13. Deductions

13.01 Name of Relevant Legislation

For more information on the following legislative sources for this chapter, please refer to Chapter 02 “List of Legislation”:

Expectation:

1. Please highlight the first line and start to write the information.
2. List the legislation in alphabetical order or in reverse chronological order if the law is numbered only and does not have an official name.
3. If there are no legislative sources for this chapter, please remove the bullets in the answer box and add the answer “There are no legislative sources for this chapter.” (without quotation marks)

* Labor Code 2012
* Articles 101 and 130 of the Labor Code 2012; Article 32 of Decree No. 05/2015/ND-C#p

13.02 Deductions in Payroll

#### Deductions in Payroll

13.02-Q1

Please state the rules and limitations related to payroll deductions.

Expectation:

1. Please highlight the first line and start to write the information.
2. Payroll deductions refers to, but is not limited to, tax deductions, statutory contributions deductions, contributions made to a religious organization / charity / saving plan, loan repayments, or deductions for shares purchased.
3. Please include whether the deductions are mandatory for all employees or just applicable to certain employees upon request.
4. Please include whether the employee’s consent is required for these deductions.
5. Please include any exception rules such as regional requirements.
6. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
7. If there is no legislation that allows employers to deduct wages from employee’s pay, please state “There is no legislative provision that allows employers to deduct wages from an employee’s pay.” without quotation marks.

According to the *Article 101 of the Labor Code 2012*:

* An employer may only make deductions from the wage of an employee for compensation for damage of tools and equipment of the employer in accordance with *Article 130 of the Labor Code 2012*.
* An employee is entitled to know the reasons for deductions from their wages
* Monthly deductions must not exceed 30% of the monthly wage of an employee after having paid compulsory social insurance, health insurance, unemployment insurance premiums, and income tax.

Compensation for damages under the provisions of *Article 130 of the Labor Code 2012* are prescribed as follows:

* *“In case due to negligence, an employee causes damage to tools and equipment valued at least 10 months’ regional minimum wage announced by the Government and this damage is applied at the employee’s workplace, the employee shall pay compensation of no more than 3 months’ wage which is written in the employment contract of the preceding month before the damage that happens and this compensation shall be deducted monthly from his/her wage in accordance with Clause 3, Article 101 of this Code.*
* *The employee must pay compensation for damage in whole or in part in accordance with the market price in one of the following cases:*
  + *An employee, due to negligence, causes damage to tools and equipment valued at no more than 10 months’ regional minimum wage announced by the Government and this damage amount is applied at the employee’s workplace,*
* *An employee causes loss of tools, equipment or assets of the employer or other assets provided by the employer*
  + *An employee consumes materials in excess of the permitted level defined by the employer.*
* *If* *the employee* *causes any damage as prescribed in clause 2 of this Article* *and* *has* *been bound by the* *liability contract* *with* *the* *employer, such employee* *must* *compensate* *according to* *the liability contract.*
* *In case the damage is caused by a natural disaster, conflagration, enemy-inflicts destruction, epidemic diseases, calamity or other objective events which are unforeseeable and irremediable and every necessary measure has been taken to full ability, no compensation is required.*
* *The process* *and* *effective term of* *payment for compensation for damages* *shall be applied* *in the procedures* *and* *statute of limitations of handling violations of* *labor discipline.”*

*(Sources: Articles 101 and 130 of the Labor Code 2012; Article 32 of Decree No. 05/2015/ND-C#p)*

#### Maximum Deduction Amount and Deduction Priority

13.02-Q2

Please state the maximum deduction amount that is allowed from an employee’s wages, if any, and indicate the type of deduction that should be deducted from wages first.

Expectation:

1. Please highlight the first line and start to write the information.
2. Maximum deduction means a particular amount or percentage of the employee’s wages that an employer is allowed to deduct under the law, leaving the employee a guaranteed or “minimum protected income” take home pay. For example, the legislation may state that the employer can deduct a loan from the employee’s wages up to 30% of the wages that the employee is entitled to.
3. Deduction priority means which deduction should come first, which deduction should follow, and so on. For example, an employer must deduct amounts ordered by courts first, and then deduct the loan repayment.
4. Please include the implications if the deduction amount (such as for child support or garnishment) exceeds the maximum allowable deduction amount / percentage, for example, whether the balance of the deduction should be carried over to the next pay period.
5. Please include any exception rules such as regional requirements.
6. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
7. If there is no legislation that specifies the maximum deduction allowed, please state “There is no legislative provision that specifies the maximum deductions an employer can make from an employee’s pay.” without quotation marks.

Monthly deductions must not exceed 30% of the monthly wage of an employee after having paid compulsory social insurance, health insurance, unemployment insurance premiums, and income tax.

*(Source: Not available)*

13.03 Court Ordered Garnishments

#### Garnishments

13.03-Q1

Please provide information that is applicable to court ordered garnishments.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include in the answer the following:
   1. List some common types of garnishments such as child care support, alimony, and so on
   2. Whether the employee’s consent is required
   3. How the employer is notified about any garnishments
   4. To whom, by when, and in what manner the deducted amount should be paid to
3. Please include any exception rules such as regional requirements.
4. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
5. If there is no legislation that allows employers to deduct wages from employee’s pay for garnishments, please state “There is no legislative provision that requires or allows employers to deduct wages from an employee’s pay for court ordered garnishments.” without quotation marks.

There is no legislative provision that requires or allows employers to deduct wages from an employee’s pay for court ordered garnishments.

*(Source: Not available)*

13.04 Recovery of Overpaid Wages

#### Recovery of Overpaid Wages

13.04-Q1

Please state how employers can recover overpaid wages from an employee’s payroll.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include whether the law allows the employer to recover overpaid wages from the employee’s next payroll.
3. Please include in the answer any procedures that the employer should follow, such as obtaining consent from the employee.
4. Please include any exception rules such as regional requirements.
5. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
6. If there is no legislative provision that allows the recovery of overpaid wages, please state in the answer “There is no legislative provision that allows the employer to recover overpaid wages from an employee’s payroll in the country.” without quotation marks. Please also state any alternative ways the employer can recover overpaid wages from employees.

There is no legislative provision that allows the employer to recover overpaid wages from an employee’s payroll in the country.

However, the employer can deduct the overpaid amount in the employee’s next pay period, as there is no legislative provisions that prohibit the employer from recovering the overpayment from the employee’s next payroll. When it is required to make such a deduction for an overpayment in the previous month, the employer should notify the employee of the details in advance, and the details should also be displayed on the pay slip.

If an employer pays the full month’s wages to an employee, and discovers the employee has already left the company, the recovery process will be normally be the following:

* The employer needs to contact the employee and provide an explanation, and the overpaid should be shown on the final payment.
* The employer needs to make adjustment to reports, and then balance the overpaid amount in the next month, or make a payment with the corrected amount. The overpaid amount can be transferred to the employee or balanced in the final payment.
* Over-contributions to health insurance cannot be refunded to the employee or the employee (as per current practice).

*(Source: Not available)*

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You need to stop protecting the document before you can remove the expectations and questions:

* Shortcut keys for removing expectations in green: Ctrl + R + E
* Shortcut keys for removing questions in blue: Ctrl + R + Q