

Deductions from Wages

Employers are responsible for paying employees properly for all hours worked.

Employees and employers are sometimes unsure what can be deducted or held by the employer from those wages. The general rule is that employers can only deduct money that is required by a law, or money that the employee agrees to pay for something that is a direct benefit to them.

What can be deducted from employees' wages?

The general rule is employers can only make deductions from wages when these are:

- Required by law (i.e. statutory deductions)
- For something for which employees agree to pay and is of a direct benefit to them, or
- To compensate for any cash advances or payroll errors.

Examples of what can be deducted from employees wages include:

- Pay Advances
 - ◆ Employees and employers should agree on how and when to repay the money when the advance is given, such as paying in regular instalments or in one lump sum. However, no interest, service charges, or any other fees related to the advance may be deducted.
 - ◆ If employers and the employees cannot agree on how and when the cash advance will be paid back, employers can deduct the amounts equal to what would be allowed if they had a garnishment under *The Garnishment Act*.
- Payroll Error Corrections
 - ◆ Employers can correct any payroll errors as soon the employee or employer notices them. Employees and employers should agree on how and when to make the correction, such as paying in regular instalments or in one lump sum.
 - ◆ If employers and the employees cannot agree on how and when the payroll error will be corrected, employers can deduct the amounts equal to what would be allowed if they had a garnishment under *The Garnishment Act*.
- Cost of Tools
 - ◆ Employers can only deduct the amount agreed to by employees and only if: a) the tools remain the property of employees; b) are not unique to the particular employer; c) are available for purchase from different suppliers; d) can reasonably be expected to be used at different employers in the same occupation; e) are voluntarily bought from the employer instead of another supplier.
 - ◆ If the employer and employee cannot agree on how and when the employee will reimburse the employer for the cost of the tools, the employer can deduct the amounts equal to what would be allowed if they had a garnishment under *The Garnishment Act*.

- ◆ Employers cannot deduct the cost for tools that are required by law.
- Photo Radar Tickets or Red Light Camera Tickets
 - ◆ Employers may deduct the minimum amount payable if employees give written consent to do so.
- Cost of Courses and Training
 - ◆ Only sometimes. Employers cannot charge an employee for a course that has no value to them outside of the workplace. This includes most mandatory employer-specific courses. Employers may deduct the cost for all or part of a course or training that directly benefits their employees if they voluntarily attend and agree to pay.
- Cost of Room and Board
 - ◆ With employees consent, employers can charge for room and board if employees have no other practical options for obtaining meals and lodging. The amount employers are allowed to deduct cannot reduce employees earnings below minimum wage for the pay period by more than \$7 per week for the room and by more than \$1 for each meal.

What types of things cannot be deducted from employees wages?

Employers cannot charge interest or fees for cashing cheques or providing payroll advances. Employers cannot recover business expenses from the wages of employees.

Unauthorized deductions include:

- Fees to cash cheques
- Cost of damage to company property and vehicles (i.e. insurance deductible, parking tickets, or other violations, with the exception of photo radar ticket or a red light camera tickets)
- Cost of lost, stolen or broken tools, equipment, products, or faulty service
- Cost of cash or inventory shortages, dine & dashes, or drive offs
- Cost of personal safety equipment
 - ◆ Safety equipment is an employers responsibility. There are exceptions for safety headwear and some safety footwear. Contact The Workplace Safety and Health Branch at 204-945-3446 or visit their website safemanitoba.com for more information.
- Cost of a uniform

What happens if the employment ends before a proper deduction can be made from an employee's cheque?

Employers can only deduct the amounts the employee has agreed to or is allowed by law. For example, if an employee agreed the employer can deduct \$50 per pay and the employment ends before the full amount is recovered, the employer can only deduct \$50 from the employees last pay.

Any additional money owed may only be deducted from an employees final pay if the employee consents. If the employee does not agree, employers cannot deduct any additional amount. This does not change the fact an employee may owe money to the employer; it only restricts the employers ability to deduct the money from the employees wages. For example, an employee in a retail electronics store purchases a TV for \$1000 from the employer, and both the employer and employee agree the employer will deduct \$100 off each of the next 10 pay

periods. After 4 pay periods, the employee quits the job. There is still \$600 owed to the employer. The employer can deduct \$100 from the final pay because this is what had been agreed to. The employer can only deduct the full \$600 (or the remaining \$500) if the employee agrees.

What are statutory deductions?

Statutory deductions are required by law and neither employers nor employees have a choice whether they will be deducted. Common statutory deductions include Employment Insurance, Canada Pension Plan premiums, income tax, and garnishments issued by any court.

What is a direct benefit to employees?

Examples of deductions that directly benefit employees include:

- Health or insurance packages
- Voluntary purchases of goods or services from the employer
- Some types of educational expense
- Meals and rent

The cost for room and meals can be deducted if employees have no other practical options for obtaining meals and lodging. These deductions cannot take employees below minimum wage in a pay period by more than \$1 for each meal and \$7 per week for the room.

Employees must agree to the deduction. This often happens at the start of employment. For example, an employer will have a mandatory health insurance package. If the employee was aware of the health insurance package before they began to work for the employer, and chose to accept the job, Employment Standards would determine the employee agreed to the deduction.

What if employees authorized the deduction?

Employees can only authorize deductions where there is a direct benefit to them. If employees agree to pay for anything *The Employment Standards Code* does not allow, employers may be ordered to pay the money back to the employees.

What is considered a uniform?

Employers can require employees to wear a uniform, however, they cannot make employees pay for it. Uniforms are usually clothing that is unique to a business, identified with the employers logo, symbol, name, or colours, making it of no practical use outside of that workplace. Employees often have no choice in style, colour, or where

to buy it.

Can employers have a dress code?

Yes. Employers can have a dress code and set standards for employees appearance while they are working. This may include telling employees to remove jewellery while working, or requiring all serving staff to wear a clean, pressed white shirt and black pants at work.

If the dress code requires clothing that would be of no practical use to employees out of the workplace, it is considered a uniform and not a dress code. A dress code would allow the employees to wear their own clothes to work. A common example of a dress code is the loose fitting clothing that identifies nurses in the workplace. Employers can require this attire and do not have to provide or pay for it unless they require a logo or emblem that identifies the company.

For more information contact Employment Standards:

Phone: 204-945-3352 or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

E-mail: employmentstandards@gov.mb.ca

Website: www.manitoba.ca/labour/standards

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including *The Employment Standards Code*, *The Construction Industry Wages Act*, *The Worker Recruitment and Protection Act*, or contact Employment Standards.

Date Published: September 23, 2015