

ISOs and ESPPs—Annual Notice Deadline Approaching

Companies that grant incentive stock options (ISOs) are required to provide information to any current or former employee who exercised an ISO during the preceding calendar year. The deadline for providing this information for 2009 reportable events, subject to possible extension, is February 1, 2010.

A similar notice, with the same deadline and with some exceptions, must be given to employees or former employees who transfer title to stock (for example, into a brokerage account, or to a purchaser) acquired under an employee stock purchase plan qualifying under Code § 423 (an ESPP).

The list of required information noted below reflects final regulations issued in 2009, which by their terms also call for the use of printed forms that have not yet been finalized. For 2009 only, companies may also satisfy the information-statement requirement of the regulations by reference to earlier guidance (described in [Ropes & Gray's 2009 Alert](#) on this topic).

For ISO exercises, the notice under the final regulations must include the following information:

1. Name, address, and employer identification number (EIN) of the corporation transferring the stock.
2. Name, address, and EIN of the corporation whose stock was transferred (if different).
3. Name, address, and identifying number of the person to whom the stock was transferred (upon exercise).
4. Date the ISO was granted.
5. Per-share exercise price.
6. Date the ISO was exercised.
7. Fair market value of a share of stock on the exercise date.
8. Number of shares transferred upon exercise.

For ESPP stock transfers, the notice under the final regulations must include the following information:

1. Name, address, and identifying number of the transferor.
2. Name, address, and EIN of the corporation whose stock is being transferred.
3. Date the option was granted.
4. Fair market value of the stock on the date of grant.
5. Actual per-share exercise price.
6. Per-share exercise price determined as if the option were exercised on the date of grant (to be included if the option price was not fixed or determinable at that time).

7. Date of exercise.
8. Fair market value of the stock on the date of exercise.
9. Date legal title of the shares was transferred by the transferor.
10. Number of shares transferred by the transferor.

For additional information, please feel free to contact any member of Ropes & Gray's Tax & Benefits Department.