



## News & Trending

PUBLICATIONS & ALERTS

### FEBRUARY 2, 2015 DEADLINES FOR REPORTING 2014 ISO EXERCISES AND ESPP TRANSFERS

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Employers should be sure they are ready to comply with the fast-approaching deadlines for reporting 2014 incentive stock option (ISO) exercises and certain employee stock purchase plan (ESPP) transfers under Section 6039 of the Internal Revenue Code of 1986 (the “Code”).

Code Section 6039 imposes two reporting obligations on employers with employees (or former employees) exercising ISOs.

1. Employers must provide optionees with an “employee information statement” by January 31 of the following calendar year for each ISO exercise. The deadline is delayed until **Monday, February 2, 2015** for 2014 ISO exercises, since January 31 falls on a Saturday this year.
2. Employers must report each ISO exercise to the IRS on Form 3921. The deadline for filing Form 3921 with the IRS for 2014 ISO exercises is **Monday, March 2, 2015** for employers filing paper copies (since February 28 falls on Saturday). For employers required to file Form 3921 electronically—generally required of all employers reporting 250 or more transactions in a single year—the filing deadline is **Tuesday, March 31, 2015**.

Under the applicable IRS rules, each ISO exercise is considered a separate transaction for reporting purposes and must be reported to the IRS on a separate Form 3921. Please note that exercises of nonqualified stock options (NSOs) are not required to be reported on Form 3921. NSO gains should instead generally be reported as taxable income on an optionee’s 2014 Form W-2 (for employees) or Form 1099-MISC (for directors and consultants), as applicable.

Employers who sponsor tax-qualified ESPPs permitting employees to purchase shares at a discount (or at a purchase price not fixed and determinable on the grant date) are subject to similar employee information statement and IRS reporting requirements under Code Section 6039. In particular, employers sponsoring ESPPs are required to report the transfer of legal title to ESPP shares on Form 3922. The deadline for filing Form 3922 with the IRS for ESPP shares first transferred in 2014 is **Monday, March 2, 2015**. Employers are required to provide employee information statements for ESPP purchases to participants by **February 2, 2015**.

The employee information statement requirements may be satisfied by providing individuals with “Copy B” of each Form 3921 (ISO exercises) or Form 3922 (ESPP purchases). Alternatively, employers may satisfy the information statement requirement by use of a substitute form that complies with the general format and content requirements detailed in IRS Publication 1179. Links to copies of [Form 3921](#), [Form 3922](#), [Instructions to Forms 3921 & 3922](#), and [IRS Publication 1179](#) (included in Rev. Proc. 2012-38) are available on the [IRS website](#). (Note: sample copies of the forms available on the website are for informational purposes only. Official

forms for filing may be ordered from the website or by calling 1-800-TAX-FORM.)

## Penalty for failure to file timely

Employers who fail to timely file Form 3921 or Form 3922 may be subject to penalties up to \$100 per return (with a maximum aggregate penalty of \$1,500,000 per calendar year). Failure to timely provide employee information statements may also result in up to a \$100 penalty for each failure (with a maximum aggregate penalty of \$1,500,000 per calendar year). **Employers who are unable to meet the IRS filing deadline may generally obtain a 30-day extension for filing Forms 3921 / 3922 with the IRS** by completing and filing **Form 8809** (Application for Extension of Time to File Information Returns) with the IRS by the regular due date for the forms.

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