

## **Reminder to New York Employers: Annual Wage Notices Must Be Distributed by February 1 and Minimum Wage Has Increased**

January 10, 2014

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New York employers should be aware that, effective December 31, 2013, the statewide minimum wage increased from \$7.25 to \$8.00 per hour. This is the first in a series of incremental changes that will see the hourly minimum wage rise to \$8.75 on December 31, 2014, and to \$9.00 on December 31, 2015.

In addition, for the third consecutive year, under New York's Wage Theft Prevention Act ("WTPA"), New York employers must issue a written annual wage notice and acknowledgment of pay rate and pay date ("Notice") to all New York employees between January 1 and February 1, 2014. As we previously reported (see, for example, the *Act Now Advisory* titled "[They're Here – New York State Department of Labor Issues Updated 195.1 Templates and WTPA Frequently Asked Questions](#)"), the Notice must contain the following data (current as of the date of the Notice):

- The rate or rates of pay and basis thereof (whether paid by the hour, shift, day, week, salary, piece commission, etc.);
- For non-exempt employees, the regular rate and overtime rate of pay;
- Allowances, if any, claimed as part of the minimum wage (such as tip, meal, or lodging allowances);
- The regular pay day designated by the employer;
- The name of the employer (including any "doing business as" names used);
- The physical address of the employer's main office or physical place of business, and a mailing address, if different; and
- The employer's telephone number.

There have been no changes to the Notice requirements since the WTPA became effective in April 2011.

Employers must issue the Notice to each employee in English and the “primary language” identified by the employee, if such language has been designated by the New York State Department of Labor (“DOL”) for publication of dual-language forms. The dual-language templates are available on the DOL’s [website](#) in Chinese, Haitian Creole, Korean, Polish, Russian, and Spanish. If the employee identifies another primary language other than one of those listed above, the employer may provide the Notice in English only. The DOL’s website provides various Notice templates, or employers may choose to use their own forms, so long as such forms comply with the requirements of the WTPA.

Employers should be aware that Notices may be distributed electronically. Such electronic distribution will be deemed permissible so long as the employer complies with certain requirements, such as providing a mechanism for employees to acknowledge receipt. Employees must also have access to review and print the Notice.

Employers should also remember to issue the Notice to all newly hired employees upon commencement of employment. Additionally, an updated Notice must be provided to employees when there are certain changes in their wage rates and/or pay days. Specifically, employers in the hospitality industry must provide employees with a Notice of both increases and decreases in their wage rates. Employers in other industries, however, need only provide employees with a Notice of a reduction of their wage rates, so long as the employer’s wage statement complies with the requirements of the WTPA.

For additional information pertaining to the “primary language” requirement and the Notice requirements generally, see the previous *Act Now* Advisory referenced above.

### **What Employers Should Do Now**

- Prepare the Notice with sufficient time for delivery to employees on or before *February 1, 2014*.
- Provide the Notice to employees in English and the employee’s “primary language,” as applicable. Review your records to see which primary language was identified by employees in prior years, but provide employees with the option of electing a different primary language, if desired. (Example: “Our records indicate that you have identified Japanese as your primary language. Please contact Human Resources if this information has changed.”)
- Ensure that employees acknowledge the Notices.
- Once the Notices have been acknowledged by employees, retain copies of the acknowledged Notices for at least six years.

- Unless exceptions apply, ensure that all employees have been paid at least \$8.00 per hour as of December 31, 2013.

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