

WITH THE NEW YEAR, COMES NEW ANNUAL NOTICE OBLIGATION FOR NEW YORK EMPLOYERS

December 6, 2011

IMPORTANT REMINDER

We would like to take a moment to remind you that between January 1 and February 1, 2012, all private employers must 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 both English and the language identified by each employee as his or her primary language, of:

1. His or her rate(s) of pay
2. The basis of the rate(s) of pay (e.g., whether employee is paid by the hour, shift, day, week, salary, piece or commission)
3. Allowances, if any, claimed as part of the minimum wage (e.g., tips, meals or lodging)
4. The regular payday
5. The name of the employer and any “doing business as” (DBA) names used by the employer
6. The physical address of the employer’s main office or principal place of business, and its mailing address, if different
7. The employer’s telephone number
8. For non-exempt employees, their regular hourly rate(s) and overtime rate(s) of pay

Employers must also obtain a signed and dated written acknowledgement, in English and the primary language identified by the employee, confirming that each employee received the required notice. This written acknowledgement must be retained for six years.

This notice obligation applies to all private sector employers with at least one employee in New York State, and it covers all New York employees regardless of rank, pay rate, or exempt or non-exempt status.

For each employee who does not receive a proper annual notice, he or she may recover \$50 for each week that he or she did not receive such notice (up to \$2,500) together with attorneys’ fees. Also, if the commissioner of labor brings an action on

Attorneys

John Godwin

Practices & Industries

Labor & Employment

WITH THE NEW YEAR, COMES NEW ANNUAL NOTICE OBLIGATION FOR NEW YORK EMPLOYERS

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
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

Bottom Line for Employers

All employers with one or more employees working in New York State should immediately begin preparing to distribute the annual notices required by the Wage Theft Prevention Act to each of their employees. At the same time, employers should also review their employees' paystubs to ensure they contain all information required by the Act.