



Deadline Fast Approaching – Employers Must Provide New York Wage Theft Prevention Act Notices to All New York Employees by February 1, 2012

If you have any questions on complying with the New York Wage Theft Prevention Act please contact:

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Effective April 9, 2011, the New York Wage Theft Prevention Act requires that, each year between January 1 and February 1, all private sector employers provide every employee who works in New York (including those exempt from overtime) with written notice of: (1) the employee's regular rate of pay; (2) the employee's overtime rate of pay (if overtime eligible); (3) the basis of the employee's rate(s) of pay; (4) whether the employer intends to claim allowances as part of the minimum wage including tip, meal, or lodging allowances, and the amount of those allowances; (5) the employee's regular pay day; (6) the name of the employer and any "doing business as" names used by the employer; (7) the physical address of the employer's main office or principal place of business, and a mailing address if different; (8) the telephone number of the employer; and (9) any "such other information as the commissioner deems material and necessary." These notices must be provided in the employee's primary language if the New York Department of Labor ("NY DOL") provides notice templates in that language. Currently, the NY DOL provides notice templates in English, Spanish, Chinese, Korean, Creole, Polish and Russian.

Employers must obtain a signed and dated written acknowledgment confirming receipt of the notice. The signed notices must be maintained by employers for six years. Although the NY DOL has issued template notices that employers may use, the NY DOL has stated that employers are not required to use these templates and can create their own forms, provided that the information required by law is included in the forms distributed to employees. Additionally, the NY DOL has endorsed the use of electronic notices, provided that employees can acknowledge the receipt of the notices and print out a copy of the notices.

Failure to comply with the notice requirements can lead to significant consequences for employers. An employer who fails to provide proper notices may be held liable for damages of \$50 per week up to a maximum of \$2,500, plus costs and attorneys' fees, for each aggrieved employee.