



January 23, 2012

Wage Theft Protection Act Brings New Annual Notice Requirements for New York State Employers

New York State's Wage Theft Protection Act (WTPA) requires private sector employers to provide each of their New York employees a written notice containing detailed information regarding the terms and conditions of their employment. Specifically, under the Wage Theft Prevention Act, employers must notify their employees in writing, of:

- His or her rate(s) of pay
- The basis of the rate(s) of pay (hourly, shift, day, week, salary, piece, commission)
- Allowances, if any, claimed as part of the minimum wage
- Regular payday
- The name of the employer including dba's
- The physical address of the employer's main office or principal place of business, and its mailing address, if different
- The employer's telephone number
- For non-exempt employees, their regular hourly rate(s) and overtime rate(s) of pay

New York State Law already required employers to give notice to employees of their wage rates at the time of hire. Now, the WTPA requires employers to give a written notice to each new hire and to all employees by February 1st each year. In the past, the notices were in English. Now, the notice must appear both in English and in the employee's primary language (if the Labor Department offers a translation).

Employers are liable for penalties of \$50 for each week that the employee did not receive such notice (up to \$2,500) together with attorney's fees. Also, if the Labor Department brings an action on behalf of an employee who has not received such notice, an additional \$50 penalty may be assessed for each week that the employee did not receive the requisite notice, with no cap on total liability.

While employers are preparing the annual notices for their employees, they should take this opportunity to review their employees' paystubs to ensure they too comply with the Wage Theft Prevention Act. Under the Act, employers must provide each of their employees with pay statements that contain all of the following information:

1. The employee's name
2. The dates of work covered by the payment of wages (i.e., the period start and end dates)
3. The employer's name, address, and phone number
4. The employee's rate(s) of pay

(over)

5. The basis of the rate(s) of pay (i.e., hourly, shift, weekly, salary, piece, commission, or other)
6. The employee's gross and net wages
7. Wage deductions
8. Allowances, if any, claimed as part of the minimum wage
9. For non-exempt employees:
 - a. The regular hourly rate(s) of pay
 - b. The overtime rate(s) of pay
 - c. The number of regular hours worked
 - d. The number of overtime hours worked
10. For piece-rate workers, the applicable piece rate(s) of pay and the number of pieces completed at each piece rate

The New York State Wage Theft Protection Act is not difficult to comply with but it is another time consuming administrative burden in these days of never having enough time. For additional information or assistance, contact:

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Employers can review additional information at the following links:

Wage Theft Protection Fact Sheet
<http://labor.ny.gov/formsdocs/wp/P715.pdf>

Wage Theft Protection Template Forms
<http://labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm>

Wage Theft Protection Act FAQ's
<http://labor.ny.gov/workerprotection/laborstandards/PDFs/wage-theft-prevention-act-faq.pdf>