

DIVORCE FINANCIAL ADVISING UPDATE

October 2017



Thea Glazer,
CFP®, CDFA™
MS Accounting
Trained in
Collaborative Divorce

Offices in San Diego
and Laguna Hills, CA

Very Important Special Retirement Provisions in Some Stock Option and Restricted Stock Plans

In many company equity compensation plans, I am seeing special provisions relating to the vesting of stock options, restricted stock units and other forms of equity compensation after retirement. What these provisions do is to allow stock options, RSUs, etc. to vest even after the employee retires and leaves the company.

Q: What qualifies an employee for this continued vesting?

A:

- The employee cannot be leaving the company “for cause”, meaning the employee cannot have been fired. Each plan defines retirement.
- **There is an age and length of service (LOS) requirement.** All the plans I have seen define retirement as the employee having attained a particular age (usually ranging from 55 to 65) and having a length of service with the company of a certain number of years (usually 5 or 10). Rule of thumb: younger the age, longer the length of service requirement. Age 55 with 10 years of service is very common.

Q: How does this impact the apportionment between community and separate shares?

A: Since the employee does not need to remain at the company after he/she meets age and length of service requirements, there is no risk of forfeiture once age and LOS are met. That means the vesting date is accelerated to the date when both requirements are met. As the vesting is accelerated, the community will have a larger share of the grants that were not yet vested as of date of separation.

In order to actually exercise options or obtain released shares, the original vesting schedule is still followed even though the employee is not at the company. The acceleration is just used to apportion the CP and SP shares.

Q: What impact does this have in division of assets?

A: The community will get more shares. How many depends on age of employee, length of service and date of separation. What looks like a very generous provision that the employer implemented for its employees often turns out to negatively impact them in a divorce situation.

Have questions? Need help? Give me a call or e-mail me.