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Employers Council, the nation's largest employers association, has provided expert assistance and thoughtful guidance to employers since 1939. We collaborate with our members to develop effective, successful employer-employee relationships by providing "one-stop shopping" in every facet of human resources and employment law. Employers Council offers the broadest array of professional services under one roof. We walk alongside our members, offering guidance, support, and expertise.



Contact me with any questions or to discuss how we can assist your organization.

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An Employee Quits and Didn't Return the Company Computer: What Now?

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So you want to charge an employee for lost, stolen, damaged, or failure to return equipment? Or for that matter, you overpaid an employee, and now want your money back. The first thing many employers want to do is automatically deduct such costs from the employee's paycheck. Not so fast. There are two types of payroll deductions: permissible and impermissible. The above scenarios fall under the impermissible category.

Permissible deductions include payroll taxes, child support, garnishments, and deductions that have been authorized pursuant to written agreements by the employee. Deductions authorized by a written agreement include premiums for insurance, contributions to an employee retirement plan, charities, and deposits to financial institutions. Each state is different in terms of what is permissible. However, one thing that each state has in common is that typically employers cannot deduct costs for items the employer believes they are owed. There may be an allowance for stolen items in your state, but there are still rules to follow to successfully deduct the amount. It would be wise not to do this until you consult an employment law attorney.

Such impermissible deductions include property damage deductions or deductions as fines for employee behavior or actions. The key to recouping employer costs associated with company equipment or property is the execution of a written employee authorization providing such deduction does not bring the employee's hourly rate below minimum wage. However, under the Fair Labor Standards Act (FLSA), a deduction for loss or damage to property is not permissible for exempt employees even if the employee signed a letter authorizing the deduction, as this jeopardizes the exemption status. Any unauthorized deductions may be subject to claims of wage theft with the federal or state Department of Labor.

How then do employers recoup the cost of equipment or property? First and foremost, be proactive. At the time of hire or when issuing equipment or property to non-exempt employees, obtain written authorization. Employers Council has an FYI with a template for members to use. This FYI is also a great resource with more detailed information, including a discussion regarding cases of theft.

Next, review and establish exiting protocols to include the return of property and equipment. In the event authorization has not been obtained, employers can still request written authorization from employees. You may or may not be successful, but it's worth making the request.

Third, the employer can also negotiate repayment terms, especially in the case of over payments. Such terms do not have to be a payroll deduction. It can be a personal check. Regardless of the terms, make sure to get it in writing. If attempts to negotiate payment are unsuccessful, or the individual flat out refuses, civil litigation such as small claims court is an option. Regardless, without employee authorization, employers are often unable to recover money or property owed.