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Informational Sheet: Payment of Wages and Fringe Benefits

OVERPAYMENT DEDUCTIONS

In November 1995, 1978 PA 390, the Payment of Wages and Fringe Benefits Act was amended to allow a deduction for a wage or fringe benefit overpayment without the written consent of an employee, provided specific requirements are met.

This informational sheet provides guidance in applying Section 7(4) of the Payment of Wages and Fringe Benefits Act.

1) Is the employee's rate of pay greater than the Minimum Wage Rate per hour?

- If yes, proceed to #2.

If no, the deduction cannot be made. Section 7(4) (f) prohibits an overpayment deduction from reducing the gross wages paid below the minimum wage rate. Section 7(4) (f) restricts the deduction to the higher of the federal or state minimum wage rate.

Reference: Section 7(4) (f)

2) Was the overpayment a result of a miscalculation or typographical error?

- If yes, go to #3.

If no, a deduction is not permitted under authority of Section 7(4) - a written consent is required to make the deduction.

Reference: Section 7(4) (a)

3) Will the deduction be taken within six (6) months of the overpayment?

- If yes, proceed to #4.

If no, the deduction is not allowed. The deduction must be made within six months of the date of overpayment. Note: the employer may make the deduction over a number of pay periods until the full amount of the overpayment is recouped (division policy -10/06).

Reference: Section 7(4)

4) Will the employee receive written notice of the deduction in the pay period before the date the deduction will be made?

- If yes, proceed to #5.

If no, the deduction is not allowed.

Reference: Section 7(4) (c)



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5) Is the deduction amount less than 15% of the employee's gross wage earnings?

If yes, proceed to #6.

If no, the deduction is not valid. Only the amount deducted that equals or is less than 15% of the employee's gross wages may be deducted without a written consent.

Reference: Section 7(4) (d)

6) Will the deduction be made after all legally authorized deductions, deductions authorized by a collective bargaining agreement or employee authorized deductions are made?

Note: This refers to tax withholdings, garnishments, child support deductions, union dues or other authorized collective bargaining agreement deductions and any specific employee authorized deduction or allocation - e.g. charitable contribution, payment of a medical insurance premium, deductions for a savings plan, payment or deposit of funds in a credit union or an employee purchase.

If yes, proceed to #7.

If no, the deduction is not allowed.

Reference: Section 7(4) (e)

7) Will the deduction result in payment to the employee of at least the Minimum Wage Rate per hour in gross wages?

To verify that the employee receives at least the Minimum Wage Rate per hour subtract the amount to be deducted from the gross wages and divide the result by the number of hours worked. The number must equal or exceed the Minimum Wage Rate per hour.

If yes, the deduction is allowed.

If no, the deduction cannot be made.

Reference: Section 7(4) (f)

TO BE ALLOWED, THE DEDUCTION MUST MEET ALL OF THE CONDITIONS LISTED.