

Are you making improper deductions from employees' paychecks?

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In December 2016, the U.S. Department of Labor (DOL) found Life Time Fitness guilty of paying 15,909 workers, including 862 workers in five Arizona locations, less than the federal minimum wage under the Fair Labor Standards Act (FLSA). Life Time had deducted uniform costs from its workers' pay. The overall liability assessed against the company is more than \$1 million.

Both federal and Arizona law set specific requirements for the amount employers may deduct from employees' paychecks. In this case, it wasn't the fact that the deductions were made that was improper; it was the fact that they brought employees' pay below the minimum wage. Because liability can be substantial, employers should consider the following reminders about proper wage deductions.

Permissible deductions in Arizona

Arizona law allows deductions from an employee's paycheck if the employer is required or empowered to make the deduction under state or federal law (e.g., taxes or garnishments). An Arizona employer is also permitted to make deductions from an employee's paycheck if it has prior written authorization from the employee. However, an employee may revoke the authorization, unless the withholding resolves a debt or an obligation to the employer or a court orders otherwise. Arizona law also permits employers to deduct wages from employees' paychecks if there is a reasonable good-faith dispute over the amount of wages due, including any claim of debt or offset by the employer.

Deductions on items for employer's convenience

Federal regulations prohibit deductions for certain items of convenience or employer benefit (e.g., uniforms or reimbursement for cash shortages) that

cause an employee's wages to fall below the statutory minimum for both straight-time wages and any applicable overtime premium. A violation of those regulations can result in liability under the FLSA for back wages, liquidated damages, and fines, as was the case for Life Time. Although Arizona's law on deductions doesn't address whether withholdings may reduce employees' pay below minimum wage, regulations promulgated by the Industrial Commission of Arizona state that "no less than the minimum wage shall be paid for hours worked."

That means employers that want to deduct the cost of uniforms, property damage, tools, or cash shortages from an employee's paycheck must ensure that doing so will not reduce the employee's wages below minimum wage (\$10 per hour in Arizona). If an employee is paid minimum wage, you may not make any deduction from her wages for the cost of her uniform, nor may you require her to purchase the uniform on her own.

If an employee makes more than minimum wage, however, you are permitted to deduct the cost of items required for your convenience as long as the deduction doesn't take the employee's pay below minimum wage. If the full cost of the uniform or other deductions would take the employee's pay below minimum wage in a workweek, you may prorate the deductions over a period of paydays, provided the prorated deductions do not reduce the employee's wages below the required minimum wage in any workweek.

Takeaway

You should never make payroll deductions for employee errors, lost or damaged equipment, or other items that are for the benefit of your company if the deductions would cause employees' wages to fall below the statutory minimum wage. Ensure that you have signed payroll deduction authorization forms on file for all employees that include consent to deduct

wages for lost or damaged equipment, uniforms, tools, and other applicable items. You can obtain such consent when an employee is hired.

If you make deductions from an employee's pay without consent, you can face unpaid wage claims, including triple damages, under Arizona law. Remember that even with a signed authorization form, deductions may not reduce an employee's pay below minimum wage.

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