

Fact Sheet #62H: What are the rules concerning deductions from an H-1B worker's pay?

This fact sheet provides general information concerning illegal wage deductions under the H-1B program.

An H-1B worker, whether through payroll deduction or otherwise, can never be required to pay the following:

- A penalty (as defined by state law) for the worker's failure to complete the full employment period;
- Any part of the \$750/\$1000/\$1500 statutory Department of Homeland Security's U.S. Citizenship and Immigration Services (formerly the Immigration and Naturalization Service) petition filing fee; and/or
- Any deduction for the employer's business expenses that would reduce an H-1B worker's pay below the required wage rate, including:
 - Any expenses, including attorneys' fees, directly related to the filing of the Labor Condition Application (Form ETA 9035 and/or ETA 9035E);
 - Any expenses, including attorneys' fees and the \$500 fraud protection and detection fee, directly related to the filing of the H-1B petition (Form I-129/129W);
 - Tools and equipment; and
 - Travel expenses while on employer's business.

Deductions, other than those excluded above, may be made, even if they reduce the H-1B worker's pay below the required wage rate, only when the deductions satisfy one of these three categories:

- Require by law (e.g., income taxes); or
- Reasonable and customary (e.g., union dues, insurance premiums); or
- Voluntarily authorized by the H-1B worker, under the following standards:
 - There is a voluntary, written authorization by the employee;
 - For a matter principally for the benefit of the employee, such as reimbursement for travel to the United States or payment for food and lodging not incurred while traveling on the employer's business;
 - For an amount that does not exceed the fair market value or the actual cost (whichever is lower) of the matter covered; and
 - The amount does not exceed the limits for garnishments set by the Consumer Credit Protection Act (see [WH Fact Sheet #30](#)).

All requirements listed above can be found in 20 CFR § 655 Subparts H & I and the Immigration and Nationality Act § 212(n).

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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