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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 1@ Unemployment Compensation

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Chapter 4@ CONTRIBUTIONS AND REPORTS

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Article 2@ "WAGES" THE BASIS OF THE CONTRIBUTION

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(a) Section 926-6@ Wages - Advances and Loans

926-6 Wages - Advances and Loans

"Wages" does not include a loan made by an employer to an employee, but earnings for services in employment applied to reduce the debt under the loan are "wages" at the time they are actually or constructively paid. (See Section 926-1 of these regulations for interpretation of "constructively paid.") As used in this section, "loan" means a payment made by an employer to an employee in consideration of an oral or a written agreement between the employer and the employee for repayment in full, irrespective of earnings in the employ of the employer.

(b)

"Wages" includes an advance made by an employer to an employee at the time the advance is actually or constructively paid, rather than at the time the prior advance is charged against later earnings for services in employment. (See Section 926-1 of these regulations for interpretation of "constructively paid.") As used in this section, "advance" means a payment made by an employer to an employee to be charged against future earnings by the employee for services in employment, which does not create a debt, and which generates no obligation of repayment except from future earnings by the employee for services in employment by the employer.

(c)

The employer's institution of legal proceedings or other evidence of his bona fide effort to recoup amounts paid to an employee in excess of the employee's earnings for services in employment creates an inference that the amounts paid to the employee are loans, rather than advances.