The Work Week

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When an Employer Overpays an Employee: What Minnesota Employers Need to Know

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Payroll mistakes happen. An employee may receive too much compensation because of a payroll processing error, an incorrect pay rate, a duplicate payment, an erroneous bonus, or a mistake involving paid time off. When an employer discovers the mistake, the natural impulse may be to simply deduct the overpayment from the employee's next paycheck. Do not follow that impulse.

In Minnesota, employers should proceed carefully. Although an employer may have a legitimate right to recover money it mistakenly paid to an employee, Minnesota law places restrictions on an employer's ability to recover an alleged debt directly from an employee's wages.

Minnesota Law Restricts Wage Deductions

Minnesota Statute § 181.79 generally prohibits an employer from deducting money from an employee's wages to recover a claimed indebtedness unless certain requirements are satisfied.

Under the statute, an employer may not deduct from wages to recover a claimed indebtedness unless the employee, after the indebtedness arises, voluntarily authorizes the deduction in writing, or the employee has been held liable for the indebtedness by a court. The written authorization must specify the amount to be deducted during each pay period.

This is particularly important in the context of payroll overpayments. An employer generally should not discover that an employee was overpaid and then unilaterally reduce the employee's next paycheck to recoup the money.

The Minnesota Department of Labor and Industry similarly advises employers that deductions for claimed losses or indebtedness generally require the employee's voluntary written authorization after the loss occurs or indebtedness arises, or a court determination of liability.

If the employer is found to have violated this law, they may be liable to the employee for twice the amount taken.

What Should an Employer Do After Discovering an Overpayment?

1. ***Confirm the Overpayment***

The first step is to determine whether an overpayment actually occurred.

Payroll and HR should review the employee's compensation records and identify:

- The applicable pay rate;
- Hours worked;
- Bonuses, commissions, or other compensation;
- PTO or other paid leave;
- The amount that should have been paid;
- The amount actually paid; and
- The precise amount of the overpayment.

Employers should also review any employment agreement, compensation plan, commission agreement, collective bargaining agreement, or applicable policy before determining that a payment was erroneous.

2. ***Notify the Employee***

Once the employer confirms the error, it should promptly notify the employee.

The employer should explain the nature and amount of the overpayment and provide enough information for the employee to understand how the amount was calculated. A clear explanation can help avoid disputes about whether an overpayment occurred in the first place.

3. ***Request Repayment or Obtain Written Authorization***

The employer can ask the employee to repay the overpayment.

If the parties agree that repayment will occur through payroll deductions, the employer should obtain the employee's voluntary written authorization after the overpayment has occurred and ensure the authorization complies with § 181.79. If the written authorization does not comply with § 181.79, it is deemed void.

The authorization should identify the amount to be deducted during each pay period. Minnesota law also limits the amount that may be deducted from wages to the amount subject to garnishment or execution under applicable law.

Importantly, employers should not assume that a general authorization signed when the employee began working automatically permits the employer to deduct future payroll overpayments. Section 181.79 specifically requires authorization after the claimed indebtedness has arisen.

4. ***Consider a Repayment Plan***

A large overpayment may create a significant financial hardship if the employee is expected to repay the entire amount at once.

Employers may want to consider negotiating a reasonable repayment schedule. A repayment agreement can establish the amount owed, the payment schedule, and the employee's authorization for payroll deductions. A negotiated repayment plan may also be preferable to immediately demanding a lump-sum payment, particularly where the employee continues to work for the employer.

What If the Employee Will Not Agree?

An employee's refusal to authorize payroll deductions does not necessarily mean the employer has no ability to recover an overpayment.

It does, however, mean that the employer should not simply take the money from the employee's paycheck. If the employee refuses to repay the money or authorize deductions, the employer may need to consider other available remedies, including pursuing a claim in court.

Recently, a Minnesota employer did just this and brought a lawsuit against dozens of now former employees alleging it inadvertently paid the Defendants amounts in excess of their earned wages. After being notified of the overpayment and requested to return the funds, no former employee returned the funds. The employer then brought a claim in Minnesota State Court for conversion, or otherwise claiming the employees are improperly withholding funds that do not belong to them.

What About the Employee's Final Paycheck?

Employers should be especially cautious when an employee is leaving the company.

An employer may be tempted to deduct the entire overpayment from the employee's final paycheck. But the fact that an employee is leaving does not eliminate Minnesota's restrictions on wage deductions.

Minnesota law separately establishes requirements governing the payment of wages following termination. Generally, when an employee quits or resigns from employment, the wages or commissions earned and unpaid at the time the employee quits or resigns shall be paid in full not later than the first regularly scheduled payday following the employee's final day of employment. Minn. Stat. § 181.14, subd. 1. Failure to comply could result in penalties under Minn. Stat. § 181.13(a).

Employers therefore should treat the employee's final paycheck and the employer's efforts to recover an overpayment as separate issues rather than assuming the final paycheck can be used to resolve the debt.

A Payroll Error Does Not Necessarily Mean the Employer Loses the Money

Minnesota's wage-deduction restrictions do not necessarily prevent an employer from recovering an overpayment. Rather, they limit how an employer can recover the money from an employee's wages.

That distinction is important. An employer may have a valid claim for repayment while still being prohibited from unilaterally deducting the claimed debt from an employee's paycheck.

By promptly identifying and documenting the overpayment, communicating with the employee, and obtaining appropriate authorization before making wage deductions, employers can increase the likelihood of recovering mistaken payments while reducing the risk of creating a separate wage violation. The Bassford Remele Labor and Employment Law Group is here to support employers in complying with Minnesota wage laws and navigating how to handle employee overpayments. Please reach out with any questions.

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