

Paperless Pay  
TALX Corporation

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ePayroll

## **Electronic Pay Stubs: State Mandates**

TALX Corporation White Paper

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# Overview

**Most states require employers to deliver pay stubs to their employees every pay period. To realize the full savings potential of direct deposit, employers must deliver these pay stubs, as well as the wages, electronically.**

Increasingly, employers attempt to eliminate paper-intensive processes – cutting costs that are incidental to an employer’s primary business. For payroll departments, this has led to initiatives to increase employee participation in direct deposit. Transferring wages electronically typically results in considerable savings. The most oft-cited figure stems from research by the National Automated Clearing House Association (NACHA): Employers save as much as a \$1.25 on each payment processed electronically, as opposed to generating a paper check.<sup>1</sup>

But before employers discard the treated ink and shred the security paper, they need to closely examine state law requirements. All but eight states require employers to furnish earnings statements or itemized statements of deductions to their employees.<sup>2</sup> Employers have traditionally provided these statements with employees’ checks, on detachable stubs or separate

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<sup>1</sup> See AMERICAN PAYROLL ASSOCIATION, THE GUIDE TO SUCCESSFUL DIRECT DEPOSIT 33 (15<sup>th</sup> ed. 2002) for an easy-to-use tool in measuring the savings associated with direct deposit for a specific organization.

<sup>2</sup> ALA. ADMIN. CODE r. 480-4-2-.17; ALASKA ADMIN. CODE tit. 8, § 15.160(h) ; ARIZ. REV. STAT. ANN. § 23-351; CAL. LAB. CODE § 226; CAL. CODE REGS. tit. 8, § 11010, 11020, 11030, 11040, 11050, 11060, 11070, 11080, 11090, 11110, 11120, 11130, 11140 ; COLO. REV. STAT. § 8-4-103; CON. GEN. STAT. § 31-13A; DEL CODE ANN. tit. 19, §1108(4); GA. CODE ANN. § 34-10-2; HAW. REV. STAT. ANN. §388-7; IDAHO CODE § 45-609; 820 ILL. COMP. STAT. 115/10; IND. CODE ANN. § 22-2-2-8; IOWA CODE ANN. § 91A.6; KAN. STAT. ANN. § 44-320; KAN. ADMIN. REGS. 49-20-1; KY. REV. STAT. ANN. § 337.070 ; ME. REV. STAT. ANN. tit. 26, § 665; MD. CODE ANN., LAB. & EML. § 3-504; MASS. GEN. LAWS ANN. ch. 149, § 148; MICH. COMP. LAWS ANN. §§ 408.391, 408.479; MINN. STAT. ANN. § 181.032; MO. REV. STAT. § 290.080; MONT. CODE ANN. § 39-3-101; NEV. REV. STAT. ANN. 608.110; N.H. REV. STAT. ANN. § 275:49; N.H. CODE ADMIN. R. ANN. LAB. 803.03; N.J. STAT. ANN. § 34:11-4.6; N.M. STAT. ANN. § 50-4-2; N.Y. LAB. LAW § 195; N.C. GEN. STAT. § 95-25.13; N.C. ADMIN. CODE tit. 13, r. 12.0807; N.D. ADMIN. CODE § 46-02-07-02; OKLA. STAT. ANN. tit. 40, § 165.2; OR. REV. STAT. §§ 652.610, 653.045; OR. ADMIN. R. 839-020-0012; R.I. GEN. LAWS § 28-14-2.1; S.C. Code Ann. §§ 41-10-30, 41-10-40; TEX. LAB. CODE ANN. § 62.003; UTAH CODE ANN. § 34-28-3; VT. CODE R. 24-090-001, 24-090-002; VA. CODE ANN. § 40-1-29; WASH. REV. CODE ANN. § 49.30.020; W. VA. CODE § 21-5-9; W. VA. ST. R. § 42-5-14.2; WIS. STAT. ANN. § 103.457; WIS. ADMIN. CODE § 272.10; and, WYO. STAT. ANN. § 27-4-101

vouchers. With the advent of direct deposit and its increasing prevalence, employers have delivered paper pay stubs, direct deposit notices, information statements, or advices in lieu of check stubs, trading one paper form for another. While employers have saved on banking fees, bank reconciliation, check replacement, and other associated check processing costs, they have not fully realized the potential savings direct deposit offers. To fully capitalize on the savings associated with direct deposit, employers must deliver the pay stub, as well as the wages, electronically.

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## **PAY STUB REQUIREMENTS**

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Before analyzing the issues arising from electronic delivery of pay stubs, we review basic pay stub requirements, the information pay stubs must contain, and the manner in which they must be delivered.

### **WHAT IS A PAY STUB?**

Most states require that an employer furnish some form of statement to its employees each pay period, detailing earnings, deductions, hours, and pay rate,<sup>3</sup> or simply listing deductions.<sup>4</sup> Throughout this document, we refer to these required statements generically as “pay stubs.” Of course, there are hundreds of payroll records that are subject to statutory and regulatory requirements. To avoid wading into a sea of payroll regulations that do not affect week-in-week-out payroll delivery, we have limited our definition of “pay stub” to a statement that must be furnished to the employee and provided each pay period, or at set, regular intervals.

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<sup>3</sup> *See, for example*, DEL. CODE ANN. tit. 19, 1108(4) (“furnishing to each employee at the time of payment a statement . . . showing the wages due, the pay period for which wages are due and the total amount of deductions, separately specified .. hourly rate . . . total number of hours for the said pay period”).

<sup>4</sup> *E.g.*, NEV. REV. STAT. ANN. 608.110 (“employer shall furnish the employee with an itemized list showing the respective deductions made from the total amount of wages”).

### **Furnished to the Employee**

This definition leaves a number of payroll regulations unexamined. For instance, an employer must retain payroll records that accurately reflect the hours worked and wages paid to each employee.<sup>5</sup> Depending on the jurisdiction in which the employer operates, these records must be maintained over a specific time frame – often three years.<sup>6</sup> Although some statutes grant an employee the right to inspect these records when requested,<sup>7</sup> these requirements are meant to allow state agencies, responsible for enforcing minimum wage and employment security contributions, the opportunity to audit employer records.

Since these requirements involve record retention, without any provision to actively furnish the record to the employee, we have not included them in our analysis. An employer, however, should be aware of record-retention requirements as they may peripherally affect electronic delivery of pay stubs.

### **Per Pay Period**

In addition, employers are usually required to provide a statement showing income-tax withholdings. In almost every instance, the required information needs to be delivered to the employee only once a year or when the employee separates from the employer.<sup>8</sup> Again, these requirements are not part of our analysis.

### **No Pay Stub Requirement**

Given our narrow definition of “pay stub,” there are only eight states that do not require employers to provide pay stubs to their employees.

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<sup>5</sup> See ALASKA STAT. § 23.10.100 ; CAL. LAB. CODE § 1174; GA. CODE ANN. § 48-7-111; HAW. REV. STAT. ANN. § 387-6; 820 ILL. COMP. STAT. 115/10; IND. CODE ANN. § 22-2-2-8; ME. REV. STAT. ANN. tit. 26, § 665; MD. CODE ANN., LAB. & EMPL. § 3-424; MASS. GEN. LAWS ANN. ch. 151, §15; MINN. STAT. ANN. § 177.30; N.H. REV. STAT. ANN. § 275:49; N.J. STAT. ANN. § 34:11-56a20; N.M. STAT. ANN. § 50-4-9; N.Y. LAB. LAW § 679; R.I. GEN. LAWS § 28-14-12; and, UTAH CODE ANN. § 34-40-201.

<sup>6</sup> E.g., GA. CODE ANN. § 48-7-111.

<sup>7</sup> CAL. LAB. CODE § 1174.

| <b>States Without a Pay Stub Requirement</b> |              |                       |
|--|--------------|-----------------------|
| Arkansas                                     | Mississippi  | Tennessee             |
| Florida                                      | Nebraska     | Virginia <sup>9</sup> |
| Louisiana                                    | South Dakota |                       |

In these states if an employer chooses to deliver pay stubs to employees at all, electronic delivery is permissible. Employers must still be cognizant of security and payroll record retention mandates.

