



Mineral



Question of the Week

June 26, 2024

Question

When can we deduct from an exempt employee's pay?

ANSWER

In general, if an exempt employee performs *any* work during the workweek, you must pay them their full salary for that week. Deductions are allowed, however, for legally required withholdings and benefit elections.

There are a handful of other situations in which a deduction from an exempt employee's salary would be permissible under federal law:

- For any workweek in which the employee performs no work, including answering emails, texts, or phone calls.
- In the initial or final week of employment based on the number of hours worked.
- For absences of one or more full days for personal reasons other than sickness or disability.
- For absences of one or more full days due to sickness or disability, if the deduction is made in accordance with a *bona fide* paid sick leave plan (the Department of Labor has previously said that a plan offering at least five paid days off for sickness qualifies as *bona fide*).
- To *offset* amounts the employee receives from jury or witness fees or for military pay.
- For penalties imposed in good faith for infractions of safety rules of major significance, in accordance with a clearly established workplace policy.
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions.

- For leave taken under the Family and Medical Leave Act.

This is a complete list of allowable deductions, so if none of these situations apply, an exempt employee needs to receive their full salary for the workweek, regardless of the number of days or hours worked.

This Q&A does not constitute legal advice and does not address state or local law.