Get Me to the Church On Time
(AKA, Get my RSU Taxes to the IRS On Time)

Just when you thought you had your stock plan tax withholding under control, another IRS tax headache seems to be getting more limelight: meeting the requirements of the "next business day" remissions of taxes when your cumulative corporate tax liability exceeds $100,000.
RSU releases are the most common type of event to trigger the need for this lightning-fast remission of funds, since often a spate of RSUs are released on a single day and there is no three-day "grace period" as there is for NQ option same-day sales.

And what are the penalties for non-compliance? I've heard one stock plan professional tell horror stories of a former employer where they were fined into the 8 figure range. Ouch.

But can you get these taxes remitted on time? How on earth can you get the market value for the day (usually after market close), process your (sometime colossal) RSU release, audit it, and get your release data to payroll all before the window of time for payroll processing closes (often 8pm ET/5pm PT or earlier[1])?

Generally, you can't. That's why more and more companies are using an estimate process to get the required funds to the IRS within the microscopic timeframe and then doing a true up, if needed, as soon after the release as possible.

So how does the estimate process work?

There are a couple of different approaches of which we're aware:

Early Estimate Base your estimates on a "To Be Released" report that your stock plan system produces. Some systems call this the "Shares Subject to Release" report, though names vary across the platforms in our industry. This report can generally be produced several days, or even weeks in advance to allow you to plan ahead and submit taxes early. If you choose to use this approach, you simply export the report to a spreadsheet, add a field for market value, multiply shares by market value for estimated gain, and multiply by 25% for most participants' Federal tax rate. (For those who are likely to be at a different Federal tax rate, such as 35%, you can flag them as such). Put the report into a format that your payroll system can import (leaving columns for non-Federal taxes blank) and send off to payroll! Your taxes will be in on time! Remember to use a slightly inflated market value when producing your estimate file, you don't want to underestimate/underpay your IRS liability.
Pre-Reconciliation "Actuals" Wait until the day of the Vesting event, process the release, entering the market value and letting the system calculate the taxes (including the 25% vs. 35% Federal split for anyone impacted). Then, do a couple of very quick reconciliations, but not the full spate you have planned. Export the report you normally send to payroll, do the required reformatting for payroll's format and again...away you go!

Both of these approaches will generally require that you perform a true up once you have finished reconciling your release. Simply create your standard payroll export and vlookup() to pull in the data from the original file, create another column with the difference, and send only the difference to payroll. (For example, if the estimate file had $102 as the Federal tax amount and the actual file ends up with only $100, the true up file will contain a -$2 to true up to the correct amount.)

Automation Possibilities

Keep in mind that this estimate/true up process can also be automated to save you time and reduce risk. If you are using an in-house software that leverages Crystal Reports as its reporting engine, consider creating custom reports for both the estimate and true up files.

If you are outsourced, talk to your provider about their report customization capabilities, or think about exporting the data to a spreadsheet and then using MS Access to do the heavy lifting, calculations, and reformatting. Letting a query do the work for you will not only reduce the chance of error but will save you time and help you speed through your SOX audit.

[1]Deadlines for payroll submissions vary widely between payroll providers and also vary if this is a 'special run' vs. a standard run.

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About Stock & Option Solutions

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