

Memo to Clients Regarding Current Events
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From: Howard E. Greenberg, Esq.

Amendment to New York Wage Deduction Law

Earlier this month, Governor Cuomo signed into law an amendment to the previously highly restrictive statute regulating employer deductions from wages. Until now, wage deductions were limited primarily to insurance premiums, pension or health and welfare benefits, payment for U.S. bonds, and union dues. Effective, November 6, 2012, the law will now permit deductions for:

- Fitness centers and cafeterias;
- Tuition, room, board and fees for pre-school, nursery, primary, secondary and/or post-secondary education and day care;
- Recovery of overpayment of wages where the overpayment is due to mathematical or clerical error by employer, and
- Repayment of salary advances.

It is unclear at this time whether the salary advance provision is synonymous with a loan. Additional administrative requirements also have been added. Thus, the deduction must be voluntary and only taken following written notice of all terms and conditions of the payment. The Commissioner of Labor is directed to promulgate regulations governing the size of the overpayment that may be recovered, as well as the frequency, duration and method of recovery. An employee's authorization may be revoked at any time. In addition, authorizations must be kept on file during employment and for 6 years after employment ends. The law contains a sunset provision, expiring three years from its effective date.

At this point, we recommend that our clients wait to initiate any of the above-described deductions certainly until the law is effective and also until the Commissioner of Labor issues applicable regulations.

New Law Restricts Use of Social Security Numbers

Recently, New York passed a new law restricting the use of Social Security numbers in employment. Of significance to employers are the provisions that prevent an employer from collecting a social security number (or any part thereof) pre-employment if the employer is conducting its own background check. It is permissible to obtain the social security number as part of a background check conducted by a third party. The law takes effect December 12, 2012.

Clients should review their background check procedures to ensure compliance with the new law. A civil penalty of not more than \$500.00 may be imposed for a first offense. Any subsequent offenses face a \$1,000.00 penalty.

As always, we stand ready to assist our clients on these and any other business law issues.

Law Offices of Howard E. Greenberg, Esq., P.C.
180 East Main Street, Suite 308
Smithtown, New York 11787
631-982-0080 tel
631-982-0087 fax
howard@hgreenberglaw.com

