

Title:

Payroll Delaware, Unique Aspects of Delaware Payroll Law and Practice

Word Count:

764

Summary:

Delaware payroll has some unique aspects and conditions. Some of the details and laws are set out in this article including information concerning: tax withholding and reporting; unemployment insurance taxes and reporting; wage and hour laws; and child support withholding.

Keywords:

Payroll Delaware, Delaware payroll, payroll, Delaware payroll taxes, Delaware Income Tax, Delaware payroll withholding, Delaware payroll service, Delaware Unemployment Insurance, Delaware Child Support

Article Body:

**<b>The Delaware State Agency that oversees the collection and reporting of State income taxes deducted from payroll checks is:</b>**

Division of Revenue Withholding Division

820 N. French St.

Wilmington, DE 19801

302-577-8200

[www.state.de.us/revenue](http://www.state.de.us/revenue)

Delaware allows you to use the Federal W-4 form to calculate state income tax withholding.

Not all states allow salary reductions made under Section 125 cafeteria plans or 401(k) to be treated in the same manner as the IRS code allows. In Delaware cafeteria plans are: not taxable for income tax calculation; taxable for unemployment insurance purposes. 401(k) plan deferrals are: not taxable for income taxes; taxable for unemployment purposes.

In Delaware supplemental wages are required to be aggregated for the withholding calculation..

You must file your Delaware State W-2s by magnetic media if you are required to file your federal W-2s by magnetic media.

<b>The Delaware State Unemployment Insurance Agency is:</b>

The Department of Labor  
Division of Unemployment Insurance  
4425 N. Market St.  
Wilmington, DE 19802  
302-761-8446  
<http://www.delawareworks.com/Unemployment/welcome.shtml>

The State of Delaware taxable wage base for unemployment purposes is wages up to \$8,500.00.

Delaware has optional reporting of quarterly wages on magnetic media.

Unemployment records must be retained in Delaware for a minimum period of four years. This information generally includes: name; social security number; dates of hire, rehire and termination; wages by period; payroll pay periods and pay dates; date and circumstances of termination.

<b>The Delaware State Agency charged with enforcing the state wage and hour laws is:</b>

The Department Labor  
Division of Industrial Affairs  
Labor Law Enforcement Section  
4425 N. Market St.  
Wilmington, DE 19802  
302-761-8200  
[www.delawareworks.com](http://www.delawareworks.com)

The minimum wage in Delaware is \$6.15 per hour.

There is also no general provision in Delaware State Law covering paying overtime in a non-FLSA covered employer.

Delaware State new hire reporting requirements are that every employer must report every new hire and rehires. The employer must report the federally required elements of:

- <li>Employee's name</li>
- <li>Employee's address</li>

- <li>Employee's social security number</li>
- <li>Employer's name</li>
- <li>Employers address</li>
- <li>Employer's Federal Employer Identification Number (EIN) </li></ul>

This information must be reported within 20 days of the hiring or rehiring. The information can be sent as a W4 or equivalent by mail, fax or electronically.

There is a \$25.00 penalty for a late report in Delaware.

The Delaware new hire reporting agency can be reached at 302-577-7171 or on the web site at [www.state.de.us/dhss/dcse/index.html](http://www.state.de.us/dhss/dcse/index.html) .

Delaware does not allow compulsory direct deposit.

Delaware requires the following information on an employee's pay stub:

- <ul><li>Wages due</li>
- <li>pay period dates</li>
- <li>hours worked for hourly workers</li>
- <li>itemized deductions</li></ul>

Delaware requires that employee be paid no less often than monthly.

Delaware requires that employees must be paid within 7 days after the end of the pay period.

Delaware payroll law requires that involuntarily or voluntarily terminated employees must be paid their final pay by the next regular payday or by mail upon request.

Deceased employee's wages up to \$300.00 must be paid to the surviving children under 21 custodian, surviving spouse, children 21 and over or the deceased's parents (in that order) when a "Proper Demand" has been made.

Escheat laws in Delaware require that unclaimed wages be paid over to the state after five years.

There is no provision in Delaware law concerning record retention of abandoned wage records.

Delaware payroll laws allow for a tip credit against Delaware State minimum wage of \$3.92 per hour.

In Delaware the payroll laws covering mandatory rest or meal breaks are: a 30-minute meal period during a 7 and one half-hour shift. Taking place after the first two hours and before the last two hours o the shift.

The Delaware law requires that wage and hour records be retained for a period of at least three years.

**<b>The Delaware agency charged with enforcing Child Support Orders and laws is:</b>**

Division of Child Support Enforcement  
P.O. Box 904  
New Castle, DE 19720  
302-577-7171  
<http://www.dhss.delaware.gov/dhss/dcse/services.html>

Delaware has the following provisions for child support deductions:

**<ul><li>When to start Withholding?      <b>7 days after first payday after receipt of order.</li></b>**  
**<li>When to send Payment?      <b>Payday.</li></b>**  
**<li>When to send Termination Notice?      <b>"Promptly"</li></b>**  
**<li>Maximum Administrative Fee?      <b>No Provision</li></b>**  
**<li>Withholding Limits?      <b>Federal Rules under CCPA.</li></b>**  
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Please note that this article is not updated for changes that can and will happen from time to time.