**REQUIRED PAY STUB INFORMATION**

In those states that have enacted a pay stub requirement, the statute or regulation sets forth the information the pay stub must contain. Though the states’ pay stub requirements vary, much of the language is similar, allowing for a somewhat uniform approach. State pay stub requirements fall into two categories of requisite information: a detailed statement of earnings, deductions, hours, and pay rate; or, a statement itemizing deductions or withholdings.

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<sup>9</sup> Virginia employers must furnish a pay stub only if an employee requests it. VA. CODE ANN. § 40-1-29.

## Detailed Earnings Statements

The majority of states require an employer to furnish each employee a pay stub containing a detailed statement of earnings, deductions, pay rate, and hours worked.<sup>10</sup> The level of detail depends on the requirements within an individual state, but typically the statement of earnings must contain:

- Gross earnings
- Withholdings
- Itemized deductions
- Net pay
- Hours worked
- Rate of pay

| <b>States Requiring a Detailed Earnings Statement</b> |               |              |               |
|---|---------------|--------------|---------------|
| Alaska  | Hawaii        | Minnesota    | Pennsylvania  |
| California  | Iowa          | New Mexico   | Rhode Island  |
| Colorado  | Kansas        | New York     | Texas         |
| Connecticut   | Maine         | North Dakota | Washington    |
| Delaware  | Massachusetts | Ohio         | West Virginia |
| Georgia   | Michigan      | Oregon       | Wisconsin     |

<sup>10</sup> ALASKA ADMIN. CODE tit. 8, § 15.160(h); CAL. LAB. CODE § 226; COLO. REV. STAT. § 8-4-105; CON. GEN. STAT. ANN. §31.13A; DEL. CODE ANN. tit. 19, § 1108(4); GA. CODE ANN. § 34-10-2; HAW. REV. STAT. ANN. § 388-7; IOWA CODE ANN. § 91A.6; KAN. ADMIN. REGS. 49-20-1; ME. REV. STAT. ANN. tit. 26, § 665; MASS. GEN. LAWS ANN. ch. 149, § 148; MICH. COMP. LAWS ANN. § 408.391; MINN. STAT. ANN. § 181.032; N.M. STAT. ANN. § 50-4-2; N.Y. LAB. LAW § 195; N.D. ADMIN. CODE § 46-02-07-02; OHIO REV. CODE ANN. § 4109.1; OR. ADMIN. R. 839-020-0012; R.I. GEN. LAWS § 28-14-2.1; TEX. LAB. CODE ANN. § 62.003; VT. CODE R. 24-090-001, 24-090-002 (2002); WASH. REV. CODE ANN. § 49.30.020; W. VA. CODE 21-5-9; and WIS. STAT. ANN. § 103.457.

In some instances, other employee-specific payroll information must be provided, including: employee name,<sup>11</sup> employer's name,<sup>12</sup> employer's address,<sup>13</sup> and telephone number,<sup>14</sup> and, in Texas, the signature of the employer or its agent.<sup>15</sup>

### **Itemized Deductions**

The other states which have a pay stub requirement direct employers to itemize deductions or withholdings.<sup>16</sup> The level of required detail varies, but the pay stub should at least contain the gross earnings and deductions taken from those earnings.<sup>17</sup> The itemized statement should also contain enough information for an employer to determine not only the amount, but also the purpose of each deduction.<sup>18</sup>

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<sup>11</sup> HAW. REV. STAT. ANN. § 388-7; MASS. GEN. LAWS ANN. ch. 149, § 148; MINN. STAT. ANN. § 181.032; and TEX. LAB. CODE ANN. § 62.003.

<sup>12</sup> CAL. LAB. CODE § 226; COLO. REV. STAT. § 8-4-105; HAW. REV. STAT. ANN. § 388-7; MASS. GEN. LAWS ANN. ch. 149, § 148; MINN. STAT. ANN. § 181.032 (requires both the employer's legal name and operating name, if different); N.M. STAT. ANN. § 50-4-2; and, OR. ADMIN. R. 839-020-0012.

<sup>13</sup> CAL. LAB. CODE § 226; COLO. REV. STAT. § 8-4-105; and OR. ADMIN. R. 839-020-0012.

<sup>14</sup> OR. ADMIN. R. 839-020-0012.

<sup>15</sup> "An earnings statement must be signed by the employer or the employer's agent." TEX. LAB. CODE ANN. § 62.003.

<sup>16</sup> ALA. ADMIN. CODE r. 480-4-2-.17; IDAHO CODE § 45-609; 820 ILL. COMP. STAT. 115/10; IND. CODE ANN. § 22-2-2-8; KY. REV. STAT. ANN. § 337.070; MD. CODE ANN., LAB. & EMPL. § 3-504; MO. REV. STAT. § 290.080; MONT. CODE ANN. § 39-3-101; NEV. REV. STAT. ANN. 608.110; N.H. REV. STAT. ANN. § 275:49; N.J. STAT. ANN. § 34:11-4.6; N.C. GEN. STAT. § 95-25.13; N.C. ADMIN. CODE tit. 13, r. 12.0807; OKLA. STAT. ANN. tit. 40, § 165.2; S.C. CODE ANN. §§ 41-10-30, 41-10-40; UTAH CODE ANN. § 34-28-3; VA. CODE ANN. § 40-1-29; and WYO. STAT. ANN. § 27-4-101.

<sup>17</sup> *See, for example*, Nev. Rev. Stat. Ann. 608.110 ("[T]he employer shall furnish the employee with an itemized list showing the respective deductions made from the total amount of wages or compensation.").

<sup>18</sup> KY. REV. STAT. ANN. § 337.070 (statement must list "the amount of each deduction and the general purpose for which deduction is made.").

## **A Universal Pay Stub**

Employers with multiple locations throughout the United States typically want to deliver one solution – one pay stub form for their entire enterprise. To deliver a universal pay stub that complies with all of the states' mandates, employers must deliver a pay stub containing the following information:

- Employer Information
  - Legal name
  - Operating name
  - Address
  - Telephone number
  - Signature
- Employee Information
  - Name
  - Social Security Number
- Earnings
  - Rate of pay
  - Hours worked (straight time and overtime)
  - Piece-rate units earned
  - Days worked
  - Bonus and incentive
  - Salary
  - Gross pay
- Deductions
  - Amount of each deduction
  - Purpose of each deduction
  - Withholdings/allowances
  - Total amount of deductions
- Net Pay / Wages Due

## **WHEN TO DELIVER THE PAY STUB**

Employers need to furnish each employee a pay stub some time during the pay period,<sup>19</sup> on or before the payment of wages,<sup>20</sup> or, at minimum, once a month.<sup>21</sup>

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<sup>19</sup> ALASKA ADMIN. CODE tit. 8, § 15.160(h); IDAHO CODE § 45-609; 820 ILL. COMP. STAT. 115/10; IND. CODE ANN. § 22-2-2-8; MD. CODE ANN., LAB. & EMPL. § 3-504; N.H. REV. STAT. ANN. § 275:49; N.J. STAT. ANN. § 34:11-4.6; N.C. GEN. STAT. § 95-25.13; N.D. ADMIN. CODE § 46-02-07-02; S.C. Code Ann. §§ 41-10-30, 41-10-40; and, W. VA. CODE § 21-5-9.

<sup>20</sup> ALA. ADMIN. CODE r. 480-4-2-.1; CAL. LAB. CODE § 226; CON. GEN. STAT. § 31.13A; DEL CODE ANN. tit. 19, §1108(4); HAW. REV. STAT. ANN. §388-7; KY. REV. STAT. ANN. § 337.070; ME. REV. STAT. ANN. tit. 26, § 665;

Some pay stub requirements are more limited in scope, applying to special classes of employer or employee; some pay stubs will be required only under special circumstances.

