

Understanding Deductions from Wages

NELP

Fact Sheet for Workers

Advocating for the working poor and the unemployed

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Know Your Rights

Employment Law Clinic for Low-Wage and Immigrant Workers

Free legal assistance is available by appointment. Call:

(212) 417-3800 on Mondays & Wednesdays

(888) 218-6974 on Tuesdays & Thursdays

The clinic is a joint project with the Legal Aid Society and MFY Legal Services

National Employment Law Project
www.nelp.org

New York law permits deductions from a workers' wages in limited situations. Despite legal restrictions on deductions, employers often try to get around the wage and hour laws by using illegal deductions to reduce the amount that workers get paid. You can protect your right to be paid by understanding when an employer can legally make deductions.

The wage and hour laws protect the rights of all workers to be paid for their work. These laws apply to both documented and undocumented workers. You may be protected by these laws even if you think you are an independent contractor.

What is a deduction?

Put simply, a deduction is when an employer takes money from a workers' wages. The law limits the items that an employer can take deductions for and in many instances the law limits how much money an employer can deduct for certain items and services.

When can an employer make a deduction?

Generally, deductions are allowed in very limited circumstances. An employer can only make deductions that are:

1. Legally required, or
2. Authorized in writing by the employee and for the benefit of the employee.

Examples of legally required deductions include: payroll taxes for Medicare and social security benefits and child support orders.

Examples of deductions that benefit the employee include: union dues, health benefits and donations to charitable organizations.

Can a deduction bring my cash wages below the minimum wage (\$5.15/hr)?

Yes. Deductions that bring your cash wages below \$5.15/hr are called allowances and they are permitted in very limited situations. The dollar amount and types of services an employer can take an allowance for are restricted. The amount an employer can take as an allowance can depend on the industry or type of work. In all instances, the allowance taken by the employer plus the cash wages must equal at least \$5.15/hr.

Employers can take allowances for the following items or services:

- Meals
- Lodging
- Housing
- Tips

Can my employer make me pay for broken items or missing cash from the register?

No. An employer may not make you pay for the cost of broken items or missing cash by deducting money from your paycheck. If an employer wants to cover the costs of damaged items or cash missing from the register, they must pursue proper legal channels.

Can my employer take money from my wages for being late?

No. Employers may not deduct money from your wages as punishment for being late. Although you cannot be penalized for lateness, the employer only has to pay you for the time worked.

Can my employer deduct for the cost of transportation?

If the traveling is for the benefit of your employer, they cannot make deductions for transportation costs. For example,

- If a construction worker is required to travel from one worksite to another, the traveling is part of the job. The employer cannot deduct a transportation fee for the cost of travel.
- If an employer requires the employee to travel in a company vehicle, the employer may not deduct a transportation fee.

In any situation, deductions for traveling must be for your benefit and authorized by you in writing.

Can my employer make me give her a percentage of the tips I earn?

No. An employer cannot ask for or accept any part of your tips.

We have a tip pool where the wait staff, bartender and busers share tips, is this legal?

Yes. A *voluntary* tip pool is common and legal, but an employer may not force workers into a tip pool.

What about service charges for special events or banquet fees?

An employer can keep a portion of a service or banquet fee for non-service personnel and/or owners.

How can I find out what deductions are being made from my paycheck?

With each payment of wages, employers are required to provide you with a wage statement. The statement must include:

- Any deductions or allowances taken
- Hours worked
- Rates paid
- Gross wages
- Net wages

If you have questions about deductions from your wages and want free legal assistance, call the number for the **Employment Law Clinic** on the front of this fact sheet. If you have problems with deductions, your co-workers probably share your concerns. The more workers there are trying to enforce their rights, the more likely it is for an employer to obey the law.

See these NELP Fact Sheets for Workers for more information on protecting your wage and hour rights:

- **Your Right to Be Paid**
- **Protecting Your Right to Be Paid – How to Keep Good Wage and Hour Records**