

Advisory Opinion: Unemployment insurance treatment of nonqualified stock options

Subject: Unemployment insurance treatment of nonqualified stock options

Type of Impact (Reporting/Cost or Fee/Education Credit/Other - specify): Treatment for payment of unemployment insurance contributions

Business or Industry Type Affected: Any business that offers nonqualified stock options

Advisory Opinion (if applicable): Inquiry is made as to the treatment of nonqualified [nonstatutory] stock options for purposes of payment of Illinois unemployment insurance contributions. The spread [the difference between the exercise price and fair market value of the stock at the time of exercise] on nonqualified stock options is included in "wages" and subject to the payment of unemployment insurance contributions. The entity for which the individual performed the services which entitled him to the options is the liable entity for the payment of contributions. If that entity is no longer in existence at the time of exercise, but there is a successor entity for which the individual performed services, the successor entity assumed the obligation to honor the stock option and the spread constitutes wages for insured work that are paid in the year the individual exercises the option. There is no requirement for liability that an individual must be employed at the time the options are exercised. There is no requirement for liability that an individual be eligible for unemployment insurance benefits.

Members of the public may submit comments to the agency contact listed above.

Comments should be submitted within 45 days of publication in the Illinois Register.