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## EMPLOYEES' FINAL CHECKS - BE CAREFUL!

When an employee quits or is terminated, the complex issue of the final paycheck arises. There are many things to consider before handing over the final check/deposit, and employers must be careful to abide by federal and state laws.

State law generally dictates the timing of the final paycheck. **In Indiana, employers should pay terminated employees on or before the next normally scheduled pay day.** Employers should not hold the final paycheck "hostage" in order to regain property, etc. but may issue a paper check in lieu of direct deposit, and request the employee return property when he/she picks up the check. Regardless of whether property is returned, the employer must pay the employee for all time worked. (Signed agreements at the time property is distributed may come into play.)

**Having written company policies in place regarding the handling of vacation accruals, employee loans, employer property, commissions, bonuses, and other pay/benefit arrangements upon termination is important.** Defining the "rules" for these types of programs can prevent headaches and in extreme cases, help avoid litigation. Be sure to follow company policy consistently for all applicable employees. *(AccuPay's online HR Support Center offers free policy templates. Ask your processor for a free trial.)*

**Non-exempt (hourly) employees should be paid for all hours worked, including overtime, on the final pay check.** For exempt employees, the Fair Labor Standards Act does allow for an exception when paying for an employee's last week of employment. As a general rule, these employees must be paid for a week's work if working at any point during the week. However, **during an exempt employee's last (or first) week of employment, employers may pay based on actual time worked.** If no time tracking system is used, employers must be careful to document time worked, and would be wise to ask (not force) the employee to sign a statement that the time paid is correct.

If an employee owes a debt to the company upon termination, state law will come into play. **In the state of Indiana, as in most states, the employee must give the employer written permission to deduct wages for any reason other than court ordered garnishments or tax levies.** The document providing permission must be in writing, be signed by the employee, be revocable with written notice to the employer, and be presented to the employer within ten (10) day of execution. (Each state has it's own list of acceptable deductions.) Be careful of reducing an employee's rate of pay below minimum wage, as federal law generally prohibits this for the purpose of repaying a loan/debt to the employer.

When it comes to final paychecks, the laws are complex. The summary above is just an overview of items employers must consider before drafting the final check. **AccuPay's team of payroll experts are a great resource when calculating your employee's final check. You can reach us at 317-885-7600.** For more complicated HR issues, **AccuPay partners with Tom Phillips of Phillips and Associates.** Tom can be reached at **317-889-0429.**



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