

Payroll card use in Minnesota

**Legislative report to the chairpersons of the
House and Senate Committees with jurisdiction over
jobs and economic development**



February 15, 2007

Background

During the 2005 session, legislation was passed to permit the use of payroll cards for payment of wages.

Key terms defined

- Payroll card – a card issued to an employee by an employer or other payroll card issuer to access funds from the employee’s payroll card account.
- Payroll card account – an agreement providing that an employer pays each participating employee’s wages by making an electronic fund transfer to an account; participating employees receive a payroll card to access their funds.
- Payroll card issuer – an employer that issues a payroll card to an employee or a bank or other entity that issues a payroll card to an employee on behalf of the employer.
- Filing – a payroll card issuer must file a notice with the commissioner containing:
 - the entity’s true name;
 - any other names under which the entity conducts business;
 - the entity’s address, which cannot be a post office box; and
 - the entity’s telephone number.

By Feb. 15, 2007, the commissioner of the Department of Labor and Industry (DLI) must report to the chairpersons of the house and senate committees with jurisdiction over jobs and economic development about the use of payroll cards.

Study

In studying this issue, the DLI Labor Standards and Apprenticeship director analyzed payroll card activity and usage within Minnesota. Additionally, all states were surveyed by contacting other labor standards units to determine the usage of payroll cards and the level of activity across the nation.

The results of the Minnesota activity are limited because of the recent legislation and the actual activity to date.

Thirty-two card issuers have registered with the commissioner of the Department of Labor and Industry. The registered card issuers are businesses operating throughout the United States, including companies with business addresses in Minnesota, California, Colorado, Florida, Ohio, Missouri, Nevada, Pennsylvania and Tennessee.

The DLI Labor Standards and Apprenticeship unit has received numerous inquiries about payroll card usage in Minnesota. Because of the large volume of inquiries received by the unit about other subject matters, the unit specifically tracked payroll card inquiries and reported all activity occurring from June 3, 2005, through Dec. 31, 2006.

Forty-six inquiries were received from card issuers, recipients and users of the payroll card, and representatives in other states seeking clarification of the Minnesota law. To date, only one formal complaint has been filed with the department. This complaint is still under review. The types of inquiries range from general requests seeking clarification of the new law to specific inquiries about employee rights and employer responsibility under the law. A common inquiry from individuals and states is how to handle uneven dollar amounts and how to handle small amounts remaining in employee accounts at termination of employment or if the employee chooses not to continue receiving wages in this form. Another common inquiry is whether participation is voluntary on behalf of the employee or if an employer can mandate participation. One concerned user reported an employer queried into her account to review how payroll dollars had been spent by employees. This type of activity is prohibited by law. Upon investigation, the employer denied this accusation.

Inquiries have also been received from the American Payroll Association and numerous attorneys seeking interpretation and clarification of the law. The department does not issue formal interpretation; however, considerable dialogue and written communications have occurred with individuals seeking to understand and apply Minnesota law.

Inquiries from other states range from permissibility of use of card to specific provisions of the law. In surveying other labor standards units, 26 states (Alaska, Alabama, Arkansas, Connecticut, Delaware, Hawaii, Iowa, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Nebraska, New

Hampshire, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Virginia and Washington) responded that the use of payroll/debit cards are acceptable for purposes of payment of wages. Only Vermont and New Mexico responded that the use of payroll/debit cards was not permitted under their current law. Most states are concerned with voluntary participation, at least one free transaction that allows employees to withdraw all wages deposited, fee prohibitions for certain activities and the distribution of uneven dollar amounts. Although many state representatives have discussed and expressed concerns about this new form of payment of wages, no state expressed specific concern of unresolved or serious complaint with card issuers or overall usage.

Conclusion

The Department of Labor and Industry concludes overall usage of the payroll card is minimal at this time. The volume and types of inquiries have a common theme, specifically voluntary participation and distribution of uneven dollar amounts. Although there have been many inquiries as is common with new legislation, serious concerns and complaints have been minimal. Concerns brought to the department's attention appear to have been resolved to the inquirers' satisfaction, based upon the absence of follow-up complaints. The agency remains available to provide technical assistance to users to ensure understanding of and compliance with specific provisions of the law.