Stock Units (RSUs) have become a common form of employee compensation, offering a mix of incentives and rewards. However, their treatment in divorce proceedings, particularly in Illinois, presents unique challenges. Understanding their classification as marital or non-marital property is crucial for equitable distribution under Illinois law.

Understanding RSUs

RSUs are compensation offered by employers, granting employees the right to receive company shares upon meeting specific conditions, such as continued employment. They serve to both incentivize retention and reward employee service.

Classifying RSUs in Divorce

In Illinois, the classification of RSUs as marital or non-marital property hinges on the timing of the grant and the purpose they serve. Illinois courts, guided by the Illinois Marriage and Dissolution of Marriage Act (IMDMA), assess whether RSUs granted during the marriage are intended to reward past work or incentivize future performance.

1. **RSUs Acquired During Marriage:** Generally considered marital property if they compensate for work performed during the marriage. This includes both vested and unvested units.
2. **RSUs Acquired Before Marriage:** Require analysis to determine if they compensate for pre-marital work or future services. Portions attributable to pre-marital work may be deemed separate property.
3. **RSUs Acquired After Separation:** Assets acquired from the filing of divorce until dissolution, including RSUs, are often marital property if tied to work done during the marriage. However, RSUs vesting post-separation may be separate property if primarily compensating for future work.

Statutory Framework and Case Law

Under the IMDMA, property acquired by either spouse during the marriage is presumed to be marital property unless proven otherwise. The burden of proof lies with the party claiming that the RSUs are non-marital property. Illinois courts utilize key cases to guide their decisions:

1. *In re Marriage of Evans:* Recognized unvested stock options as marital property if they compensated for marital efforts, setting a precedent for similar compensation types.
2. *In Re Marriage of Frederick:* Introduced the coverture fraction method to determine the marital portion of stock options, reflecting the time married during the vesting period.
3. *In Re Marriage of Peters:* Utilized a reserved jurisdiction approach for unvested stock-related compensation, ensuring division reflects the marital portion once realized.

Applying the Coverture Fraction

The coverture fraction helps allocate the value of RSUs between marital and non-marital property. It's calculated using the time from the date of marriage to the date of separation relative to the total period from the grant to vesting. This method ensures a fair division based on the marital period.

Practical Considerations

To ensure RSUs are accurately evaluated and equitably divided, legal professionals should:

1. Review RSU agreements and employment contracts.
2. Analyze the grant and vesting timeline.
3. Determine whether RSUs compensate for work during the marriage.
4. Apply the coverture fraction if appropriate.

Conclusion

The treatment of RSUs in Illinois divorces significantly impacts financial outcomes. Accurate classification and valuation are essential for a fair settlement. Legal professionals must diligently evaluate RSUs to protect client interests and ensure equitable distribution according to Illinois law.

Understanding these complexities is vital for anyone navigating divorce proceedings involving RSUs, ensuring fair treatment and financial security for both parties.