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Labor and Employment Alert: Illinois Now Mandates That Employers Reimburse Employees' Business Expenses

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Effective January 1, 2019, Illinois will become the ninth state to mandate that employers reimburse employees for expenses incurred in carrying out their job duties. California, the District of Columbia, Iowa, Massachusetts, Montana, New Hampshire, North Dakota and South Dakota already have this requirement.

Illinois employers will be required to reimburse an employee for all “necessary expenditures” or losses incurred by the employee within the scope of employment and directly related to the services performed for the employer. The Wage Payment and Collection Act defines “necessary expenditures” as any reasonable and necessary expenditures or losses required of the employee in discharging his or her employment duties that are primarily for the employer’s benefit. Employers are not required to reimburse expenses caused by an employee’s own negligence, losses due to normal wear, or losses due to theft unless the theft was the result of the employer’s negligence.

To obtain reimbursement, employees must submit any necessary expenditure with appropriate supporting documentation within 30 calendar days after incurring the expense. An employer may provide additional time for doing so in a written expense reimbursement policy. If supporting documentation does not exist, the employee must submit a signed statement regarding the receipts.

Employees are not entitled to reimbursement if: (1) the employer has a written expense reimbursement policy, and (2) the employee failed to comply with that policy. If that policy establishes specifications or guidelines for necessary expenditures, the employer is not liable for the portion of the employee’s expenditures that exceeds the specifications or guidelines – so long as the employer’s policy does not provide for no reimbursement or de minimis reimbursement. Further, an employer is not liable for reimbursement unless the employer authorized or required the employee to incur the necessary expenditure or the employer failed to comply with its own written expense policy.

The Illinois Department of Labor will adopt rules to implement these provisions. Employees may use their own cars, cell phones, and laptops for business use, all of which may trigger an employer's obligation to reimburse them for "necessary expenditures." Employers should review and/or consider adopting expense reimbursement policies and procedures to ensure they comply with the amended Wage Payment and Collection Act. Contact your Vorys lawyer if you have questions about expense reimbursement or other workplace policies.