

## Internal Revenue Code Section 3121(v)(1)(A)


### Definitions

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(v) Treatment of certain deferred compensation and salary reduction arrangements.

(1) Certain employer contributions treated as wages.

Nothing in any paragraph of subsection (a) (other than paragraph (1) ) shall exclude from the term "wages" -



(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k) ) to the extent not included in gross income by reason of section 402(e)(3) or consisting of designated Roth contributions (as defined in section 402A(c) ) , or

(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).

(2) Treatment of certain nonqualified deferred compensation plans.

(A) In general. Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of-

(i) when the services are performed, or

(ii) when there is no substantial risk of forfeiture of the rights to such amount.

The preceding sentence shall not apply to any excess parachute payment (as defined in section 280G(b) ) or to any specified stock compensation (as defined in section 4985 ) on which tax is imposed by section 4985 .

(B) Taxed only once. Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

(C) Nonqualified deferred compensation plan. For purposes of this paragraph , the term "nonqualified deferred compensation plan" means any plan or other arrangement for deferral of compensation other than a plan described in subsection (a)(5) .

(3) Exempt governmental deferred compensation plan.

For purposes of subsection (a)(5) , the term "exempt governmental deferred compensation plan" means any plan providing for deferral of compensation established and maintained for its employees by the United States, by a State or political subdivision

thereof, or by an agency or instrumentality of any of the foregoing. Such term shall not include-

- (A) any plan to which section 83 , 402(b) , 403(c) , 457(a) , or 457(f)(1) applies,
- (B) any annuity contract described in section 403(b) , and
- (C) the Thrift Savings Fund (within the meaning of subchapter III of chapter 84 of title 5, United States Code).

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