Are You Paying Your Employees Frequently Enough?

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One of the biggest challenges for multi-state employers is keeping up to date with the myriad patchwork of laws across the 50 states. What is acceptable in one jurisdiction may get you in trouble in another, or worse yet – could be illegal and result in a lawsuit. One of those minefields is the assorted wage-payment laws regulating how often employees should be paid.

As veteran HR professionals know, there are steep consequences for not timely paying employees in accordance with the local law. Many states apply strict liability principles to violations of these wage-related statutes, which leave employers essentially defenseless. On top of that, many jurisdictions also award liquidated damages for violations – including double or triple damages – which quickly can turn a simple mistake into a very expensive proposition. Lastly, these laws are tailor-made for class actions: if a company fails to pay one employee in a timely manner, that employee most likely has co-workers who similarly would not have been paid in a timely manner. If you haven't looked, take a moment to review the chart identifying the current minimum payday requirements in the 50 states. Expressed visually, a couple things become clear:

First, there is no rhyme or reason to the frequency of payment required by a particular state. While there are some regional commonalities (weekly in the northeast, monthly out west), there certainly is no predictable pattern.

Second, semi-monthly is the most frequently adopted method of payment (used in some form in 19 states) and seems to have a greater preference over its cousin, bi-weekly pay. On that point, it should be noted that “bi-weekly” and “semi-monthly” do not mean the same thing. Technically, semi-monthly means “twice a month.” This typically covers pay practices where employers pay on the 15^{th} and last day of a month, and results in 24 paydays a year (12 x 2). By contrast, “bi-weekly” means every two weeks. Since there are 52 weeks in a year, that translates to 26 paydays a year. In other words, the bi-weekly method provides 2 more paydays in a given year than semi-monthly.

So, what are the takeaways from all of this?

In light of the myriad provisions applicable across the country, employers interested in adopting only one payment method would have to pay employees on a weekly basis; although employers who pay bi-weekly (and typically within 10 business days of an employee earning wages), also would have a good chance of defending claims in the greatest number of states. In short, no one-size-fits-all. Employers with multi-state operations should ensure that their pay practices line up with the requirements of state law, and of course, if they have doubts at all, call their lawyers.

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