



## IRS SJSU Small Business Tax Institute Worker Classifications (Federal & Calif)

May 30, 2019

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### Definition of Employment

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### Casual Labor



## Common Misconceptions

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## Corrections to Misconceptions

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## IRS Determination Methods

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## Relationship of Parties

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## Common Law Employees

6. Length of time services are performed
7. Whether payment is by time or by the job
8. Whether work is part of regular business (integral concept)

*Dynamex* Decision (CA Supreme Court)

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## Distinctive "Stat EE" Occupations

WORKER CATEGORY	FITW	FICA	FUTA	EE Benefits
Real estate agents or direct sellers	No	No	No	No
Corporate officers	Yes	Yes	Yes	No
Agent/commission drivers	No	Yes	Yes	No
Certain traveling salespersons	No	Yes	Yes	No
Certain full time life insurance salespersons	Yes	Yes	No	Yes
Certain homeworkers	Yes	Yes	No	No

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## California Statutory Employees

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  - 3 Exceptions (State EEs subject to PIT)
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## Construction Workers (DE 231G)




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### Common Calif Statutory Employees

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### Stat Employee Characteristics

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### Artists and Authors

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## Statutory Nonemployee

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## Family Employment

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## Independent Contractor

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### Section 530 Relief After Federal Audit

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### 530 Relief is Limited Relief

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### "Section 530 Employee"

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## IRC § 3509 Relief

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## IRC § 3509 Rates

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## IRC § 3509 Rates (1099s Filed)

Tax	Wages Up to Social Security Wage Base	Wages above Social Security Wage Base
FITW		
EE Social Security (20%)		
EE Medicare (20%)	—	—
Total EE Tax		
ER Social Security		
ER Medicare		
Total ER Taxes	—	—
EE/ER TOTALS	10.68%	3.24%

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## IRC § 3509 Rates (1099s Not Filed)

Tax	Wages Up to Social Security Wage Base	Wages above Social Security Wage Base
FITW		
EE Social Security (40%)		
EE Medicare (40%)	A	

**VCSP**  
**IRS Voluntary Classification Settlement**

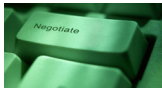
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**VCSP**  
**IRS Voluntary Classification Settlement**

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## VCSP Eligibility

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## VCSP

### IRS Voluntary Classification Settlement

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## California Employers?

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Penalties  
Increased 3<sup>d</sup> Quarter 2014









Settlements Program  
Other Items

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Questions for Vicki?  
Thank You!!



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