



New York State Department of Labor  
David A. Paterson, Governor  
Colleen Gardner, Commissioner

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December 9, 2010

[REDACTED]  
[REDACTED]

Re: Request for Opinion  
Wage Deductions—Parking  
RO-10-0170

Dear [REDACTED],

This letter is written in response to your facsimile dated November 12, 2010, in which you inquire as to the permissibility of wage deductions for the payment of parking garage fees. You state that the cost of the parking would be split equally between the employer and the employee but are unsure as to whether such deductions are permissible under Section 193 of the Labor Law.

Section 193 of the Labor Law provides, in full, as follows:

§ 193. Deductions from wages

1. No employer shall make any deduction from the wages of an employee, except deductions which:
  - a. are made in accordance with the provisions of any law or any rule or regulation issued by any governmental agency; or
  - b. are expressly authorized in writing by the employee and are for the benefit of the employee; provided that such authorization is kept on file on the employer's premises. Such authorized deductions shall be limited to payments for insurance premiums, pension or health and welfare benefits, contributions to charitable organizations, payments for United States bonds, payments for dues or assessments to a labor organization, and similar payments for the benefit of the employee.
2. No employer shall make any charge against wages, or require an employee to make any payment by separate transaction unless such

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charge or payment is permitted as a deduction from wages under the provisions of subdivision one of this section.

3. Nothing in this section shall justify noncompliance with article three-A of the personal property law relating to assignment of earnings, nor with any other law applicable to deductions from wages.

In two separate decisions, the New York Court of Appeals has held that Labor Law §193(1)(b) requires a valid wage deduction to be authorized in writing by the employee and be either a deduction for one of the purposes specifically authorized by that section or for a purpose "similar" to one of those specifically authorized (*See, Marsh v. Prudential Securities, Inc.*, 1 NY3d 146 (2003); *Matter of Angello v. Labor Ready, Inc.*, 7 NY3d 579 (2006).) Furthermore, the Court of Appeals has specifically held that "subtracting from wages a [payment] that goes directly to the employer or its subsidiary violates both the letter of the statute and the protective policy underlying it" (*Id.* at 586).

Labor Law §193(1)(a) provides that an employer may make a deduction from the wages of an employee only when it is in accordance with the provisions of any law or any rule or regulation issued by any governmental agency. The Department is not aware of any provision of any law or any rule or regulation issued by any governmental agency specifically authorizing wage deductions for the payment of parking. In regard to section 193(1)(b), a wage deduction for parking lot fees is not for one of the purposes authorized by section 193(1)(b), nor is it similar to any such purpose, nor may a payment directly from an employee to the employer be permitted. Accordingly, a wage deduction for such a purpose is a violation of Labor Law §193.

This opinion is based exclusively on the facts and circumstances described in your email and subsequent communication, and is given based on your representation, express or implied, that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your letter might require a conclusion different from the one expressed herein. This opinion cannot be used in connection with any pending private litigation concerning the issue addressed herein. If you have any further questions, please do not hesitate to contact me.

Very truly yours,  
Maria L. Colavito, Counsel

By: 

Michael Paglialonga  
Assistant Attorney I

CC: Carmine Ruberto