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Are Payroll Debit Cards Right for Your Organization?

Some of the nation's most recognized companies, including Wal-Mart, McDonald's, Walgreens, Home Depot and Taco Bell, have begun paying employees through payroll debit cards. The employer electronically deposits paycheck funds onto a debit card held by the employee. Payroll debit card holders use these cards just like a debit card connected to a checking account. However, the payroll debit card holder likely does not have a bank account. In [2012](#), more than \$34 billion was loaded onto 4.6 million active payroll cards, and this amount is expected to reach \$68.9 billion and 10.8 million cards by 2017. But should employers pay employees by payroll debit cards?

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A. Benefits of Payroll Debit Card Programs

Companies identify multiple [benefits](#) for an employee paid by debit card. The employee can expect a quick, reliable delivery of funds. The employee can save money by avoiding check-cashing stores, which traditionally charge fees for their services. The employee can have easy access to funds through ATMs. Payroll debit cards also help the employee better manage money. Instead of cashing an entire paycheck at once, the employee can make payments or withdraw funds a bit at a time.

Likewise, companies who pay their employees via debit card realize benefits. Payroll debit card systems allow companies to save money on paper used to print checks. For example, Wal-Mart saves an estimated [257,572](#) pounds of paper per year through its use of a payroll debit card program. Moreover, companies can process payroll more efficiently because electronic payments reliably deliver funds to all employees at the same time and in the same manner.

B. Costs of Payroll Debit Card Programs

However, [others are critical](#) of debit card paychecks. Most recipients of the debit card payroll system work in the retail and fast food industries. Many do not have a bank account and cannot meet the minimum requirements to open one. These lower-wage workers face disproportionately high costs to conduct simple transactions; debit card issuers (mostly banks) may charge fees for withdrawing money from an ATM, checking the balance of the account, making online bill payments, or leaving the card inactive for certain periods of time. These fees effectively reduce the employee's overall income. Additionally, an employee may have limited access to funds in the debit card due to daily ATM withdrawal limits. And, there is always the risk of loss or theft of the card.

C. Legal Challenges to Payroll Debit Card Programs

Concerns about the impact of payroll debit card programs have spurred the New York Attorney General to [investigate](#) companies employing these programs, McDonald's workers to file lawsuits claiming that they were not given a choice in

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how they would be paid, and state legislators to try to [ban](#) companies from requiring employees to receive paychecks via debit card. The common issue in these proceedings: the fees employees incur when using payroll debit cards reduce their take-home pay.

D. Federal Requirements for Payroll Debit Card Programs

On September 12, 2013, the Consumer Financial Protection Bureau issued [Bulletin 2013-10](#), which describes the application of the Electronic Fund Transfer Act and Regulation E to payroll debit card accounts. Employees who receive their wages via payroll card accounts have the following protection:

- [No Mandatory Use of Payroll Cards](#) – Employers may not require their employees to receive wages by electronic transfer to a payroll card account at a particular institution. Payroll cards may be used, provided a substitute method is offered, such as direct deposit or paper check.
- [Disclosures](#) – Employees must be informed of all fees, limitations on liability, and requirements related to making electronic fund transfers with the payroll card. Clear, understandable written disclosures must be provided to the employee, either by the financial institution issuing the card or the employer establishing the account.
- [Access to Account History](#) – The payroll card issuer must make available (1) the employee's account balance by telephone, (2) an electronic history covering at least the preceding sixty days, and (3) a written history covering at least sixty days before an employee's written or verbal request.
- [Limited Liability for Unauthorized Transfers](#) – Employees are entitled to limited liability protections for the unauthorized use of their payroll cards. For [example](#), if an employee learns of an unauthorized transfer and notifies the financial institution within two business days of learning of the loss or theft, the employee's liability will not exceed \$50. If the employee waits longer, his or her liability will not exceed \$500. The employee must promptly report any unauthorized transfers.
- [Error Resolution Rights](#) – When it receives a timely report of an error in the payroll card account, the card issuer must respond. The report is timely if received within sixty days after the employee electronically accesses the account history or receives a written account history on which the error appears, or 120 days after the alleged error.

E. Washington State Requirement for Payroll Debit Card Programs

In Washington State an employer may pay employees using a payroll debit card program. [However](#), if there are fees for using the cards, the employer must provide an alternative that allows employees to access their wages without any fees or costs associated with the payroll transaction. The State has not provided any further guidance regarding the use of payroll cards. However, the State seems to [approve](#) of the use of debit card programs as this is currently a payroll option for State employees.

F. Conclusion

A payroll debit card program should normally be one among several options for employees to receive their wages. Payroll debit cards can greatly benefit employees, especially those without a bank account. However, employers need to know what fees, if any, are associated with accessing the payroll funds, as this can determine the viability of a payroll debit card program in Washington.

Each employer will decide for itself whether to offer payroll debit cards to employees. When making that decision, the employer should:

- Ensure that employees have other options for receiving wages;
- Investigate the fee structure associated with the use of a payroll debit card;

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- Ensure that the financial institution issuing the payroll debit card complies with [CFPB Bulletin 2013-10](#); and
- Become familiar with federal and state payroll and banking laws and regulations.

If you have questions about your payroll debit card program or are contemplating implementing one, please contact the Foster Pepper [Employment & Labor](#) group or the Foster Pepper [Financial Institutions](#) group.

For more information about Foster Pepper or to register for other firm communications, visit www.foster.com.

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