
Federal and State Laws on Direct Deposit of Wages

The Federal Fair Labor Standards Act specifies that an employee must be paid in certain forms of payment. U.S. Department of Labor's position regarding direct deposit found in its Field Operations Handbook says:

“The payment of wages through direct deposit into an employee's bank account is an acceptable method of payment, provided employees have the option of receiving payment by cash or check directly from the employer. As an alternative, the employer may make arrangements for employees to cash a check drawn against the employer's payroll deposit account, if it is at a place convenient to their employment and without charge to them.” (Field Operations Handbook, 12/9/88)

The purpose of the wage hour laws is to ensure that workers get paid properly for hours actually worked. Forcing employees to accept direct deposit violates minimum wage laws if there is a charge to the employees that effectively takes their wages below minimum wage, and given the banking laws, also puts the actual receipt of wages in question if there are financial liens.

FDIC Statute and Rule

Federal banking law also states that an employer may not require an employee to accept direct deposit of wages at a particular financial institution. An employer (including a financial institution) may not require its employees to receive their salary by direct deposit to any particular institution. An employer may require direct deposit of salary by electronic means if employees are allowed to choose

the institution that will receive the direct deposit. Alternatively, an employer may give employees the choice of having their salary deposited at a particular institution (designated by the employer) or receiving their salary by another means, such as by check or cash.

Thus, according to FDIC, there would be no problem under the Electronic Funds Transfer Act with requiring employees to accept direct deposit of wages by EFT if they are allowed to choose the bank at which the depository account will exist. The new provision allows direct deposit of wages for employees who already have bank accounts. It does not expressly state that an employer may require an employee who does not maintain a bank account to establish one. This ambiguity will probably leave many employers in doubt as to their position regarding direct deposit of wages.

What This Means For Counties

As the health of the banking and financial sector continues to have a strong impact on employees' perception of their financial stability, and as employees' own situations become less flexible, counties can expect that they will get questions about direct deposit laws. They should be careful to follow the laws as a complaint about wage payment could lead to a wider state or federal wage investigation of county pay practices.

For more information, contact CTSI at 303-861-0507.