

Payroll deductions for employees: what is legal and what is not?

We wish to remind employers about the difference between wage deductions that are legal and those who are not.

In regards to this matter, listed below is a summary of what article 10.03 of the Decree states (you may consult the Decree for the full content):

An employer may make deductions from wages only when compelled by law, regulation, etc., or where authorized in a writing by the employee for a specific purpose.

Most employers and accountants are well aware of the wage deductions that are imposed by law and know how to apply them. As for wage deductions authorized in a writing by the employee, the employer must make sure that such deductions do not infringe any laws.

For instance, the *Act Respecting Labour Standards* applies to all Québec employers (apart from a few exceptions) and states that:

“The employer cannot require an amount of money from an employee to pay for expenses related to the operations and mandatory employment-related costs of the enterprise.” (Section 85.1)

The *Commission des normes du travail* provides the following interpretation for this article:

“The expenses related to operations may be defined as the costs inherent to the proper and smooth operation of the undertaking.”

This means that the employer cannot require the employee to sign an authorization to deduct from his pay any fees related to pre-hiring conditions, for example, or any other expenses related to the employer's operations, related to the employee's job. Such a deduction, even if authorized by a writing from the employee would be considered illegal and could be subject to a claim from the Parity Committee.

Attention: As of November 1st, 2015, the Parity Committee will pay close attention to this matter.

If you must apply a wage deduction that is not stated by law, make sure that:

1. You get a written consent from the employee including the explanation of such a deduction
2. You verify with the Parity Committee if the deduction is legal

An example of a legal wage deduction (that must be authorized by a writing by the employee): reimbursement by the employee for a salary that was overpaid by the employer.

Please consult our website, section *The Decree, section 10 – Interpretation and jurisprudence* to find out more about this matter.