September 12, 2012

Governor Signs Amendments to New York Wage Deduction Law

On September 7, New York Governor Andrew M. Cuomo signed a bill amending New York's Wage Deduction Law (Section 193 of the New York Labor Law) to permit employers to deduct certain amounts from employee paychecks. This legislation effectively overrules the restrictive interpretation of permissible wage deductions previously taken by the New York State Department of Labor in a series of Opinion Letters. The revised law will take effect in November 2012.

Prior to these amendments, Section 193 provided a narrow list of permissible wage deductions that could be taken with express written authorization from an employee. These permissible deductions included payments for insurance premiums, pension or health and welfare benefits, charitable contributions, U.S. bonds, union dues or assessments, and similar payments for the benefit of the employee. The new legislation expands the list of permissible deductions to include purchases at events sponsored by a bona fide charitable organization affiliated with the employer, discounted parking and mass transit costs, gym memberships, business cafeteria and vending machine purchases, pharmacy purchases at the employer's place of business, and certain tuition and related expenses for educational institutions and day care.

The amendments also explain that employees must authorize the aforementioned deductions in writing after receiving written notice regarding the terms and conditions of payment and details of the manner in which deductions will be made. Employees may revoke their authorizations at any time, and employers must retain written authorizations during employees' employment and for six years thereafter. Employers also must notify employees of any substantial change to the terms of payment.

Of even more significance for employers, however, is the expanded ability, under the amendments, to use wage deductions to recoup wage overpayments due to mathematical or other clerical errors and to ensure repayment of advances of salary or wages. Deductions for overpayments and advances will be subject to regulations promulgated by the Commissioner of Labor that will address the timing, frequency, duration and method of repayment; notice requirements; the procedure to dispute amounts or delay deductions; and other requirements.

This legislation is good news for employers and employees because prior to the amendments many of these wage deductions were prohibited even if both parties desired them. Employers should ensure they understand all of the requirements set forth under the revised statute and remain apprised of new developments such as the forthcoming procedural guidance expected from the Commissioner of Labor.