

## **NYS Department of Labor Limits Ability of Employers to Deduct Monies Owed From Employee Wages**

While the law itself has not technically changed, the New York State Department of Labor has significantly revised its interpretation of Section 193 of the State's Labor Law, the statute that controls permissible deductions from employee wages. Employers should now be aware that deductions for anything other than those required by law (e.g. taxes, FICA, unemployment insurance, etc.), health insurance premiums, contributions to 401K or other retirement plans, or union dues, will most likely not be allowed. Prior to the Department of Labor's recent change in thinking, deductions for things such as overpayments, payment advances, loans, and even tuition payments were permissible as long as the employee provided written consent and the deduction was not greater than 10% of the employee's paycheck. Now, even if the employee consents to the deduction, the employer cannot legally reduce his or her wages unless such deduction is required by law.

This new interpretation is based upon recent decisions by New York's highest court, the Court of Appeals. In essence, the Court of Appeals concluded that the Department of Labor's prior interpretation, allowing more permissible deduction rules, was in conflict with the explicit language of the Labor Law. Hence, the Department of Labor revised its interpretation to be in line with the Court's thinking.

It is also important to note that under the new interpretation, the employer cannot take disciplinary action against the employee in instances where the employee refuses to pay back money owed to the employer. In other words, an employer cannot demote, suspend, or terminate an employee simply because the employee owes the employer money and refuses to pay it back. The employer's sole recourse in these situations is to seek legal action against the employee for repayment of the money owed.

If you are an employer that wishes to recover wage overpayments or other monies owed by an employee, you should contact Eric Broutman, Esq. or any of the other attorneys in our firm so that we can assist you in recovering these funds. Furthermore, if you have any questions about the change to this law, or any other labor and/or employment needs, please contact us so that we may assist you in ensuring that your business is in compliance with all relevant State, Federal, and local labor and employment laws.