### **Limited or Special Circumstances**

Georgia, Vermont, Ohio, and Arizona are among those states with limited pay stub requirements; these states do not have a general requirement that employers provide pay stubs to their employees. Georgia requires temporary staffing and labor pool employers to provide pay stubs or registers to employees.<sup>22</sup> Vermont requires retail, wholesaler, and service establishment employers to give each employee “a detailed written statement, which at a minimum, shall set forth the gross pay and hours worked, hourly rate, and all deductions fully itemized.”<sup>23</sup> Employers in the hotel, tourist, and restaurant industry must deliver a “detailed written statement” with each employee’s pay.<sup>24</sup> In Ohio employers must provide a pay stub on pay day to employees less than eighteen years of age.<sup>25</sup> Arizona does not have a general pay stub requirement either; employers must provide a pay stub for employees who receive wages through direct deposit.<sup>26</sup>

Outside of these limited exceptions, most pay stub requirements apply to all employers. Specialized industries may have additional requirements. The most prevalent differences are for

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MASS. GEN. LAWS ANN. ch. 149, § 148; MICH. COMP. LAWS ANN. §§ 408.391, 408.479; MINN. STAT. ANN. § 181.032; MONT. CODE ANN. § 39-3-101; NEV. REV. STAT. ANN. 608.110; N.Y. LAB. LAW § 195; OHIO REV. CODE ANN. § 4109.1; OKLA. STAT. ANN. tit. 40, § 165.2; OR. REV. STAT. §§ 652.610, 653.045; 34 PA. CODE § 231.36; R.I. GEN. LAWS § 28-14-2.1; TEX. LAB. CODE ANN. § 62.003; UTAH CODE ANN. § 34-28-3; VT. CODE R. 24-090-001, 24-090-002; WASH. REV. CODE ANN. § 49.30.020; WIS. STAT. ANN. § 103.457; and, WYO. STAT. ANN. § 27-4-101.

<sup>21</sup> COLO. REV. STAT. § 8-4-105; MO. REV. STAT. § 290.080.

<sup>22</sup> GA. CODE ANN. § 34-10-2.

<sup>23</sup> VT. CODE R. 24-090-001.

<sup>24</sup> VT. CODE R. 24-090-002.

<sup>25</sup> OHIO REV. CODE ANN. § 4109.10.

<sup>26</sup> ARIZ. REV. STAT. ANN. § 23-351

railroad employers. In some instances employers in the railroad industry must include a daily breakdown of wages with the employee's pay stub.<sup>27</sup>

### **HOW TO DELIVER THE PAY STUB**

No state has prescribed an exact format for the pay stub; state statutes and regulations give guidance as to the information it must contain. In contrast, several states have prescribed the manner in which employers must deliver the pay stub. Restrictions on the manner in which the pay stub must be delivered determine the viability of delivering the pay stub electronically. We review these mandates in the following section.

## **Electronic Delivery**

While there are still a number of statutes and regulations which remain silent as to the acceptability of an electronic pay stub, more and more states have promulgated regulations outlining the manner in which an employer can deliver an electronic pay stub to each of its employees. This statutory wave has provided much needed clarification over the previous method of relying on state agencies.

Other than traditional precepts of statutory and regulatory interpretation, the only guidance we had until recently as to whether an electronic-based pay stub complies with state laws came from opinions offered by some of the state agencies tasked with enforcing these labor provisions.

Agency opinions and guidance are problematic. First, an agency that has expressed an informal opinion on the legality of an electronic pay stub is not bound to follow that opinion. Changes to a state's executive branch can result in changes to existing policy. An opinion issued

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<sup>27</sup> See, for example, N.Y. LAB. LAW § 195.

today may conflict with an administration's direction tomorrow. Secondly, outside of a duly promulgated regulation, an agency's opinion does not ordinarily have the force of law. In general, only the judiciary can issue a binding interpretation of a statute or regulation. Not surprisingly, there are no court cases or judicial interpretations on this issue that we could uncover.

State courts vary on the weight they give to an administrative agency's opinions. In some instances, courts do not defer to agencies' interpretations of law. Employers still need to review these opinions. In the face of an employee's complaint, a state's labor agency will likely be the first to examine an employer's practices to determine if they comply with state law.

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## **STATE MANDATES**

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Both North Carolina and Oregon have long-standing statutes that require employers to issue statements itemizing employees' deductions from pay. North Carolina has promulgated a regulation that allows employers to deliver an electronic pay stub to each employee, as long as the employee has the capability to print the stub. Oregon has promulgated a regulation that allows for electronic delivery of a pay stub only with the employee's consent. Delaware, Iowa, Hawaii and Maine have recently joined both states, but have added statutory language, not only calling for the issuing of earnings statements by employers to employees, but allowing for electronic delivery as well.

### **NORTH CAROLINA**

North Carolina has actually offered employers guidance on this issue through regulation by the Department of Labor.

The North Carolina statute requires that an employer “furnish each employee with an itemized statement of deductions made from that employee’s wages under [N.C. Gen. Stat. 95-25.8] for each pay period such deductions are made.”<sup>28</sup> The statute sets forth no further detail, but a more recent regulation does.

The regulation specifically addresses the issue of electronic delivery. The regulation states:

The employer may provide the itemized statement required by [N.C. Gen. Stat. 95-25.13] of deductions under [N.C. Gen. Stat. 95-25.8]:

- (1) in writing; or
- (2) by electronic mail, but only if such a transmission is capable of being printed out as a paper copy by the employee; or
- (3) by any other means which supplies the required information in a form the employees *can retain in written form.*<sup>29</sup>

To provide an electronic pay stub, the employer must ensure that the employee can reduce the pay stub to a written or printed format.

Under the statute, an employer has an affirmative obligation to furnish the information. If the employer chooses to do so by electronic mail, the statement must be “capable of being printed.” Fortunately, the regulation is technology neutral. It speaks specifically to e-mail, but clearly allows any electronic means of delivery. This is significant for many employers. Posting the information on-line to a site requiring employees to log on will be acceptable. The only question for compliance is whether the employee can print the pay stub.

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<sup>28</sup> N.C. GEN. STAT.. §95-25.13

<sup>29</sup> N.C.ADMIN. CODE TIT.. 13, r. 12.0807

## OREGON

Oregon's Bureau of Labor and Industries has also adopted a rule addressing electronic delivery of pay stubs.

Oregon's statute provides:

- (1) All persons, firms, partnerships, associations, cooperative associations, corporations, municipal corporations, the state and its political subdivisions, except the federal government and its agencies, employing in this state, during any calendar month one or more persons, and withholding for any purpose, any sum of money from the wages, salary or commission earned by an employee, shall provide such employee on regular paydays with a statement sufficiently itemized to show the amount and purpose of such deductions made during the respective period of service which said payment covers.
- (2) The itemized statement shall be furnished to the employee at the time of payment of wages, salary or commission is made, and may be attached to or be a part of the check, draft, voucher or other instrument by which payment is made, or may be delivered separately from such instrument.<sup>30</sup>

Oregon's Bureau of Labor and Industries has adopted a rule fleshing out the statute and addressing electronic delivery. The regulation states:

- (1) Except for employees who are otherwise specifically exempt under ORS 653.020, employers must furnish each employee, each time the employee receives a compensation payment from the employer, a written itemized statement of earnings. The written itemized statement must include: (a) The total gross payment being made; 9b) The amount and a brief description of each and every deduction from the gross payment; (c) The total number of hours worked during the time covered by the gross payment; (d) The rate of pay; (e) If the worker is paid on a piece rate, the number of pieces done and the rate of pay per piece done; (f) The net amount paid after any deductions; (g) The employer's name, address and telephone number; (h) The pay period for which the payment is made.  
...
- (2) Pursuant to the Uniform Electronic Transactions Act (Chapter 535, Oregon Laws 2001), the itemized statement may be provided in an electronic format if: (a) The employee agrees; and (b) The employee has the ability to print or store the electronic itemized statement at the time of receipt.<sup>31</sup>

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<sup>30</sup> OR. REV. STAT.. 652.610

<sup>31</sup> OR. ADMIN. R. § 839-020-0012

In Oregon, then, the employer delivering an electronic pay stub must also insure that the employee has means to print or store the pay stub.

