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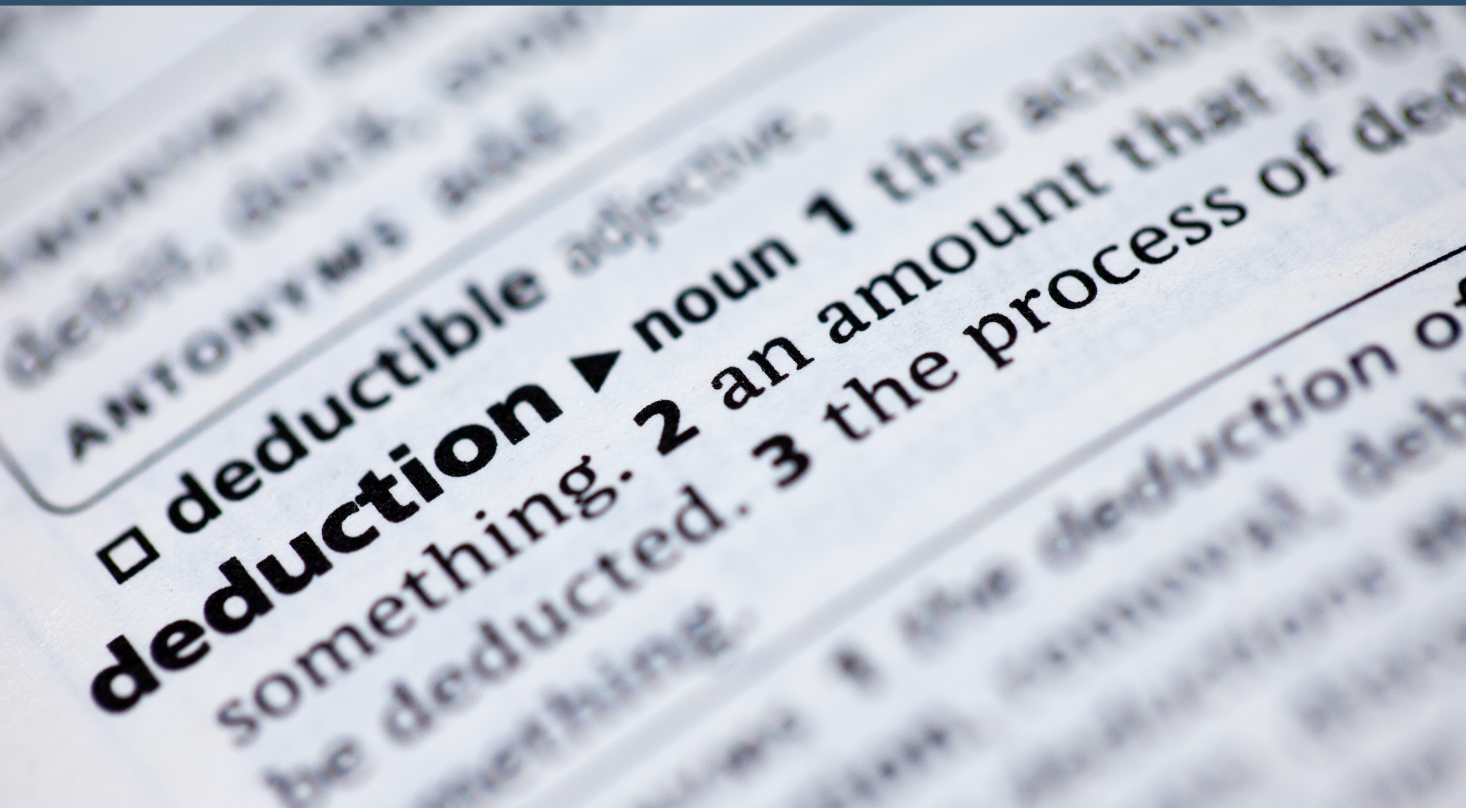
DEDUCTIONS FROM SALARY

JT HRCONSULTANCY LTD



Making deductions from an employee's salary

You must make sure all of your staff members receive their full pay but claiming some money back is possible in the right circumstances.

In the Employment Rights Act 1996 (sections 13-27), it states you mustn't make a wage deduction —unless it's a "relevant provision" within the employment contract.

The employee may also sign a consent form allowing you to do so, but that has to be prior to any deductions you make.

For example, an employee makes a mistake during their working months, you're not allowed to penalise them with a salary deduction.

Could you deduct pay for lateness. Well, consistent lateness could be addressed with a written warning or meeting but penalising them depends on the nature of their lateness.

Let's say an employee has in their contract they work for twelve hours, but turn up an hour late, then it's not appropriate to pay them for the full shift.

There are occasions when you can deduct wages. (Check the ACAS unlawful wage deductions for further information):

1. Under the requirements of British law. So, that includes the likes of tax, national insurance contributions, or if the employee is making repayments towards their student loan.
2. If it's clarified in the employment contract, make it clear about possible deductions i.e. damage to property caused wilfully or negligently, damage or loss of company equipment i.e. mobile phone, reimbursement of training costs etc. As an employer, you'll need to explain this to the employee beforehand—as well as provide them with a written version to refer to.
3. Prior consent. As above, you can agree with your staff member a deduction, but you'll need to have this agreement sent to them in writing.

However, you can complicate matters if you overpay your employee. That counts as an exemption to the above three points.

What if you make a payroll error, it's not uncommon. You need to be open and honest about it with your employee. Arrange a meeting with them to discuss options on how to pay it back. Dependent on the over payment amount, you could agree monthly deductions from wages until the full amount is paid back.

You don't need a staff member's consent to deduct the wages, but it's a good idea to speak with them to avoid any disputes.

In this situation, the employee can't bring a claim into the employment tribunal, as the provisions of the Employment Rights Act 1996 that protect staff from unlawful deductions from wages don't apply to the recovery of overpayments.

How to avoid unlawful deduction of wages

First of all, remember that a wage includes:

- Holiday pay.
- Commission pay.

With the above in mind, there are illegal deduction of wages you have to be aware of. If you commit any of these, it could end in a costly employment tribunal.

Examples of unauthorised deduction of wages include:

- Any bonuses that you don't pay.
- Holiday days that aren't taken.

There's also the issue of salary delays. As an employer, you do need to pay staff on time and not even a day late—even when this relates to bank holidays and weekends etc.

It is essential to have adequate payroll procedures in place to avoid any issues. If you fail to pay your staff, then it can have a major knock-on effect on their morale but also their financial situation.

If an employee believes you owe them money, they will normally approach you about this. The most common claim is about holiday pay deductions from wages. Remember, if they're leaving your business—they can claim pay for untaken holidays (so long as the employee accrued them).

They can make a tribunal claim for a breach of contract if they feel you aren't resolving the issue. However, they must do that within three months of the alleged wage deduction taking place.