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ALERT

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Maryland Law Prohibits Printing Social Security Numbers on Paychecks

As of January 1, 2007, private and government employers with employees in the state of Maryland are forbidden from including employee Social Security numbers on paychecks. The law was signed by Governor Robert L. Ehrlich at the close of the 2006 legislative session. (It is codified at Maryland Labor and Employment Code Annotated § 3-502(d).) The purpose of the law is to combat the growing problem of identity theft by removing a potential source of Social Security numbers.

The law is broad in its applicability. It covers all persons or entities, including a governmental entity, employing an individual in the state, regardless of the employer's location and the residential location of the employee or the source of the payroll. For instance, if an employer is headquartered in New York with an employee who works in Maryland but lives in the District of Columbia, that employee's paycheck is covered by the new law. The Social Security number may not be printed on a "wage payment check, an attachment to an employee's wage payment check, a notice of direct deposit of an employee's wage, or a notice of credit of an employee's wage to a debit card or card account." Wages covered by the law include salary, bonuses, commissions, fringe benefits or any other payment for services. Checks issued separately from regular wages, such as bonus checks, must also comply with the law.

It is not clear from the law, and no guidance has been issued by the state, whether any portion of the Social Security number may be displayed on paychecks or similar wage documents. Employers may be inclined to use the last four digits of an employee's Social Security number as a method of identification, for example. This format is not specifically permitted under the law so it may be prohibited. In an abundance of caution, employers should dispense entirely with the use of any form or portion of an employee's Social Security number.

An employer who "willfully violates" the law is subject to

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misdeemeanor charges and on conviction can be fined up to \$1,000. The state has not provided notice or guidance to employers about the new law. To protect employees from identity theft and avoid inadvertent noncompliance with the law, employers should eliminate all use of Social Security numbers where possible.

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If you have any questions about the topics covered in this Alert, please do not hesitate to contact Cynthia Larose (617.348.1732, CJLarose@mintz.com) or the Mintz Levin attorney who ordinarily handles your legal affairs.

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