**Employees Covered by a Retirement Plan**

In Box 13 of Form W-2, an employer must check the “Retirement plan” box if an employee was an “active participant” for any part of the year in a retirement plan maintained by the employer. For these purposes, a retirement plan includes: a qualified Sec. 401(a) plan (including a Sec. 401(k) plan); a Sec. 403(a) annuity plan; a Sec. 403(b) annuity contract or custodial account; a plan (other than a Sec. 457 plan) established by federal, state, or local governments or an agency or instrumentality thereof; a simplified employee pension (SEP) plan described in Sec. 408(k); a SIMPLE retirement account described in Sec. 408(p); and a Sec. 501(c)(18) trust. The box must not be checked for contributions made to a nonqualified or Sec. 457 plan.

Although contributions to these plans are not includible in Box 1 as wages, etc., employers must include such contributions, if applicable, in Box 3 (FICA wages). Employers also must report the amount deferred, subject to certain limitations, in Box 12 and label it with the appropriate code, letters “D” through “H.”

**Who Is An Active Participant?**

Employees who are active participants in a pension plan must have that status noted on their W-2 forms. In Notice 87-16, the Internal Revenue Service defines who is an active participant.

Under a defined benefit plan, any individual who is not excluded from participating under the eligibility provisions of the plan is considered an active participant. The individual is considered active even if mandatory contributions have not been made, the minimum service for benefit accrual for the year has not been met, or no benefits have vested. If a plan terminates, an employee remains an active participant for that taxable year.

Under a defined contribution plan, an individual is an active participant if employer or employee contributions are allocated to the individual's account for a plan year that ends with or within the individual's taxable year. If only earnings are allocated to a participant's account in one year, then the individual is not an active participant for that year. However, if, after the end of the plan year, the employer makes a plan contribution related to that year, then the individual would become an active participant for that year.

Retired individuals receiving benefits from a plan are not considered active participants. Participants in frozen defined benefit plans, where benefit accruals have stopped, are not active participants. They are active participants if a frozen plan stops future accruals but allows the actual benefit to depend on future compensation.

Special rules apply to defined benefit and defined contribution plans that have been frozen while the employer makes amendments necessitated by the Tax Reform Act of 1986 and subsequent laws. Under Model Amendments 2 and 3 of the transition rules (which allow employers until the end of the 1992 plan year to amend their plans to conform with TRA `86), although benefit accruals are frozen during the transition, once the plan is amended benefit accrual resumes and retroactive benefits are granted. Therefore, employees under Model Amendment 2 or 3 plans remain active participants for purposes of W-2 reporting, provided the employer intends to accrue additional benefits after the transition period.