

# Exempt employees and negative leave balances

**Q. I know I must pay exempt employees their full salaries even if they have no accrued benefits in their leave plans and their accounts have negative balances. But can I keep negative balance tallies and then subtract the negative balances as the employees earn more leave?**

**A.** If an exempt employee is absent for a partial or full day, the employer may deduct from the employee's leave balance or other benefits. An employer may deduct partial-day absences from a leave bank, as long as his or her salary is never docked. (29 C.F.R. § 541.602(a))

Also, if an employee's absence results in a negative leave balance, the employer can record the leave balance as negative and permit the employee to work off the negative balance over time, through leave accrual.

Whether an employer may recover an employee's negative leave balance at termination will largely depend on the state wage payment laws and whether the employer has maintained detailed records regarding the leaves. Therefore, it's imperative that an employer that chooses to permit employees to carry negative leave balances accurately record and verify the leave taken.

As a side note, an employer is permitted to deduct from an exempt employee's salary when he or she misses *one or more full days* of work for personal reasons, as long as the absence is not related to sickness or disability. (29 C.F.R. § 541.602(b)(1))

An employer may make salary deductions for each full day of absence not related to sickness or disability. Therefore, if the employee is absent for one and a half days for personal reasons, the employer can deduct only one full day's absence from the employee's salary. (29 C.F.R. § 541.602(b)(1))