Obviously, the bigger hurdle for employers will be obtaining employee consent. Fortunately, however, nothing in the regulation prevents an “opt out” employee agreement. The regulation does not require an employer to obtain preauthorization. But, the employer must allow an employee to return to paper-and-ink pay stubs at the employee’s election. In operation, it appears that an employer could begin to deliver pay stubs electronically and then accommodate those employees who disagree or wish to return to a printed pay stub.

## **DELAWARE**

Delaware was the one state that previously forbade electronic delivery of pay stubs. This was the interpretation offered by the Delaware Department of Labor’s Division of Industrial Affairs as late as 2003. In conversations with the Office of Labor Law Enforcement within the Division of Industrial Affairs, we learned that it was their opinion that an electronic pay stub did not satisfy an employer’s obligation to deliver a pay stub pursuant to Delaware’s statute.<sup>32</sup>

The Office of Labor Law Enforcement maintained this position even in situations where the employee agreed to an electronic statement.<sup>33</sup> However, the state legislature took action in 2004 to modify this position, by inserting the language:

It shall be the duty of every employer of over 3 employees to:....4) Furnish to each employee at the time of payment a statement, either on the check, or by a separate slip, *or electronically, so long as the electronic statement is in a form capable of being retained by the employee.*<sup>34</sup>

The statute also provides an “opt out” provision for employees, by allowing them the option of receiving the statement in written form.

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<sup>32</sup> Telephone Interview with a staff agent in the Office of Labor Law Enforcement (April 16, 2002).

<sup>33</sup> *Id.*

<sup>34</sup> 19 DEL. CODE § 1108 (showing 2004 amendment)

## IOWA

Iowa has recently added language to substantially amend its former pay stub delivery statute, which read:

Within ten working days of a request by an employee, an employer shall furnish to the employee a written, itemized statement listing the earnings and deductions made from the wages for each pay period in which the deductions were made together with an explanation of how the wages and deductions were computed.<sup>35</sup>

Thus, Iowa was a “furnish upon request” state up until 2005, when the following language added:

Within ten working days of a request by an employee, an employer shall furnish to the employee a written, itemized statement, *or access to a written, itemized statement as provided in subsection 4.*<sup>36</sup>

Subsection four supplies the crucial language, stating that:

On each regular payday, the employer shall send to each employee by mail or shall provide at the employee’s normal place of employment during normal employment hours a statement showing the hours the employee worked, the wages earned by the employee, and deductions made for the employee. An employer who provides each employee access to view an electronic statement of the employee’s earnings and provides the employee free and unrestricted access to a printer to print the employee’s statement of earnings, if the employee chooses, is in compliance with this subsection.<sup>37</sup>

With this amendment, Iowa is now a “view and print” state, much in the same vein as Oregon. However, Iowa has assigned more force to its measure by conveying it in statutory form rather than leaving it to the interpretation of a regulatory agency. Employee consent is not an issue here, as long as the employer provides the mandated “free and unrestricted” access to a printer.

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<sup>35</sup> IOWA CODE ANN. 91A.6 (2004 version)

<sup>36</sup> IOWA CODE ANN. 91A.6 (2005 version)

<sup>37</sup> IOWA CODE ANN. 91A.6 (2005 version)

## HAWAII

Hawaii is another state which saw the need to address the electronic delivery of pay stubs through use of legislation. Before 2005, Hawaii was a “furnish” state, requiring that employees be given a “legible printed, typewritten, or handwritten record showing the employee’s total gross compensation, the amount and purpose of each deduction, total net compensation, date of payment, and pay period covered...”<sup>38</sup>

Effective July 8, 2005, Hawaii amended its pay stub statute to include the following language:

“in lieu of the printed, typewritten, or handwritten record required by this paragraph and upon receipt of written authorization from the employee, the employer may provide an electronic record that may be electronically accessed by the employee...”<sup>39</sup>

No issue is made of printing, as in the case of Iowa, but rather the key is merely “access”. There is no clear definition as to what constitutes access, however, and that will no doubt lend itself to some regulatory agency interpretation, which can lead to uneven results.

## MAINE

Maine enacted an amendment to 26 MRSA 665 in 2005, joining the ranks of the few states that have chosen the statutory avenue of providing guidance on the pay stub question.<sup>40</sup>

Prior to the enactment of this statute, Maine was a “furnish...with each payment of wages” state, with the statute reading:

“Every employer...shall furnish to each employee with each payment of wages a statement...”<sup>41</sup>

Again, we see no language whatsoever supplying any guidance as to what form the pay stub must be in. However, prior to the current amendment, which clearly states that an employee

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<sup>38</sup> HAWAII REV. STAT. ANN. 388-7 (2004 version)

<sup>39</sup> HAWAII REV. STAT. ANN. 388-7 (2005 version)

<sup>40</sup> 2005 ME HOUSE BILL 673

<sup>41</sup> ME REV. STAT. ANN. tit. 26 § 665(2004 version)

must have access and print capability, Maine’s interpretation of its pay stub statute came down on the access only side. The current language reads:

“If the record is provided in an electronic format the employer shall provide a method by which the employee may have ready access to the information and print it without cost to the employee”.<sup>42</sup>

Access is clearly left squarely within the purview of the employer. No legislative guidance is provided by these five states as to how delivery must be accomplished.

### **OTHER STATES**

No other state has provided any clear regulation. The question of compliance can only be answered by carefully reviewing the language of that statute or regulation that gives rise to the obligation to provide an employee with a pay stub. Thus, the answer in the remaining states depends on interpretation.

In most instances, employers can fulfill state pay stub obligations by simply “furnishing” a statement.<sup>43</sup> In other cases, the employer will need to “give” or “provide” pay stubs to employees. The statutes and regulations in question do not define “furnish,” “give,” or “provide.” The definition of these terms determines whether an employer has complied with statutory requirements by delivering an electronic pay stub.

### **Furnishing a Statement**

Since no cases define “furnish” in the context of statutory pay stub requirements, the usual rules of statutory construction resolve the question. When interpreting statutory language,

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<sup>42</sup> ME REV. STAT. ANN. tit. 26 § 665 (2005 version)

<sup>43</sup> ALA. ADMIN. CODE r. 480-4-2-.17; ARIZ. REV. STAT. ANN. § 23-351; IDAHO CODE § 45-609; 820 ILL. COMP. STAT. 115/10; IND. CODE ANN. § 22-2-2-8; KY. REV. STAT. ANN. § 337.070; ME. REV. STAT. ANN. tit. 26, § 665; MICH. COMP. LAWS ANN. §§ 408.391, 408.479; MO. REV. STAT. § 290.080; NEV. REV. STAT. ANN. 608.110; N.H. REV. STAT. ANN. § 275:49; N.H. CODE ADMIN. R. ANN. LAB. 803.03; N.J. STAT. ANN. § 34:11-4.6; N.Y. LAB. LAW § 195; OHIO REV. CODE ANN. § 4109.1; 34 PA. CODE § 231.36; R.I. GEN. LAWS § 28-14-2.1; S.C. Code Ann. §§ 41-10-30, 41-10-40; UTAH CODE ANN. § 34-28-3; VA. CODE ANN. § 40-1-29; WASH. REV. CODE ANN. § 49.30.020; W. VA. CODE § 21-5-9; W. VA. CODE ST. R. § 42-5-14.2.

the first step is to examine the actual language of the statute.<sup>44</sup> The words of the statute should be given their ordinary, everyday meaning.<sup>45</sup> The ordinary meaning of “furnish” is “to provide or supply with what is needed, useful, or desirable.”<sup>46</sup> In other words, “furnish” means “to make something available.”<sup>47</sup>

*Assuming* an employee has access to an electronic pay stub – whether that is e-mail, internet, or intranet access– if an employer provides an electronic pay stub, the employer has made the necessary information *available*. Again, *assuming* that the employee has access, providing an electronic pay stub satisfies an employer’s obligation. A thornier question is determining *whether* the employee has access to the electronic pay stub. Since the employer has an affirmative obligation to provide the pay stub, the employer must resolve this question.

