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## ***New Notice Requirements for New York Employers***

*Author:*



**AMY L. VAREL**

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*December 2, 2010*— New York Labor Law §195 requires employers to notify any employees that are hired on or after October 26, 2009 of their rate of pay and regular pay day in writing at the time of hiring. If the employee is eligible for overtime the notice must also state the regular hourly rate and overtime rate of pay. The notice must be signed by the employee and maintained by the employer for six years. The New York Department of Labor has stated that the notice must be in a form independent from the offer letter and employment agreement.

These notice requirements also apply to salaried employees who are exempt from overtime and minimum wage requirements. In these cases the notice should disclose the weekly or biweekly salary, the number of hours for which it is intended to cover, along with the designated pay day.

The New York Department of Labor has provided a model notice form for exempt employees. The model notice requires the employer to list the exemption under which the employer claims that the employee is exempt from overtime pay requirements. As always, employers should review each exempt status carefully to ensure compliance with federal and state laws.

In cases where the employee will earn multiple hourly rates from the same employer the notice should provide a statement which explains the method by which the employee's overtime rate is calculated. The Department of Labor has also provided a model notice for employees with multiple hourly rates.

The Department of Labor has also made available at its website model notices for hourly rate employees, for employees paid a weekly rate or a salary for a fixed number of hours (40 or fewer in a week) , for employees paid a salary for varying hours, day rate, piece rate, flat rate or other non-hourly pay and for employees paid a prevailing rate. There are also instructions available for the model notices.

Although it is encouraged by the Department of Labor, employers are not required to use the model notices. If employers choose to use their own forms the notices must include all of the elements, questions, and information contained in the model notices.

Employers should be careful to ensure compliance with federal and state wage and hour laws when preparing these new required notices. Employers should also expect to be required to pay employees in accordance with the written notices provided.

For questions regarding these notice provisions or general compliance with New York and Federal wage and hour laws, please contact Amy Varel at (585) 546-2500 or [avarel@mccmlaw.com](mailto:avarel@mccmlaw.com).

25 East Main Street  
Rochester, NY 14614

Phone: 585-546-2500  
Fax: 585-546-7218  
[www.mccmlaw.com](http://www.mccmlaw.com)

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