

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

December 13, 2022

PRACTICES ESOPs and Other Stock-Based Plans, Employee Benefits and Executive Compensation

Employers sponsoring equity incentive plans or tax-qualified employee stock purchase plans ("**ESPP**") must fulfill certain year-end information reporting requirements under Section 6039 of the Code with respect to company stock that is either (i) issued to current or former employees upon exercise of an incentive stock option ("**ISO**"), or (ii) transferred under an ESPP. The two IRS forms used to satisfy those requirements are:

- Form 3921, which is required when an individual exercises an ISO.
- Form 3922, which is required when an individual acquires stock under an ESPP when either the purchase price of the shares (i) was less than the stock's fair market value on the date of grant, or (ii) was not fixed or determinable on the date of grant.

For ISO exercises and ESPP transfers occurring in the 2022 calendar year, employers should file Copy A of the applicable forms with the IRS no later than February 28, 2023 for paper filers (March 31, 2023 for electronic filers). Copy B of the forms should be distributed to affected individuals no later than January 31, 2023. Failure to timely file or distribute Forms 3921 or 3922 can result in penalties being imposed on the employer, including penalties for each untimely or deficient Form 3921 or Form 3922.

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