The employer must supply the employee with the means to access an electronic pay stub. What steps must employer take to insure that an employee has access? Does the employer need to provide adequate equipment, workstations or kiosks, printers, or e-mail addresses? There are no statutory or regulatory guidelines for an employer to follow to answer these questions.

Some employers have responded to this challenge by providing, in addition to a purely electronic pay stub, an interactive voice response system (IVR). Similar to calling an automated banking phone service to determine an account balance, an employee can call an automated toll free number to obtain voiced information on earnings, hours, deductions and other required information. This particular solution, however, does not satisfy some state requirements where the pay stub must be “in writing.”

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<sup>44</sup> Halbert’s Lumber, Inc. v. Lucky Stores, Inc., 6 Cal. App. 4th 1233, 1238 (Cal. Ct. App. 1992). In Halbert’s Lumber, Inc. v. Lucky Stores, Inc., the court needed to interpret “furnish” as used in a statute providing for mechanic’s liens. *Id.* at 1234. The court determined that “furnish” conveyed its ordinary meaning.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 1240, *citing* WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 923 (1986).

<sup>47</sup> *Id.* at 1240.

Some agencies have attempted to give guidance on what it means to provide access. The Wage and Hour Division of Indiana’s Department of Labor, for example, has stated that this requires the employer to provide employees with access to an employer’s computer and printer on the employer’s time.<sup>48</sup> Ultimately, the employer must still resolve the question of what it means to “furnish” a pay stub. In this context, “furnish” means to provide an employee with access to that pay stub: At the very least, “reasonable” access is required.

### **Writing Requirements**

Nine states require that pay stubs be in “writing,” although they do not specify the manner in which an employer should deliver pay stubs.<sup>49</sup> The statutes and regulations are silent as to what constitutes “writing.” Only California provides a definition. California’s labor code defines “writing” as any form of “recorded message capable of comprehension by ordinary visual means.”<sup>50</sup>

Presumably, the requirement that a pay stub be “in writing” does not automatically rule out an electronically delivered pay stub. The analysis simply shifts. An employer now must determine what is required to insure that an employee not only has access to the electronic stub, but in some states, that the employee has reasonable access to print the pay stub so that it may be reduced to written form.

### **Prescribed Delivery Methods**

Four states prescribe a specific method for delivering the required pay stub. Not only must the pay stub be in writing, it must be attached to the check, on a separate piece of paper

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<sup>48</sup> American Payroll Association, PAYSTATE UPDATE, p. 2 (September 7, 2001).

<sup>49</sup> CAL. LAB. CODE § 226; COLO. REV. STAT. § 8-4-105; CON. GEN. STAT. ANN. § 31.13A; HAW. REV. STAT. ANN. § 388-7; MINN. STAT. ANN. § 181.032; N.M. STAT. ANN. § 50-4-2; TEX. LAB. CODE ANN. § 62.003; and VT. CODE R. 24-090-001 and 24-090-002. (Excluded is North Carolina, which requires the statement be in writing but also gives guidance on how this can be accomplished through an electronic pay stub.)

<sup>50</sup> CAL. LAB. CODE § 8.

accompanying the wage payment, or on the envelope containing the wage payment.<sup>51</sup> In these instances, an electronic statement will not comply, as it will not constitute any one of these prescribed methods.

If, on the other hand, an employee is willing to receive an electronic statement under these circumstances in lieu of the paper pay stub, would delivery of a paper pay stub still be required to satisfy statutory language? As long as an employer had an employee's consent to receive his pay stub electronically, there is no compliance issue – both from a practical standpoint and as a legal matter.

If an employee is willing to receive a statement electronically, the employee will not lodge a complaint with the employer, a state labor agency, or any other legal authority for lack of a paper pay stub. Consequently, from a practical perspective, compliance with state mandates is not an issue. If an employee complains under this scenario, the employer is required to start delivering paper pay stubs once again. Generally, most labor standards – other than minimum wage and overtime hours – may be varied by agreement. Where an employee and an employer agree to alter the delivery of an employee's pay stub to accommodate electronic delivery, they are free to do so.

## **AGENCY INTERPRETATION**

In most states, an agency under the Labor Commission or Labor Department will be tasked with enforcing labor standards. Most agencies have interpreted their existing laws to see if those laws support electronic delivery of pay stubs. The agencies have responded in one of three ways: 1) the statute or regulation forbids electronic delivery; 2) electronic delivery of pay stubs

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<sup>51</sup> DEL. CODE ANN. tit. 19, § 1108(4); MASS. GEN. LAWS ANN. ch. 149, § 148; WIS. STAT. ANN. § 103.457; and, WYO. STAT. ANN. § 27-4-101.

is permissible only if the employee can access and print the pay stub; or, 3) electronic pay stubs comply with state law as long as the employee has agrees.<sup>52</sup>

The agencies have also read various restrictions in to the states' pay stub laws. The question is what level of impact or importance to these agency interpretations hold. As stated above, these agency interpretations offer important guidance that is nonbinding and inconclusive.

### **Maryland**

Maryland took a similar position originally. More recently the Office of the Attorney General has issued guidance that would allow for electronic delivery of pay stubs under certain conditions.<sup>53</sup> The Attorney General found that allowing an employer to provide pay stub information electronically was consistent with Maryland's Uniform Electronic Transactions Act.<sup>54</sup> The Attorney General believes that an employer, to comply with Maryland's statutory requirements, could deliver a pay stub electronically, as long as:

- An employee has access to a company provided computer and printer, with the ability to print the statement.
- The employer provides the electronic pay stub on the same day an employee's check is issued or his wages are deposited directly.
- The electronic pay stub contains the statutorily required information.
- The employer maintains some record to verify that the electronic pay stub was provided.
- And, employers continue to maintain payroll information for three years, pursuant to Maryland's record-retention provisions.<sup>55</sup>

### **California**

California's Division of Labor Standard Enforcement has offered the most detailed guidance on electronic pay stubs. Arguably, California has read into its law more requirements than any other agency.

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<sup>52</sup> For a thorough examination of the various state agency interpretations, *see* American Payroll Association, PAYSTATE UPDATE (September 7, 2001).

<sup>53</sup> American Payroll Association, PAYSTATE UPDATE, p. 1 (April 5, 2002).

<sup>54</sup> It should be noted that despite Delaware's continuing position banning electronic pay stubs, Delaware, too, has enacted a version of the Uniform Electronic Transactions Act. *See* DEL CODE ANN. tit. 6, § 12A-107.

<sup>55</sup> American Payroll Association, PAYSTATE UPDATE, p. 1 (April 5, 2002).

In 1999, the Chief Counsel for the Division of Labor Standard Enforcement provided his interpretation. “[D]enying employees the option of receiving a traditional paper wage deduction statement instead of an electronic representation” subverts the purpose of the statute.<sup>56</sup> The purpose behind the statute is to ensure that employees can maintain their own pay records.<sup>57</sup> Consequently, the employer can provide an electronic pay stub only if the employee agrees, and the employer maintains the electronic pay stub for three years – available to the employee for downloading or printing.<sup>58</sup>

### **E-SIGN / UETA**

Questions remain. First, any statute or regulation requiring that the pay stub be “in writing” is problematic. More problematic are statutes or regulations that prescribe particular paper-based methods for delivering the pay stub to an employee. Depending on the interpretation, an electronically-delivered pay stub may comply with the law. The concern is that a reasonable interpretation may reach a different conclusion. Secondly, an employer must decide what weight, if any, to give to these various agency interpretations – particularly where the agency’s interpretation seems to read in *ad hoc* requirements that do not have any basis in statutory or regulatory language. Finally, even if an employer decides to provide the pay stub electronically, what is required of the employer? In other words, is it enough to simply put the pay stub on-line in a secure environment; or, does an employer need to provide the means of access, as well? Must the employer provide employees access to a computer, printer, as well as the time to obtain a pay stub?

