



**Rick Wagner, JD**

Rick has over 30 years of experience custom designing human resource solutions. He has deep technical expertise in areas such as employee stock ownership plans, equity-based long-term incentive plans, deferred compensation structuring, retirement and welfare plans, and compensation benchmarking/ reasonable compensation analyses in both the for-profit and not-for-profit sectors. These skills enable Rick to help his clients pursue their strategic objectives by aligning owner and employee interests, while navigating the myriad of tax, accounting, and regulatory challenges.

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**Brook Bise, CPA**

Brook has 20 years of experience in accounting, consulting, and large corporate human resource departments, primarily focused on employee benefits. Brook provides insightful consulting on all aspects of employee benefit plans, including on-site internal human resource department support, with the goal of assisting companies in ensuring their plans are both technically compliant, and are operating efficiently and effectively in support of the company's strategic objectives.

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Not Just Right, Right for You.

## Statutory Employee Consulting

Statutory Employees are a strange bird. They're a hybrid between independent contractors and employees. From the employee's perspective, that can be a good thing. Basically, a statutory employee is an independent contractor ("IC") for income tax purposes but an employee for FICA tax purposes. That means the service provider gets the service recipient/company to pick up half of the FICA/self-employment taxes, but otherwise is treated like an IC. That characterization can provide advantages but also has some disadvantages since they may no longer receive 'employee' status and the benefits that entails.

The Statutory Employee status is rarely used and not well understood, but the changes under the *Tax Cuts and Jobs Act* have exacerbated the distinction. The TJCA eliminated the deduction for unreimbursed employment related expenses; which can be significant. Well one man's pain is another man's gain.

Since statutory employees are treated like IC's for income tax purposes, this TCJA change doesn't affect them, thus, Statutory Employees can still deduct **ALL** service related expenses. The definition of a Statutory Employee is very limited and the change from employee can have unintended consequences. That being said, it may be worth looking into.

Our specialty is assisting companies with those extraordinary circumstances that create challenges and/or opportunities. We assist companies in addressing all aspects of service provider issues and idiosyncrasies. Statutory Employees are the latest of those idiosyncrasies that may indeed be an opportunity.

We can assist by evaluating the potential for applying the Statutory Employee status, as well as addressing the various implications of potentially moving from employee status. Let us know if we can help.