

Reminder of Annual Reporting and IRS Filing for ISO Exercises and ESPP Stock Transfers

November 8, 2019

This is a reminder for sponsors of equity incentive plans and tax-qualified employee stock purchase plans (ESPPs) of their year-end information reporting requirements under Section 6039 of the Internal Revenue Code with respect to stock issued to employees or former employees upon the exercise of incentive stock options (ISO) or transferred under an ESPP. The IRS has issued two forms that companies must use to satisfy the return and information statement requirements: (i) Form 3921, which is required when an employee (or former employee) exercises an ISO, and (ii) Form 3922, which is required when a company records the first transfer of legal title of shares acquired under an ESPP when either (a) the purchase price of the shares was less than the stock's fair market value on the date of grant or (b) the purchase price of the shares was not fixed or determinable on the date of grant. For ISO exercises and ESPP transfers occurring in calendar year 2019, companies must file the applicable forms with the IRS no later than February 28, 2020 for paper filers, and no later than April 1, 2020 for electronic filers (electronic filing is required if the company will file 250 or more forms). Companies must also provide the employees (or former employees) the information statements (Copy B of the applicable form) no later than January 31, 2020. The failure to timely furnish the information statements or to timely file the information returns can result in penalties to the company, including fines for each deficient statement or return.

Instructions and IRS Forms 3921 and 3922 are available [here](#).