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<sup>56</sup> Letter from Miles Locker, Chief Counsel for the Division of Labor Standards Enforcement, to Senator Richard Rainey, California State Senate, and Assemblywoman Lynne Leach, California State Assembly, 6-7 (July 19, 1999) (available at [http://www.dir.ca.gov/dlse/DLSE\\_OpinionLetters.htm](http://www.dir.ca.gov/dlse/DLSE_OpinionLetters.htm)).

<sup>57</sup> *Id.* at 6.

<sup>58</sup> *Id.* at 6-7.

Many employers want to avoid this uncertainty and avoid satisfying fifty different standards for delivering a pay stub. The Electronic Signatures in Global and National Commerce Act (E-SIGN)<sup>59</sup> or, its state predecessor, the Uniform Electronic Transactions Act (UETA) offer alternatives.<sup>60</sup>

E-SIGN's intent was to render electronic signatures, contracts, and records valid and enforceable to the same extent that paper and ink signatures, contracts, and records are valid and enforceable. E-SIGN provides:

Notwithstanding any statute, regulation, or other rule of law (other than this subchapter and subchapter II of this chapter), with respect to any transaction in or affecting interstate or foreign commerce –

- (1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and
- (2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.<sup>61</sup>

Several of E-SIGN's features are relevant. First, E-SIGN is incredibly broad. It covers “records,” as well as contracts and signatures. The definition of “record” includes “information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.”<sup>62</sup> Consequently, a pay stub is a record.

E-SIGN applies to transactions between two or more parties and records and signatures *relating to* such transactions. This definition also allows for the broadest application. “Transaction” includes any “actions relating to the conduct of business, consumer, or commercial affairs between two or more persons.”<sup>63</sup> In almost any instance it embraces the

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<sup>59</sup> 15 U.S.C. § 7001 (2000).

<sup>60</sup> See <http://www.uetaonline.com> for the full draft and official comments to the Uniform Electronic Transactions Act.

<sup>61</sup> 15 U.S.C. § 7001.

<sup>62</sup> 15 U.S.C. § 7006.

<sup>63</sup> *Id.*

employer-employee relationship. In fact, professional commentators have noted *relating* a record to the employment relationship will allow for the elimination of any number of paper-based transactions.<sup>64</sup> The pay stub, then, becomes a record relating to a transaction covered by the Act. Moreover, E-SIGN specifically applies despite the strictures of a state statute or regulation to the contrary. Where a state statute or regulation requires a “written” pay stub, E-SIGN establishes a vehicle for delivering that pay stub electronically

E-SIGN is voluntary. The Act “does not require any person to agree to use or accept electronic records or signatures.”<sup>65</sup> Given this language the voluntary nature of E-SIGN is “satisfied if a party assents to the use of electronic signatures and records or manifests behavior consistent with acceptance.”<sup>66</sup> In other words, rather than waiting for employees to agree to use electronic pay stubs, employers can wait for employee to opt out of using electronic pay stubs. The Act’s language creates a presumption that parties prefer to transact electronically.

Overall, E-SIGN’s strictures preempt any state law to the contrary. The only situation in where this may remain a question is in those states that have enacted a conforming version of the Uniform Electronic Transactions Act (UETA). Since the federal government enacted E-SIGN, approximately forty states have passed UETA into law.<sup>67</sup> The net result, in most instances, will remain the same for employers wishing to migrate to electronic records – whether employers rely on E-SIGN or UETA. Determining if UETA or E-SIGN controls in a particular state is a monstrously complex topic well beyond the scope of this document. But UETA was developed

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<sup>64</sup> See Robert A. Wittie & Jane K. Winn, *Electronic Records and Signatures Under the Federal E-SIGN Legislation and the UETA*, 56 BUS. LAW 293, 300 (2000).

<sup>65</sup> 15 U.S.C. § 7001(b)(2).

<sup>66</sup> Steve Domanowski, *E-SIGN: Paperless Transactions In the New Millinnium*, 51 DEPAUL LAW REV. 619, 644 (2000).

<sup>67</sup> Charles H. Fendell & Dennis M. Kennedy, *Electronic Signatures in Missouri: Moving to UETA or Staying with E-SIGN*, 49 ST. LOUIS BAR JOURNAL 20 (Winter 2003).

to obtain the same result as E-SIGN – insuring that electronic records, signatures, and contracts are as valid and enforceable as their paper counterparts.

Both UETA and E-SIGN rely on voluntary participation. A significant hurdle for most employers. These acts do provide a meaningful alternative – specifically in states requiring written or paper-based pay stubs. More importantly, where an employee consents to an electronic pay stub, a number of other hurdles disappear. If an employee consents to an electronic pay stub, the employer no longer needs to resolve issues of employee access.

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## **CONCLUSION**

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Although the interpretation and edicts surrounding electronic pay stubs are surprisingly complex, the end result is certain. Employers can provide an electronic pay stub and comply with state law mandates. Depending on the state and the manner in which electronic pay stubs are delivered, the employer will face different hurdles.

In some cases, the employer can only deliver an electronic pay stub where the employee consents. Given the cost savings associated with the transition from paper pay stubs to electronic pay stubs, many employers are attempting to obtain this consent. The most interesting developments will likely come in the methods and procedures employers use to obtain employee consent.

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## SUMMARY

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Below, we provide a summary of the various state laws that require employers to provide pay stubs to their employees.

**Pay Stub:** indicates what form of a pay stub is required – a detailed statement of earnings, hours, deductions, and rate of pay; or, a simpler statement, itemizing deductions.

**Required Information** lists the individual items of information that the state requires employers to display on an employee’s pay stub.

**When:** State requirements vary as to when the pay stub must be provided to employees.

**Delivery:** In assessing the viability of electronic pay stubs, the most important determinant will be the method the state statute

or regulation prescribes for delivering the pay stub. If an employer needs to simply furnish the pay stubs to its employees, electronic delivery is viable.

If the state requires a written statement, electronic delivery, in most instances, depends on whether employees can print pay stubs. Where the state prescribes a specific method of delivery – such as on the pay check or pay envelope – electronic delivery will be dependent on employee consent.

**Statute or Regulation:** To facilitate your own research efforts, the applicable state statute or regulation is cited for each state.

| STATE   | PAY STUB   | REQUIRED INFORMATION   | WHEN                | DELIVERY                  | STATUTE OR REGULATION                  |
|---------|------------|--|---------------------|---------------------------|--|
| Alabama | Deductions | <ul style="list-style-type: none"> <li>• Unemployment Compensation Fund Deduction</li> </ul> | At payment of wages | “furnish ... a statement” | ALA. ADMIN. CODE r. 480-4-2-.17        |
| Alaska  | Statement  | <ul style="list-style-type: none"> <li>• Earnings</li> <li>• Deductions</li> </ul>           | For each pay period | “give ... a statement”    | ALASKA ADMIN. CODE tit. 8, § 15.160(h) |

