

VISA PAK ISSUE 337 — 1 DECEMBER 2017

## DEDUCTIONS FROM WAGES OR SALARY

Generic work visa instructions at W2.10.5 require that employers must comply with relevant employment law. When assessing whether an employment agreement complies with employment law, immigration officers may encounter agreements allowing deductions to be made from an employee's wages or salary. This Visa Pak article provides some advice about when deductions are compliant.

### When is a deduction allowed?

The [Wages Protection Act 1983](#) sets out the way wages must be paid, and prevents unlawful deductions from wages. Employers can make a deduction from pay if:

- the deduction is for a lawful purpose, is reasonable and the employee has agreed to or asked for the deduction in writing;
- the deduction is specifically required by law (for example, PAYE tax, student loan repayment, child support);
- the deduction is to recover an overpayment in limited circumstances;
- a court directs that a deduction be made (this will be by way of a Court Order, or a determination)

A deduction must represent the actual and reasonable cost of the good or service being paid for.

### When is a deduction not allowed?

Money may not be deducted for the employer's normal costs of doing business or to pass on to employees the risk of doing business.

The costs of doing business normally include:

- recruitment and legal costs
- induction costs
- on the job training
- safety equipment
- tools where ownership is retained by the employer
- mobile phones, laptop computers or motor vehicles that are used by the employee as part of their employment

The risk of doing business normally includes:

- theft by customers
- miscalculation of change (till variance)

For example, a deduction clause that allows an employer to make deductions where a customer takes petrol and drives off without paying is not acceptable.

### How are deduction agreements recorded?

Deduction agreements will often be recorded as clauses in an employment agreement. Deduction clauses in employment agreements may relate to either 'general' or 'specific' deductions, or both. Where there is only written agreement of the employer's 'general' ability to make deductions, the employer must also consult with and gain the agreement of the employee to make any specific deductions. The employee must have the opportunity to consider, review and agree to each and any specific deduction made.



**Process to follow**

When considering if a particular deduction is reasonable, immigration officers must consider the actual cost of the item being deducted for, and whether the deduction is for a business cost or business risk of the employer. Evidence of the actual cost and use of thing being deducted, and of the use of the good or service may be requested to determine if a deduction is reasonable. Such evidence may include tax invoices showing the costs paid by the employer on behalf of the employee.

Where a deduction appears unreasonable Technical Advisors may email Operations Support ([Work and Residence](#)) for assistance. Operations Support will refer enquiries to the Labour Inspectorate for advice when needed.

For more information about deductions, see the [Employment New Zealand](#) website.

For information about bonds, see the '[Individual Employment Agreements – Bonding and Deduction Clauses](#)' in VisaPak 290.