



New York Adopts New Legislation

January 16, 2012 - New York recently adopted new legislation (New York Wage Theft Prevention Act) requiring private employers to provide an annual wage notice form to its employees. The form must be given to each new hire and to each current employee between January 1 and February 1 each year. The form must contain the following information:

- the employee's rate of pay and, if non-exempt, overtime rate of pay;
- the basis of the employee's rate of pay (e.g., salary, commission or hourly);
- the employee's regular pay day (employees are also advised to state the frequency of pay periods—e.g., weekly, bi-weekly or other);
- the employer's name and any "doing business as" names;
- the employer's telephone number and the address of its main office or principal place of business (and, if different, mailing address); and
- any allowances the employer intends to claim as part of the minimum wage (e.g., tip, meal or lodging allowances).

Methods of Delivery

The form can be given to the employee electronically or in paper form. If sent electronically, the employee must be able to print a copy of the notice. The employer must obtain a signed acknowledgement form from the employee acknowledging that they have received the notice. The employer must keep the acknowledgement form on file for six years. The notice must be printed in the employee's primary language for workers whose primary language is English, Spanish, Chinese, Korean, Creole, Polish or Russian. Anytime there is a new hire the notice should be attached, as a separate form, to the employment agreement or offer letter.

Penalties

Penalties for non-compliance are up to \$2,500 for a suit brought by an individual employee or \$50/week/worker if the NY Department of Labor assesses a fine. In addition to the new notice requirement the Act also contain provisions relating to recordkeeping, payroll records and paystubs.