

Separate Reporting of Nonstatutory Stock Option Income in Box 12 of the Form W-2, Using Code V, Mandatory for Year 2003

Announcement 2002-108

I. PURPOSE

This announcement reminds taxpayers that as provided in Announcement 2001-92, 2001-2 C.B. 301, the reporting of compensation resulting from employer-provided nonstatutory stock options in box 12 of the Form W-2, using Code V, is mandatory for Forms W-2 issued for the year 2003 and subsequent years. This announcement is consistent with the 2003 Form W-2 and its instructions that the Service intends to publish near the same time as the publication of this announcement.

II. BACKGROUND

When an employee (or former employee) exercises nonstatutory stock options, employers are required to report the excess of the fair market value of the stock received upon exercise of the option over the amount paid for that stock. That amount is reported on Form W-2 in boxes 1, 3 (up to the social security wage base), and 5.

Announcement 2000-97, 2000-2 C.B. 557, advised employers that, beginning for 2001 Forms W-2, income from the exercise of nonstatutory stock options would also be required to be reported in box 12 and identified by a new code, Code V — Income from the exercise of nonstatutory stock options.

In response to employer concerns, Announcement 2001-7, 2001-1 C.B. 357, subsequently provided the relief that the use of Code V would be optional for the 2001 Forms W-2. Announcement 2001-92 extended the relief so that the use of Code V would be optional for the 2002 Forms W-2.

Announcement 2001-92 further requested public comment and suggestions regarding potential methods that would enable more efficient and cost effective means of collecting the information that would be reported using Code V. Specifically, Announcement 2001-92 requested proposals for better and less burdensome methods of collecting the information about employee income that arises from the exercise of nonstatutory stock options, including information about the presence and amount of nonstatutory stock option income on an employee (or former employee) basis. Announcement 2001-92 noted that absent further guidance, the Code V reporting requirement would be mandatory for 2003 Forms W-2.

III. FORM W-2, CODE V REPORTING MANDATORY FOR 2003 FORMS W-2

Treasury and the Service determined that none of the alternatives suggested in the comments received would provide complete and accurate information of the type that will be reported through the use of Code V. Accordingly, consistent with Announcement 2001-92, the reporting of compensation resulting from employer-provided nonstatutory stock options in box 12 of the Form W-2, using Code V, is mandatory for Forms W-2 issued for the year 2003 and subsequent years in accordance with the Form W-2 and its instructions.

IV. DRAFTING INFORMATION

The principal author of this announcement is Stephen Tackney of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this announcement, contact Stephen Tackney at (202) 622-6040 (not a toll-free number).