| <b>STATE</b>       | <b>PAY STUB</b> | <b>REQUIRED INFORMATION</b>   | <b>WHEN</b>                         | <b>DELIVERY</b>                                       | <b>STATUTE OR REGULATION</b>  |
|--------------------|-----------------|---|-------------------------------------|---|---|
| <b>Arizona</b>     | Statement       | <ul style="list-style-type: none"> <li>• Earnings</li> <li>• Withholdings</li> </ul>  | Each direct deposit                 | “furnished ... a statement”                           | ARIZ. REV. STAT. ANN. § 23-351  |
| <b>Arkansas</b>    | Not Required    |   |                                     |   |   |
| <b>California</b>  | Statement       | <ul style="list-style-type: none"> <li>• Gross earnings</li> <li>• Total hours worked</li> <li>• Pieces-rate units earned</li> <li>• Hourly rates of pay</li> <li>• Piece rate</li> <li>• Deductions</li> <li>• Net wages</li> <li>• Pay period dates</li> <li>• Employee name or SSN</li> <li>• Employer name</li> <li>• Employer address</li> </ul> | Semi-monthly or at payment of wages | “furnish ... a statement <b>in writing</b> ”          | CAL. LAB. CODE § 226.<br>CAL. CODE REGS. tit. 8, §§ 11010, 11020, 11030, 11040, 11050, 11060, 11070, 11080, 11090, 11110, 11120, 11130, 11140<br>DLSE Opinion Letter 1999.07.19 |
| <b>Colorado</b>    | Statement       | <ul style="list-style-type: none"> <li>• Gross earnings</li> <li>• Withholdings</li> <li>• Deductions</li> <li>• Net wages</li> <li>• Employee name or SSN</li> <li>• Employer name</li> <li>• Employer address</li> </ul>  | At least monthly                    | “furnish ... a statement <b>in writing</b> ”          | COLO. REV. STAT. § 8-4-105  |
| <b>Connecticut</b> | Statement       | <ul style="list-style-type: none"> <li>• Hours worked</li> <li>• Gross earnings</li> <li>• Itemized deductions</li> <li>• Net earnings</li> </ul>   | With each wage payment              | “furnish to each employee <b>in writing</b> a record” | CON. GEN. STAT. ANN. § 31.13A   |

| STATE           | PAY STUB     | REQUIRED INFORMATION  | WHEN                | DELIVERY  | STATUTE OR REGULATION             |
|-----------------|--------------|---|---------------------|---|-----------------------------------|
| <b>Delaware</b> | Statement    | <ul style="list-style-type: none"> <li>• Wages due</li> <li>• Pay period dates</li> <li>• Itemized deductions</li> <li>• Hours worked</li> </ul>  | At payment of wages | “furnish ... a statement, either <b>on the check or by a separate slip</b> ” (electronic delivery allowed by statute) | DEL. CODE ANN. tit. 19, § 1108(4) |
| <b>Florida</b>  | Not Required |   |                     |   |                                   |
| <b>Georgia</b>  | Statement    | <ul style="list-style-type: none"> <li>• Hours worked</li> <li>• Rate of pay</li> <li>• Deductions</li> </ul>   | Not specified       | “provide a pay stub or register”  | GA. CODE ANN. § 34-10-2           |
| <b>Hawaii</b>   | Statement    | <ul style="list-style-type: none"> <li>• Employer’s name</li> <li>• Employee’s name</li> <li>• Inclusive dates for the pay period</li> <li>• Gross compensation</li> <li>• Amount and purpose of each deduction</li> <li>• Net pay</li> <li>• Pay date</li> </ul> | At payment of wages | “furnish ... a legible <b>printed, typewritten, or hand written</b> record”(electronic delivery allowed by statute)   | HAW. REV. STAT. ANN. § 388-7      |
| <b>Idaho</b>    | Deductions   | <ul style="list-style-type: none"> <li>• Deductions</li> </ul>  | For each pay period | “furnish ... a statement”   | IDAHO CODE § 45-609               |
| <b>Illinois</b> | Deductions   | <ul style="list-style-type: none"> <li>• Itemized deductions</li> </ul>   | For each pay period | “furnish ... an itemized statement”   | 820 ILL. COMP. STAT. 115/10       |
| <b>Indiana</b>  | Deductions   | <ul style="list-style-type: none"> <li>• Itemized deductions</li> </ul>   | For each pay period | “furnish ... a statement”   | IND. CODE ANN. § 22-2-2-8         |

| STATE                | PAY STUB     | REQUIRED INFORMATION   | WHEN                | DELIVERY  | STATUTE OR REGULATION                                 |
|----------------------|--------------|--|---------------------|---|---|
| <b>Iowa</b>          | Statement    | <ul style="list-style-type: none"> <li>• Earnings</li> <li>• Deductions</li> <li>• Explanation of computation</li> </ul>   | For each pay period | “furnish ... a <b>written</b> , itemized statement”(electronic delivery allowed by statute) | IOWA CODE ANN. § 91A.6                                |
| <b>Kansas</b>        | Statement    | <ul style="list-style-type: none"> <li>• Earnings</li> </ul>   | Each direct deposit | “give a statement”  | KAN. STAT. ANN. § 44-320<br>KAN. ADMIN. REGS. 49-20-1 |
| <b>Kentucky</b>      | Deductions   | <ul style="list-style-type: none"> <li>• Amount of each deduction</li> <li>• Purpose of each deduction</li> </ul>  | At payment of wages | “furnish ... a statement”   | KY. REV. STAT. ANN. § 337.070                         |
| <b>Louisiana</b>     | Not Required |  |                     |   |   |
| <b>Maine</b>         | Statement    | <ul style="list-style-type: none"> <li>• Pay period date</li> <li>• Hours</li> <li>• Total earnings</li> <li>• Itemized deductions</li> </ul>  | At payment of wages | “furnish ... a statement”(electronic delivery allowed by statute)                           | ME. REV. STAT. ANN. tit. 26, § 665                    |
| <b>Maryland</b>      | Deductions   | <ul style="list-style-type: none"> <li>• Gross earnings</li> <li>• Deductions</li> </ul>   | For each pay period | “give ... a statement”  | MD. CODE ANN., LAB. & EMPL. § 3-504                   |
| <b>Massachusetts</b> | Statement    | <ul style="list-style-type: none"> <li>• Employer name</li> <li>• Employee name</li> <li>• Pay date</li> <li>• Hours worked</li> <li>• Hourly rate</li> <li>• Deductions</li> <li>• Increases</li> </ul> | At payment of wages | “furnish ... a suitable <b>pay slip, check stub or envelope</b> ”                           | MASS. GEN. LAWS ANN. ch. 149, § 148                   |

| <b>STATE</b>         | <b>PAY STUB</b> | <b>REQUIRED INFORMATION</b>   | <b>WHEN</b>              | <b>DELIVERY</b>                                     | <b>STATUTE OR REGULATION</b>  |
|----------------------|-----------------|---|--------------------------|---|---|
| <b>Michigan</b>      | Statement       | <ul style="list-style-type: none"> <li>• Hours worked</li> <li>• Gross wages</li> <li>• Inclusive pay period dates</li> <li>• Itemized deductions</li> <li>• Units harvested (for hand harvesters)</li> </ul>   | At payment of wages      | “furnish ... a statement”                           | MICH. COMP. LAWS ANN. §§ 408.391, 408.479                               |
| <b>Minnesota</b>     | Statement       | <ul style="list-style-type: none"> <li>• Employee name</li> <li>• Hourly rate</li> <li>• Hours worked</li> <li>• Gross pay</li> <li>• Deductions</li> <li>• Net pay</li> <li>• Pay period end date</li> <li>• Employer’s legal name</li> <li>• Employer’s operating name</li> </ul> | At end of the pay period | “give ... an earnings statement <b>in writing</b> ” | MINN. STAT. ANN. § 181.032  |
| <b>Mississippi</b>   | Not Required    |   |                          |   |   |
| <b>Missouri</b>      | Deductions      | <ul style="list-style-type: none"> <li>• Total amount of deductions</li> </ul>  | At least once a month    | “furnish ... a statement”                           | MO. REV. STAT. § 290.080  |
| <b>Montana</b>       | Deductions      | <ul style="list-style-type: none"> <li>• Itemized deductions</li> </ul>   | At payment of wages      | “give ... an itemized statement”                    | MONT. CODE ANN. § 39-3-101  |
| <b>Nebraska</b>      | Not Required    |   |                          |   |   |
| <b>Nevada</b>        | Deductions      | <ul style="list-style-type: none"> <li>• Total amount of wages</li> <li>• Itemized deductions</li> </ul>  | At payment of wages      | “furnish ... an itemized list”                      | NEV. REV. STAT. ANN. 608.110  |
| <b>New Hampshire</b> | Deductions      | <ul style="list-style-type: none"> <li>• Deductions</li> </ul>  | For each pay period      | “furnish ... a statement”                           | N.H. REV. STAT. ANN. § 275:49 ;<br>N.H. CODE ADMIN. R. ANN. LAB. 803.03 |

