

## Illinois Employers Must Reimburse Employee Expenses

January 10, 2019

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The Illinois State Legislature expanded the Illinois Wage Payment and Collection Act to include a new section ([820 Illinois Compiled Statutes 115/9.5](#)) (“Amendment”) that now requires every Illinois employer to reimburse an employee for all “necessary expenditures or losses incurred by the employee within the employee’s scope of employment and directly related to services performed for the employer.” The Amendment became effective January 1, 2019.

“Necessary expenditures” include any reasonable expenses or losses that the employee incurs that primarily benefit the employer and are a result of the employee discharging the duties of his or her position (e.g., required travel to an off-premises work site or required usage of a personal data plan, but not an ordinary commuting expense). Importantly, the Amendment allows employers to establish written guidelines for “necessary expenditures,” and an employer is not required to reimburse any expenses exceeding those guidelines. For example, employers that reimburse for an employee’s data or Internet charges for a personal device may establish a certain limit on the amount that is reimbursable.

Under the Amendment, to be eligible for reimbursement, employees must:

- submit all expenditures or losses with supporting documentation within 30 calendar days of incurring the expense, unless their employer’s reimbursement policy allows additional time;
- provide a written statement detailing expenditures or losses if supporting documentation is “non-existent, missing, or lost”; and
- comply with their employer’s written reimbursement policy.

An employer does not have to cover losses due to an employee’s own negligence, normal wear, theft (unless the result of the employer’s negligence), or expenses not required by the employer (unless the employer failed to comply with its own written policy).

Notably, unlike certain other states (such as California) that have enacted stricter legislation governing expense reimbursements, Illinois does not require 100 percent reimbursement for all employee expenses related to business purposes. Instead, the Amendment allows employers to designate in a written reimbursement policy the maximum amount or percentage of expenses that they will cover as long as the reimbursements are not *de minimis*. The Amendment does not define what constitutes a “*de minimis* reimbursement,” so employers should expect judicial clarification of this provision. As a practical matter, employers should endeavor to implement reasonable policies to ensure that all reimbursements comply with federal mandates and adequately compensate employees for expenses incurred during the course of their work.

### **What Illinois Employers Should Do Now**

- Draft or review—and, if necessary, revise—reimbursement policies to detail the maximum amount or percentage of expenses that you will reimburse and to outline the process that employees should use to submit reimbursement requests, including the time requirements for submitting reimbursement requests.
- Draft or review—and, if necessary, revise—technology reimbursement policies, such as those providing reimbursement for cell service or Internet for mobile phones or tablets, or the reimbursement for the devices themselves.
- Establish pre-approved reimbursement rates or amounts for travel (in compliance with any Internal Revenue Service standards) and data usage to avoid excessive costs.
- Consider including reimbursement policies in the employee handbook or on an intranet, where employees will acknowledge their receipt and understanding of the policy.

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