

NYS Labor Law to Permit Additional Deductions From Wages

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Effective November 6, 2012, a new amendment to the NYS Labor Law establishes additional categories of permissible wage deductions that may be taken by employers (with the written consent of employees). Even more importantly, it provides for the use of wage deductions to recapture overpayments of wages due to clerical or mathematical errors or for repayment of advances on wages or vacations paid to employees. This amendment goes a long way toward remedying some of the issues that previously existed under New York law in relation to deductions from wages.

The amendment, signed into law on September 7, 2012 by Governor Cuomo, partially remedies issues employers have had in deducting from employees' wages. New York Labor Law prohibited employers from making "any deduction from the wages of an employee," with two exceptions: (1) deductions required by law or (2) deductions that are expressly authorized by the employee in writing and that "are for the benefit of the employee." According to the New York State Department of Labor (NY DOL), this second exception permits deductions for insurance premiums, pension or health benefits, charitable contributions, and dues for labor organizations, as well as other limited deductions.

Deductions continue to only be permitted if expressly authorized in writing by the employee and if the deductions are, generally, for the benefit of the employee. Under the new amendment, employers are permitted to make deductions for numerous reasons that were previously prohibited, including the following:

- Discounted mass transit tickets, passes, or cards
- Fitness, health club, and/or gym membership dues
- Cafeteria, vending machine, and pharmacy purchases made at the employer's place of business
- Tuition, room, board, and fees for nursery, primary, secondary, and post-secondary education costs
- Day care and before- and after-school care expenses

The amendment also allows employers to deduct from employees' wages to recover advances in pay, unintentional overpayment of wages, or advances on vacation. Prior to this amendment, the NYS Department of Labor stated that employers were prohibited from taking any of these deductions, even with employee's consent. This led many employers to stop providing advances on vacation or salary to employees because they would be unable to recover those advances. It also created a situation where employers had to take employees to court to recover overpayments.

Employers taking advantage of the new statute should remember that it is not effective until November 6, 2012, and that the employee's consent must be obtained in writing. We will be happy to help you prepare any forms or examine policies to comply with the new law.