| STATE                 | PAY STUB   | REQUIRED INFORMATION  | WHEN   | DELIVERY  | STATUTE OR REGULATION   |
|-----------------------|------------|---|--|---|---|
| <b>New Jersey</b>     | Deductions | <ul style="list-style-type: none"> <li>• Deductions</li> </ul>  | For each pay period                          | “furnish ... a statement”   | N.J. STAT. ANN. § 34:11-4.6   |
| <b>New Mexico</b>     | Statement  | <ul style="list-style-type: none"> <li>• Employer identity</li> <li>• Gross pay</li> <li>• Hours worked</li> <li>• Total wages and benefits</li> <li>• Itemized deductions</li> </ul> | None specified                               | “provide ... a <b>written receipt</b> ”   | N.M. STAT. ANN. § 50-4-2  |
| <b>New York</b>       | Statement  | <ul style="list-style-type: none"> <li>• Gross wages</li> <li>• Deductions</li> <li>• Net wages</li> </ul>  | At payment of wages                          | “furnish ... a statement”   | N.Y. LAB. LAW § 195   |
| <b>North Carolina</b> | Deductions | <ul style="list-style-type: none"> <li>• Itemized deductions</li> </ul>   | For each pay period                          | “provide the itemized statement ... in a form the employees can retain in written form” | N.C. GEN. STAT. § 95-25.13;<br>N.C. ADMIN. CODE tit. 13, r. 12.0807 |
| <b>North Dakota</b>   | Statement  | <ul style="list-style-type: none"> <li>• Hours worked</li> <li>• Rate of pay</li> <li>• Itemized deductions</li> </ul>  | Each pay period                              | “furnish ... a <b>check stub or pay voucher</b> ”                                       | N.D. ADMIN. CODE § 46-02-07-02                                      |
| <b>Ohio</b>           | Statement  | <ul style="list-style-type: none"> <li>• Earnings due</li> <li>• Amount to be paid</li> </ul>   | On or before payday for a minor              | “furnish the minor ... a statement”   | OHIO REV. CODE ANN. § 4109.1  |
| <b>Oklahoma</b>       | Deductions | <ul style="list-style-type: none"> <li>• Itemized deductions</li> </ul>   | At payment of wages for non-exempt employees | “issue ... a brief itemized statement”  | OKLA. STAT. ANN. tit. 40, § 165.2                                   |

| <b>STATE</b>          | <b>PAY STUB</b> | <b>REQUIRED INFORMATION</b>   | <b>WHEN</b>                                   | <b>DELIVERY</b>   | <b>STATUTE OR REGULATION</b>                                      |
|-----------------------|-----------------|---|---|---|---|
| <b>Oregon</b>         | Statement       | <ul style="list-style-type: none"> <li>• Gross payment</li> <li>• Itemized deductions</li> <li>• Hours worked</li> <li>• Rate of pay</li> <li>• Piece rate</li> <li>• Pieces done</li> <li>• Net pay</li> <li>• Employer's name</li> <li>• Employer's address</li> <li>• Employer's telephone number</li> <li>• Inclusive pay period dates</li> </ul> | At payment of wages                           | “furnish ... a written itemized statement ... in an electronic format if: [employee agrees and can print or store statement]” | OR. REV. STAT. §§ 652.610, 653.045;<br>OR. ADMIN. R. 839-020-0012 |
| <b>Pennsylvania</b>   | Statement       | <ul style="list-style-type: none"> <li>• Hours worked</li> <li>• Rate of pay</li> <li>• Gross wages</li> <li>• Allowances</li> <li>• Deductions</li> <li>• Net wages</li> </ul>   | At payment of wages                           | “furnish ... a statement”   | 34 PA. CODE § 231.36  |
| <b>Rhode Island</b>   | Statement       | <ul style="list-style-type: none"> <li>• Hours worked</li> <li>• Itemized deductions</li> <li>• Hourly pay rate (for commercial construction employers)</li> </ul>  | On every regular payday                       | “furnish ... a statement [and] a record of all deductions”  | R.I. GEN. LAWS § 28-14-2.1  |
| <b>South Carolina</b> | Deductions      | <ul style="list-style-type: none"> <li>• Gross pay</li> <li>• Deductions</li> <li>• Earnings (direct deposit recipient)</li> <li>• Withholdings (direct deposit recipient)</li> </ul>   | For each pay period; with each direct deposit | “furnish ... an itemized statement;”<br>“furnished a statement of earnings”   | S.C. CODE ANN. §§ 41-10-30, -40                                   |

| STATE                | PAY STUB     | REQUIRED INFORMATION   | WHEN                          | DELIVERY  | STATUTE OR REGULATION                                |
|----------------------|--------------|--|-------------------------------|---|--|
| <b>South Dakota</b>  | Not Required |  |                               |   |  |
| <b>Tennessee</b>     | Not Required |  |                               |   |  |
| <b>Texas</b>         | Statement    | <ul style="list-style-type: none"> <li>• Employer's signature</li> <li>• Employee name</li> <li>• Rate of pay</li> <li>• Total pay</li> <li>• Itemized deductions</li> <li>• Net pay</li> <li>• Hours worked</li> <li>• Pieces earned</li> </ul> | At the end of each pay period | "give ... a <b>written</b> earnings statement ... in any form determined by the employer" | TEX. LAB. CODE ANN. § 62.003                         |
| <b>Utah</b>          | Deductions   | <ul style="list-style-type: none"> <li>• Amount of each deduction</li> </ul>   | On each regular payday        | "furnish ... a statement"   | UTAH CODE ANN. § 34-28-3                             |
| <b>Vermont</b>       | Statement    | <ul style="list-style-type: none"> <li>• Gross pay</li> <li>• Hours worked</li> <li>• Hourly rate</li> <li>• Itemized deductions</li> </ul>  | Each pay period or each week  | "deliver ... a detailed <b>written statement</b> "  | VT. CODE R. 24-090-001;<br>VT. CODE R. 24-090-002    |
| <b>Virginia</b>      | Deductions   | <ul style="list-style-type: none"> <li>• Gross wages</li> <li>• Itemized deductions</li> </ul>   | Upon request                  | "furnish ... a <b>written statement</b> "   | VA. CODE ANN. § 40-1-29                              |
| <b>Washington</b>    | Statement    | <ul style="list-style-type: none"> <li>• Pay basis of hours or days worked</li> <li>• Rate of pay</li> <li>• Gross pay</li> <li>• All deductions</li> </ul>  | At payment of wages           | "furnish ... an itemized statement"   | WASH. REV. CODE ANN. § 49.30.020                     |
| <b>West Virginia</b> | Statement    | <ul style="list-style-type: none"> <li>• Hourly rate</li> <li>• Overtime rate</li> <li>• Bonus and incentive pay</li> <li>• Itemized deductions</li> </ul>   | For each pay period           | "furnish ... an itemized statement"   | W. VA. CODE § 21-5-9; W. VA. CODE ST. R. § 42-5-14.2 |

| <b>STATE</b>     | <b>PAY STUB</b> | <b>REQUIRED INFORMATION</b>  | <b>WHEN</b>         | <b>DELIVERY</b>   | <b>STATUTE OR REGULATION</b>                             |
|------------------|-----------------|--|---------------------|---|--|
| <b>Wisconsin</b> | Statement       | <ul style="list-style-type: none"> <li>• Hours worked</li> <li>• Rate of pay</li> <li>• Itemized deductions</li> </ul> | At payment of wages | “state ... on the employee’s <b>pay check, pay envelope or paper</b> accompanying the wage payment” | WIS. STAT. ANN. § 103.457 ;<br>WIS. ADMIN. CODE § 272.10 |
| <b>Wyoming</b>   | Deductions      | <ul style="list-style-type: none"> <li>• All deductions</li> </ul>   | At payment of wages | “furnish ... a detachable part of the check, draft or voucher ... <b>in writing</b> ”               | WYO. STAT. ANN. § 27-4-101                               |