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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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Section 926-1@ Wages -When Taxable

926-1 Wages -When Taxable

The basis upon which employer and worker contributions shall be computed is wages actually or constructively paid during a calendar quarter in subject employment by an employer subject to the code. Wages for contribution purposes are considered taxable when actually or constructively paid.

(b)

(1) Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time, although not then actually reduced to possession. To constitute payment in such a case the wages must be credited to or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their payment brought within his own control and disposition. (2) Wages are not constructively paid even though credited to the account of or set apart for an employee if the employer lacks sufficient funds to make the payment, since the wages cannot be brought within the control and disposition of the employee.

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(2)

Wages are not constructively paid even though credited to the account of or set apart for an employee if the employer lacks sufficient funds to make the payment, since the wages cannot be brought within the control and disposition of the employee.

(c)

Wages which are constructively paid to an employee as defined in subdivision (b) of this section are taxable even though the employer is unable to complete actual payment for reasons beyond his control, such as inability to locate the employee.

(d)

Wages actually or constructively paid to an employee are taxable even though subsequently an amount equal to all or a part of such wages is voluntarily returned to the employer for any reason, for example, impairment of capital resulting from the payment of wages.

(e)

Except as provided in Section 1088-3, of these regulations, individual wage earners' data must be reported on the basis of wages actually or constructively paid, which is the same basis as that upon which employer and worker contributions are to be computed for the same period.