

# Don't mandate direct deposit of employees' pay

**Issue:** Some state rules seem to clash with federal rules over whether you can require employees to accept pay via direct deposit.

**Risk:** By following your state law, in some cases, you could actually run afoul of federal law.

**Action:** Follow federal law and give employees the option of direct deposit; don't mandate it.

Paying employees via direct deposit saves time and money, both for your organization and its employees. But can you mandate that all employees must receive their wages through direct deposit? The answer is "No," according to the U.S. Labor Department. Here's why:

The federal Fair Labor Standards Act (FLSA) says direct deposit is an acceptable method of paying wages only if employees are also given the option of being paid by cash or check.

The problem? Most states have their

own direct-deposit regulation, and not all comply with FLSA. At least 12 states appear to permit compulsory direct deposit: Kentucky, Louisiana, Maine, Massachusetts, North Carolina, North Dakota, Ohio, South Carolina, Tennessee, Texas, Washington and Wisconsin. But because those state laws provide less protection for employees than the federal FLSA, the federal law takes precedence.

**Bottom line:** Even if your state seems to allow compulsory direct deposit, your organization must comply with FLSA regulations, which say that direct deposit is one option but not the only option. FLSA effectively negates state rules.

Most remaining states, other than the 12 mentioned above, either have no state law on the issue or allow payroll direct deposit with employees' prior consent.

**Key points:** If you offer direct deposit, the employee (not employer) chooses the financial institution. Also, whatever pay system you use, federal law says you can't charge employees any fees for processing their pay.

Another potential land mine: Some organizations offer employees the option

of receiving pay via payroll access card. Employers deposit wages directly into

an account that employees can access

using an ATM-like card. Those cards can comply with FLSA direct-deposit requirements only if employees incur no fees for using them.