

IRS Issues Memorandum Providing Guidance on Income Inclusion, FICA, and Income Tax Withholding for Stock-Settled Equity Awards

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The IRS recently issued Generic Legal Advice Memorandum No. AM 2020-004 (the “**GLAM**”) to address when income from nonqualified stock options, stock-settled stock appreciation rights, and stock-settled restricted stock units is (i) includable in an employee’s gross income, (ii) subject to FICA taxes, and (iii) subject to federal income tax withholding. In addition, the GLAM provides a discussion of the deposit rules for FICA and income tax withholdings that have been withheld with respect to such equity awards, including the “One-Day” rule (or the Next-Day Deposit Rule) that requires employers to deposit employment taxes on the next banking day after \$100,000 or more in employment taxes have been accumulated. The GLAM provides a series of illustrative examples and analyses of such issues. The GLAM does not, however, address the impact of an employer’s ability to defer employment tax deposits under Section 2302 of the Coronavirus, Aid, Relief and Economic Security Act (the CARES Act) for the period of March 27, 2020 through December 31, 2020. The GLAM can be found [here](#).