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Can Employers Charge Employees Fees for not having Direct Deposit?

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Can employers require that employees be paid via direct deposit?

According to the Federal Deposit Insurance Corporation (FDIC), private employers ***may require*** employees to receive payment of wages via direct deposit as a condition of employment, as long as the employee chooses the particular financial institution. If an employer chooses the receiving bank for direct deposit, the employee must be provided with an alternate form of payment, such as receiving a paper check.

Although requiring direct deposit is legal under federal law, certain state laws impose specific restrictions, which vary by state. In Pennsylvania, for instance, employers may require employees to receive their wages via direct deposit with their written consent. In other states, such as Ohio, there are no laws restricting private employers from paying wages via direct deposit. Generally, in most states where employers are permitted to require direct deposit, employers must comply with the following restrictions:

- Employers **cannot** charge employees a fee based on the method of payment
- Employers **cannot** determine the financial institution in which employees receive their wages
- Employees **must** be provided with a pay stub or access to their payroll records

While federal law does not require employers to provide employees with a pay stub, the Fair Labor Standards Act (FLSA) requires employers to keep accurate records of all wages and hours worked. Regardless of whether the specific state requires that employees receive pay stubs, employees must be allowed access to view their payroll records. It's important to research your state's specific requirements and restrictions, as laws vary from state to state.

Can employers require employees to receive their wages via a payroll card?

Under the Electronic Fund Transfer Act (EFTA) and corresponding Regulation E, employers may not require that their employees receive their wages by electronic transfer to a payroll card account and must offer an alternative means of payment in addition to a pay card. Alternative payment options are governed by particular state law, and may include direct deposit or paper check.. In Pennsylvania, one court decision held that a payroll card does not comply with the plain language of state law because it is not “lawful money” or a “check.” The appeals court, however, has *not* yet released its decision, so the question remains temporarily undecided. States that do permit such cards also have special rules, which often prohibit the assessment of any fees, including any charges by the payroll card provider (i.e., for failure to maintain a minimum balance).

Can employers charge employees a stop payment fee for replacing a lost or stolen check?

In some states, employers may be able to take precautionary steps by charging employees the stop payment fee for replacing a lost or stolen check. However, many state laws prohibit this type of deduction if it is not authorized in writing by the employee.

Alternatively, under the FLSA, it is unlawful to make a deduction from an employee’s wages without their authorization. The FLSA requires that employers pay employees for all hours worked, free and clear except for the deductions authorized by law or authorized by the employee. Under no circumstances, can a payroll deduction cut an employee’s pay to a level below the minimum wage.

Therefore, it is important that employers are familiar with their state specific laws, as deductions in most states can only be made in very narrow circumstances.

Can employers charge a fee for reissuing an expired check?

Although there are no clear mandates governing how employers should reissue expired checks, the statute of limitations under the U.S. Department of Labor requires employers to provide back pay to previous or current employees for up to two years. However, the statute of limitations in your specific state may be longer. If the statute of limitations has expired, employers may not be obligated to reissue the payment and the employee will have to claim their funds from the state.

Employers are responsible for being familiar with their state specific statute of limitations and laws governing payroll deductions.

For specific information regarding direct deposit and payroll requirements in your state, contact McCloskey Partners, LLC at:

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