

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF LABOR STANDARDS ENFORCEMENT  
LEGAL SECTION  
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H. THOMAS CADELL, JR., *Chief Counsel*

November 12, 1996

William F. Highberger  
Gibson, Dunn & Crutcher  
333 South Grand Ave.  
Los Angeles, CA 90071-3197

Re: **Direct Deposit**

Dear Mr. Highberger:

Your October 24, 1996, letter to Roberta Mendonca, State Labor Commissioner, concerning the above-referenced subject has been assigned to this office for reply.

In the first paragraph of your letter, you request confirmation that the practice of making direct deposit of an employee's wages is consistent with the California wage payment laws. You note that your client offers an alternative to the direct deposit whereby an employee is paid by check with the understanding that the check will be honored at banks and other institutions within California without fee or discount.

I am concerned about the way you phrase the process employed by your client. For instance, you do not say that the check paid to the employee contains, on its face, the location of the place of business in this state which will honor the check. This is required Labor Code § 212(a).

You also ask if it would be permissible to deposit an employee's wages in an out-of-state institution. The provisions of Labor Code § 213(d) expressly state that the deposit must be in "any bank, savings and loan association or credit union of the employee's choice in this state." Thus, this agency cannot agree that deposits made to institutions outside of this state would meet the provisions of the law. We suggest that if you feel that modern dictates require a change in the law, you should seek assistance from the Legislature.

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The second full paragraph on page 2 of your letter is confusing. There is no question that payment by check delivered directly to the worker is different from a direct deposit in a banking-type institution. That is why the Legislature provided for one rule for one method and another rule for the second. Section 213(d) clearly covers direct deposit and that section specifically requires that the deposit must be made in a bank in this state. The nuances of contract law which you address in your letter are not relevant inasmuch as the statute is clear.

Yours truly,

H. THOMAS CADELL, JR.  
Chief Counsel

c.c. Roberta Mendonca, State Labor Commissioner

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