EMPLOYMENT LAW SUMMARY

Indiana: Wage Payment Requirements

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Several federal laws regulate wage payments, including the Fair Labor Standards Act (FLSA), the Davis-Bacon Act and the Service Contract Act. Indiana law also imposes state wage payment requirements. When federal and state laws are different, the law that is more favorable to the employee will apply.

The [Wage and Hour Division](#) (WHD), part of the Indiana Department of Labor, enforces wage payment standards throughout the state.

METHOD OF PAYMENT

Indiana law requires employers to pay wages in lawful United States currency with:

- Cash;
- Check; or
- Electronic fund transfer (direct deposit) to a financial institution designated by the employee.

FREQUENCY OF PAYMENT

Employers must pay employee wages **at least semimonthly or bi-weekly**. However, Indiana law does not restrict an employer from paying wages to its employees on a weekly basis.

Some notable exceptions to the frequency of payment rule include:

- Salaried employees who are eligible for overtime compensation under the FLSA;
- Farmers and those engaged in the business of agriculture and horticulture; and
- Criminal offenders in a facility operated by the Department of Correction or a private operator under a contract with the Department of Correction.

WITHHOLDINGS AND DEDUCTIONS

Employers may not withhold all or a portion of an employee's wages, unless the withholding or deduction is **authorized by law or the employee**.

Common deductions authorized by law include taxes, union dues, FICA contributions, garnishments and court-ordered deductions such as child support. Common deductions authorized by employees include funds for employee participation in hospitalization and medical insurance plans, savings plans and deposits to financial institutions, stock purchases, charitable donations, retirement plans, supplemental retirement plans, loan payments, loan or wage advances, employer goods or services and employer equipment or property. These authorizations must be made through a valid and legal agreement.

Employers are not authorized to deduct fines or penalties from employee wage payments. Employers that violate this rule commit a Class C infraction.

CORRECTING OVERPAYMENTS

Employers may deduct from an employee's wages the entire amount of an overpayment if the overpayment was a single gross wage overpayment equal to 10 times an employee's gross wages due to an inadvertent misplacement of a decimal point.

However, for other types of overpayment, employers may only deduct overpayment reimbursements from an employee's wage payment if:

- They provide the employee with a two-week notice;
- The amount to be deducted is not in dispute; and
- The deduction does not exceed the lesser of:
  - 25 percent of the employees' disposable earnings for that week; or
  - 30 times the applicable federal minimum wage rate.

Employers may want to consider deducting overpayments in several installments to comply with the requirements mentioned above.

ASSIGNMENT OF WAGES

Indiana law allows employees to voluntarily assign a portion of their wages to satisfy a debt, credit claim or other financial obligation or interest. Usually, when a valid wage assignment is implemented, an employer deducts the assigned portion of the claim and sends it directly to the assigned third party.

A wage assignment is valid if it specifies the dollar amount or portion of an employee's paycheck that will be assigned. The wage assignment must also be in writing and signed by the employee and be revocable at any time by the employee (upon written notice to the employer). The employer must also agree in writing to accept the assignment. In addition, the interest rate charged on amounts loaned or advanced to an employee cannot be more than 4 percentage points higher than the bank prime loan interest rate as reported by the Board of Governors for the Federal Reserve System or any successor rate.

Indiana law recognizes a valid assignment only if the assignment is for the purpose of:

- Paying premiums on an insurance policy (including life insurance policies and annuities purchased by the employee on his or her own life);
- Pledging or making contributions to a charitable or nonprofit organization;
- Purchasing bonds or securities issued or guaranteed by the United States;
- Purchasing shares or fractional interests of the employer's stock or mutual funds;
- Paying union or labor organization dues;
- Purchasing employer merchandise, goods or food. (the merchandise, goods or food must be offered by the employer and sold to the employee, for the employee's benefit, use or consumption (proof of a written employee request may be necessary);
- Repaying a loan issued by the employer to the employee (proof of a written agreement may be necessary);
- Making contributions or paying employee dues to a hospital service or a surgical or medical expense plan (or to an employees' association, trust or plan existing for the purpose of paying pensions or other benefits to the employee or the employee's beneficiaries); or
- Satisfying a judgment, if the payments are a voluntary agreement between the employee and his or her creditor and is not a garnishment;
- Purchasing a uniform or equipment the employee requires to perform his or her job duties. The total amount of wages assigned may not exceed the lesser of $2,500 per year or 5 percent of the employee's weekly disposable earnings;
- Reimbursements for education or employee skills training (wage assignment cannot be made if the education or training was provided, in whole or in part, through an economic development incentive from any federal, state or local program); or
- Paying for a payroll or vacation advance.

After an agreement for the assignment of wages is reached, the employee needs to deliver a signed copy of the assignment agreement to the employee **within 10 days**. Furthermore, employers should verify that the wage assignment of a married employee living within the state has the consent of his or her spouse. To certify that the spouse has consented to the assignment, the spouse will need to sign, consenting to the assignment, before a notary public duly licensed by the state.

Employers may be required to forfeit any money advanced (and any interest accrued) on invalid wage assignments. In addition, employers that recklessly violate wage assignment rules commit a Class B misdemeanor, punishable by **imprisonment for up to 180 days, a fine of up to $1,000 or both**.

LAST PAYMENT OF WAGES

Employees that leave their employment voluntarily, whether permanently or temporarily, must receive all their due wages by the usual and regular payday following their last day of employment.

STATEMENTS

Employers must provide each employee with an itemized statement at the time that the employee's wages are paid. The itemized statement must show, at a minimum:

- The number of hours the employee worked for that pay period;
- The amount of wages the employee earned during that pay period; and
- A listing of all withholdings and deductions applied to the employee's wages for that pay period.

PENALTIES

Employers that fail to pay an employee's wages as required by Indiana law will be required to pay:

- Any unpaid wages due to affected employees; and
- Reasonable applicable court costs and attorneys' fees.

In addition, employers that are found to not have acted in good faith may be ordered to pay affected employees damages equal to **twice** the amount of unpaid wages.

Employers that fail to deliver an employee's last payment of wages (in cases of voluntary employee departure) must pay the penalty described above if **more than 10 business days** have elapsed since the employee demanded payment and the employee has provided the employer with an address where the wages may be sent or forwarded.

MORE INFORMATION

Contact Heffernan Insurance Brokers for more information on wage payment laws in Indiana