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I Want To Dock My Employee’s Wages Because She Broke Her Laptop – Okay?

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The answer to this question depends – is the employee exempt or non-exempt? And, if non-exempt, will the deduction reduce her compensation below the minimum wage or affect her overtime compensation?

We live in a time where company-issued computer laptops and tablets are commonplace. It is also fairly certain that, at one time or another, an employee is going to spill his coffee or soda on that little device or drop it on the floor, causing the thing to go kaput. When this tool of the trade stops working, if it was due to your employee’s conduct, can you deduct the costs of a replacement from his or her wages?

Under federal law – if the employee is exempt (i.e., not eligible for overtime compensation because she falls under one of the so-called white collar exemptions – administrative, executive or professional, or some other exemption) the answer is an **emphatic NO.**

The regulations under the Fair Labor Standards Act (FLSA) provide that in order to be exempt from the overtime requirements of the federal wage and hour law – the employee (typically) must be paid a salary that is not subject to deduction for the quality or quantity of work performed. The same regulations expressly specify when deductions from an employee’s salary are permissible. And another regulation provides that if a deduction that is not expressly authorized is taken, the deduction may cause the employer to lose the benefit of the exemption.

Deductions for “cash register shortages, damages or loss of company equipment” are not among those deductions that are expressly authorized, and the Department of Labor (DOL) has clearly stated that making deductions for this sort of employee conduct may result in the loss of the exemption. The DOL has also stated that this same rationale applies to those instances in which an employer requires its exempt employee to pay for the tools necessary to do his or her job.

How about non-exempt employees who break their company-provided devices? Although a non-exempt employee is not generally paid a salary, an employer may not require him or her to reimburse the business for damaged or loss equipment, or to purchase the tools necessary to perform his or her job, if doing so would reduce the employee’s pay below the minimum wage for all hours worked, or would affect the employee’s overtime compensation (for example, by reducing the regular rate used in calculating the overtime premium). According to a regulation under the FLSA, this would constitute an illegal kickback to the employer such that the employee is no longer receiving his or her wages "free and clear," as is otherwise required by the wage law.

And remember, this is only according to the federal law; many state laws also prohibit these sorts of deductions or payment requirements. So, even if permissible under federal law (for example, for a non-exempt employee because it would not affect his or her receipt of pay above the minimum wage or overtime), state law may still prohibit this sort of conduct. For example, in Wisconsin, employers are generally not permitted to make deductions due to poor workmanship, loss, theft, or damage to property. Further, employers should be aware of the morale costs of deductions for true accidents. And if your company inconsistently deducts for broken equipment – seeking reimbursement from some employees, but not from others, with no clear business justification – you also may be subject to a variety of discrimination claims.

So, if you are thinking about making a deduction from an employee for a damaged laptop or lost iPad – think again.

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