

New Code Z for the 2005 Form W-2, Box 12

Announcement 2005-5

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| Purpose | The purpose of this announcement is to advise employers about an additional code for use on the 2005 Form W-2. Similar reporting is required on Form 1099-MISC for nonemployees. This code and other reporting will be used to identify income recognized due to participation in a nonqualified deferred compensation plan that fails to meet the requirements of Internal Revenue Code section 409A that was added by section 885 of the American Jobs Creation Act of 2004. This income is subject to an additional tax and interest imposed on the individual. |
| Reporting of Income Recognized Under a Nonqualified Deferred Compensation Plan | <p>A new code (Code Z-Income under section 409A on a nonqualified deferred compensation plan), for use in box 12 on the 2005 Form W-2, has been added to the 2005 Form W-2 and the Instructions for Forms W-2 and W-3.</p> <p>Employers must use code Z in box 12 of Form W-2 to report the income shown in box 1 that relates to the recognition of income due to participation in a nonqualified deferred compensation plan that fails to meet the requirements of section 409A.</p> <p>Report income recognized under section 409A for nonemployees both in box 7 and in box 15b of Form 1099-MISC.</p> |
| No Change to Reporting of Social Security and Medicare Wages | Social security and Medicare wage reporting was not changed by section 409A. Nonqualified deferred compensation for employees is generally subject to social security and Medicare taxes when the related services are performed. However, the taxability of wages for social security and Medicare purposes is delayed during the period when an employee's right to receive payment of the wages is subject to a substantial risk of forfeiture. Employers should continue to report social security and Medicare wages from nonqualified deferred compensation plans in boxes 3, 5, and 11 of Form W-2, as appropriate. |
| Related Reporting | As provided by Internal Revenue Code sections 6051(a)(13) and 6041(g), applicable persons must report employee and nonemployee income deferrals under a nonqualified deferred compensation plan using code Y in box 12 of Form W-2 or in box 15a of Form 1099-MISC respectively. Report deferrals in box 12 or in box 15a even if the payee must recognize income under section 409A during the same year. |
