Informational Sheet: Payment of Wages and Fringe Benefits

OVERPAYMENT DEDUCTIONS

The Payment of Wages and Fringe Benefits Act, Public Act 390 of 1978, as amended, allows 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 greater of the state or federal minimum wage rate.

2) Was the overpayment a result of a mathematical miscalculation, typographical error, clerical error or misprint in the processing of the employee's regularly scheduled wages or fringe benefits?

□ If yes, proceed to #3.

If no, a deduction is not permitted, Section 7(4)(a) requires the overpayment resulted from a miscalculation, typographical or clerical error or misprint in the processing of the employee's regularly scheduled wages or fringe benefits.

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. Section 7(4) requires 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).

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

□ If yes, proceed to #5.

If no, the deduction is not allowed. Section 7(4)(c) requires an employee be given written notice at least one pay period in advance of an overpayment deduction.

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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. Section 7(4)(d) prohibits an overpayment deduction from being more than 15% of the gross wages earned, only the amount deducted that equals or is less than 15% of the employee's gross wages may be deducted without a written consent.

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. Section 7(4)(e) prohibits an overpayment deduction until all deductions expressly permitted by law, collective bargaining agreement, or employee's written consent are made.

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

Note: 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. Section 7(4)(f) prohibits an overpayment deduction from reducing the gross wages paid below the greater of the state or federal minimum wage rate.

Reference: Section 7(4) (f)

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

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