
Payroll deductions - can my employer deduct money from my pay?

Payroll deduction is the act by which an employer withholds a portion of an employee's pay in order to be reimbursed certain amounts.

When can my employer make a payroll deduction?

This possibility, which is given to the employer, is strictly limited to the following cases:

- ▶ the employee has to pay a fine by virtue of the law, his status or the internal regulations of the establishment that are displayed on a regular basis ;
- ▶ the employee has committed a fault that has caused damage to the employer;
- ▶ the employer has provided the employee with tools or instruments necessary for the performance of his duties and the related maintenance products, or materials necessary for the work and for which the employees are responsible according to the customary practice accepted under the terms of their employment contract;
- ▶ the employer has advanced money to the employee.

Apart from these cases, no deductions can be made, as the absolute availability of his remuneration must be guaranteed to the employee.

By way of illustration, the following were considered illegal deductions:

- ▶ Deduction for benefits wrongly advanced (CSJ, 8e, 26.04.2007, No. 31738)
- ▶ Deduction for leave taken in excess (CSJ, 8e, 20.05.2010, No. 34288)
- ▶ Deduction for exceeding mileage and fuel costs (CSJ, 8e, 4.02.2010, No. 34020)
- ▶ Deduction for training costs (CSJ, 6.03.2008, No. 32792)
- ▶ Deduction for leasing costs (not even as a compensation) (CSJ, 3rd, 13.12.2001, No. 24692)



What if I arrived late to work? In case my employer paid me too much money?

It appears that in the event of late arrival/overpayment of salary, the employer cannot withhold money from the employee's salary, but should ask the employee to rework the minutes of late arrival / to pay back the amount of the overpayment (e.g. by means of an invoice).

Is it possible to derogate from the law?

Even if both parties sign a document allowing a compensation between the salary and a claim of the employer, it is not valid if the claim of the employer does not correspond to one of the 4 cases mentioned above (cf. Court of Appeal 11 June 1998, Sàrl Computersystems Luxembourg v/Toni, N° 20602 of the roll; Court of Appeal 25 January 2001, Pyramidis v/Ferrao Duraes, N° 24511 of the roll).

The fact of having the employee sign a document by which he gives his agreement does not make the deduction legal, the employee cannot validly waive his rights (cf. Court of Appeals May 31, 2001, Sayre c/Uni-track, N° 24479 and 24629 of the roll).

What is the proportion that can be deducted from the salary in the 4 cases listed exhaustively by the law?

Some of the deductions are capped in the sense that they cannot exceed 10% of the net monthly remuneration. This applies to deductions made on account of fines, cash advances and damages caused by the employee.