



Employee Equity Compensation
United States Practice and Law
员工股权薪酬
美国的实践和法律

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Reasons why equity compensation is so popular

股权薪酬为什么被普遍采用？

- ◆ By making employees part-owners, the interests of both employer and employee are aligned.
使雇员成为企业部分资产的拥有者，雇主和雇员的利益就会一致。
- ◆ Using equity as a form of compensation conserves cash which can be used to grow the business.
采用股权来支付薪酬可以将节省下来的现金用于公司的发展。
- ◆ Tax incentives for both employer and employee.
为雇主和雇员提供税收福利。
- ◆ Highly skilled employees demand equity ownership as a condition of accepting employment.
高级技术员工以拥有公司股份作为接受雇佣的条件。

Forms of Equity Compensation

股权薪酬的形式

- ◆ Stock Options – The right to purchase shares of stock in the future at the value of the shares today.
股票期权– 在将来以现在价格购买股票的权利。
 - Most popular form in the US, due to familiarity and tax incentives.
这种方式为人所熟悉，并有税收优惠，所以是美国最常见的股权薪酬方式。
- ◆ Restricted Stock – An outright award of shares of stock.
限制性股票 – 一次性股份馈赠
 - **Somewhat less popular right now than stock options, but becoming more popular.**
目前比股票期权要少见，但正在普遍应用起来。

Legal Structure

法律结构

- ◆ **Two Main Components:** 两个主要组成部分:
- ◆ **The Equity Compensation Plan:** 股权薪酬计划
 - **Adopted by the Board of Directors and Stockholders to govern all equity compensation awards.**
由董事会及股东们制定，作为建构所有股权薪酬的依据。
 - **Subjects include eligibility, procedure, etc.**
计划内容包括资格，程序等等
 - **Reserves percentage of company equity to be granted to employees – typically 10-20%.**
保留一定比例的公司股权，通常是**10-20%**，用来赠予员工。
- ◆ **The Equity Compensation Award** 股权薪酬奖励
 - **Adopted by Board of Directors for each individual employee** 董事会制定，用于奖励单个雇员

Equity Compensation Rewards Employees for Future Growth

股权激励激励推动企业的未来发展 (1)

- ◆ **Usually, equity compensation is designed to reward employees only if value of company increases in future.**
股权激励通常意味着员工只有在公司增值时才能得到奖励。
- ◆ **The exercise price of stock options is set at fair market value on the date of grant; unless value of stock appreciates, option has no value.**
股票期权的行权价是在股份授予当天的公平市场价格；除非股票增值，否则期权没有价值。

Equity Compensation Rewards Employees for Future Growth

股权薪酬激励推动企业的未来发展 (2)

- ◆ **Similarly, restricted stock usually has little or no value on the date of grant.**
同样，限制性股票在授予的当天通常只有很少价值的或毫无价值。
- ◆ **Employee will be rewarded if company is sold or has initial public offering at a value greater than exercise or grant price, but not otherwise.**
只有在公司出售，或首次公开上市价格高于行权价或授予价，员工才会得到奖励。

Equity Compensation Can Reward Employees for Loyalty

股权薪酬促进员工对企业的忠诚

- ◆ **Usually, awards provide for a vesting period during which options or shares are “earned”, but only if employee remains at the company during this period.**
物质奖励通常有一个授予期，在授予期内，员工可以“赢得”期权或股份，但前提是员工在授予其内不得离开公司。

Equity Compensation Can Reward Employees for Loyalty

股权激励促进员工对企业的忠诚

- ◆ **It is common to have a four year vesting period:**
授予期通常为四年：
 - **For example, an option to purchase 100 shares may “vest” 25% each year, such that at the end of one year the employee has the right to purchase 25 shares, at the end of two years 50 shares, etc. until all 100 shares are vested.**
例如，一个可以购买100股的期权可能每年“授予”25%，所以员工在每年终可以购买25股，每两年可以购买50股，直到100股全部授予。
- ◆ **It is also common to provide that if the company is sold or has an initial public offering prior to the end of the vesting period, all unvested shares will automatically vest.**
同样常见的是如果公司出售或者在授予期结束之前公开上市，所有尚未授予的股份都会自动授予。

Equity Compensation Can Reward Employees for Performance

股权薪酬奖励员工的业绩

- ◆ **All or a portion of the options or shares granted may become exercisable upon the attainment of financial or business goals of the employer.**
在雇主财务或经营上的目标达到后，全部或部分期权或股票会变为可购股权（可行使股权）。
- ◆ **For example, half of the options awarded to an employee may vest over time, and half may vest if the company meets its earnings goals for each of the next four years.**
比如，奖励给某一个员工的期权的一半可以在规定的授予期到期时授予，而另外一半在今后四年中的任何一年盈利目标达到时就会授予。
- ◆ **This feature allows great flexibility to the Board of Directors to motivate employees to meet the goals that it considers most important – for example, sales may be more important than earnings, so vesting may be based on sales.**
这一特点给予董事会很大的灵活性去激励员工去实现董事会所认为的最重要的商业目标 - 比如，当销售比盈利更重要时，股权授予会以销售指标的达到为依据。

U.S. Tax Law Encourages Equity Compensation

美国税法鼓励股权薪酬

- ◆ **With just a few exceptions, employees do not pay taxes on the equity compensation which they receive at the time that they obtain awards, only when they sell the shares received.**
一般情况下员工在接受股权薪酬的时候不必缴税，只有在出售股份时才需要付税。
- ◆ **In the U.S., proceeds from the sale of a business are capital gains and are currently taxed at 15% rate, whereas ordinary salary income is taxed at a top rate of approximately 40%.**
在美国，公司出售所带来的收益是应纳税资本收入，现在的税率是15%，而通常工资收入的税率可能高达40%。
- ◆ **Gains from the sale of equity held by an employee are therefore taxed much more lightly than salary.**
所以，员工手中靠出售股权所获得的收益要比工资所缴税少得多。

-Example Hycrete

- ◆ Total Pool for Management: 20%
- ◆ CEO 5%
- ◆ 4 Top Executives: 10%
 - 2.5% for each of
 - Chief Financial Officer
 - Vice President of Sales
 - Chief Scientist
 - Vice President of Operations

- ◆ 10 Sales Persons 5%
 - 0.5% each

Example: Dan-Loc

- ◆ Total Pool: 15%
- ◆ 7.5% vest over 4 years
- ◆ 7.5% vest over 4 years but only if earnings goals are met each year.
- ◆ At exit, if investors realize a rate of return (IRR) of 30%, all unvested options vest,
- ◆ If IRR is between 20% and 30%, a pro rata portion of options vest.

Summary

总结

- ◆ **In the United States, equity compensation is a very popular means of aligning the interests of employers with employees.**
在美国，股权薪酬是普遍应用的将雇主和雇员利益统一起来的方式。
- ◆ **Equity compensation is encouraged by U.S. tax and other laws.**
股权薪酬同时也在税收和其他相关法律上为雇员带来利益。
- ◆ **For more information, please contact me at dbroderick@mccarter.com.**
如需要更多这方面的信息，请与演讲者联系
dbroderick@mccarter.com.