



**Receipt of Payments Prior to—and During—Government Service:**  
**5 C.F.R. § 2635.503 and 18 U.S.C. § 209**

HYPO 2:

An individual is entering government service and his current employer has a policy of paying out severance payments to individuals, based on a formula that factors in the years the employee spent with the company and the compensation of his or her final year with the company. This is the only benefit to which departing employees are contractually entitled. The company will pay severance to any employee who goes into public service, which includes positions with state and local governments and not-for-profit public and private universities. The employee is going to work for the Department of Defense and is expected to receive approximately \$75,000. The current employer knows that the individual intends to work for the Executive Branch but does not know in which Executive Department or Agency. Finally, the current employer is a DoD contractor.

Questions—

1. If the employer determined that, in addition to the severance, it would accelerate the vesting of certain shares of the employer's stock options that would otherwise be forfeited, such that the individual's unvested stock options would vest before the individual becomes a government employee, would these stock options qualify as an extraordinary payment under 2635.503? The options are worth \$40,000. Why or why not?
  
2. If the severance payment were to be paid out in installments during the individual's government service--
  - a. Should you advise the employee that he or she may accept the installment payments? Why?
  
  
  
  
  
  
  
  
  
  
  - b. Do you think that the employee would violate 209 if he or she accepted the installment payments?





