

Deductions Decoded: When Can an Employer Legally Deduct Money from an Exempt Employee's Paycheck?

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Employers should be very careful when deducting pay from salaried, exempt employees. Absent a specific statutory exception, exempt employees are entitled to receive their full salary during any week in which they perform work. However, under the Fair Labor Standards Act an employer may deduct pay from an exempt employee under the following specific circumstances:

- For absences from work for one or more full days for personal reasons;
- To offset amounts employees receive as jury or witness fees;
- For penalties resulting from violations of the employer's safety rules of major significance, so long as they are imposed in good faith;
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions; and
- For absences of one or more full days due to sickness or disability if the deduction is made in accordance with a policy.

In addition to these exceptions, employers do not have to pay exempt employees for leave taken under the Family and Medical Leave Act. Employers also do not have to pay exempt employees a full salary during the initial or terminal weeks of employment where an employee does not work for the entire pay period. The employer may, instead, pay the employee a proportionate part of his weekly salary.

What happens when employers make improper deductions? The employer risks losing the ability to classify employees as exempt during the time period in question. In such cases, when making a classification determination, the Department of Labor will consider the following factors:

- The number of times the employer has made improper deductions;
- The length of time the employer has made improper deductions;
- The number and location of the employees who experienced the improper deductions; and
- Whether the employer has a clearly communicated policy permitting or prohibited improper deductions.

Employers should consider the guidelines above when making a deduction from an exempt employee's pay to ensure compliance with the Fair Labor Standards Act and avoid any penalties.

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