

AN EMPLOYER BENEFIT

Employers May Now Require Employees to Receive Wages Through Direct Deposit or a Payroll Debit Card

Like typewriters and the three martini lunch, the traditional paper paycheck may soon be a business relic of the past. A recent amendment to the Michigan Payment of Wages and Fringe Benefits Act (the Act), empowers employers to require employees to receive wages through direct deposit or a payroll debit card. Previously, employers could only pay employees in this manner with the express consent of the employee.

What are the advantages for business? For one thing, paying via direct deposit or payroll debit card is administratively easy and simplifies account reconciliation. In addition, with direct deposit a business no longer has to deal with lost checks and the costs and burdens associated with voiding checks and issuing new ones. Finally, it is expensive to print and distribute checks and business productivity is often affected by employees taking time to deposit or cash checks.

In order to require the direct deposit or payroll debit card, an employer must:

- Provide the employee a written form that allows the employee the option to receive wages either by direct deposit or through a payroll debit card; and
- Provide the employee a written statement warning that the failure to return the form within 30 days will be presumed to indicate consent to receiving wages through a payroll debit card (if the employee was not already receiving wages through direct deposit).

If an employee elects to change from a payroll debit card to direct deposit, the employer must make the change within one payroll period after the employer receives the request and the employee provides the information necessary to implement the request. In addition, an employer cannot require an employee to pay any fees or costs incurred by the employer in connection with paying wages through direct deposit or a payroll debit card.

Wage payment laws vary state by state, so if you pay wages to employees outside of the State of Michigan, make sure the state you are paying wages in allows mandatory direct deposit before implementing a change. For guidance on this and other issues, please call our office.

AN EMPLOYER PAYING BY PAYROLL DEBIT CARD MUST PROVIDE THE FOLLOWING WRITTEN DISCLOSURES:

- The terms and conditions for use, including an itemized list of any and all fees
- The methods for accessing wages without charge
- A statement that if the card is used outside the specified network of ATMs, that both the payroll card issuer and operator of the ATM may impose charges
- The method to obtain free balance inquiries
- Notice that the employee has a right to change from a payroll debit card to direct deposit at any time

A PAYROLL DEBIT CARD MUST INCLUDE THE FOLLOWING CHARACTERISTICS:

- The employee may make at least one withdrawal or transfer without charge each pay period – but not more frequently than once a week – for any amount including the balance accessible through the card
- No changes in fees or terms of service without at least 21 days' written notice to the employee and the date that the changes are to take effect
- A method for the employee to make an unlimited number of balance inquiries without charge, either electronically or by phone
- Card must not be linked to any form of credit, including a loan against future pay or a cash advance on future pay

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