



LABOR & EMPLOYMENT

ALERT

NEW YORK EMPLOYERS – DON'T FORGET NOTICE OF PAY FORMS THIS JANUARY

By Glenn S. Grindlinger and Daniel N. Kuperstein

As we approach the end of the year, it is important to remind employers about New York's Notice of Pay requirements. Employers must start preparing to issue Notice of Pay forms to all employees during the month of January as it became an annual requirement as of January 2012.

In April 2011, the New York Wage Theft Prevention Act (WTPA) became effective. Under WTPA, among other things, employers are required to provide a "Notice of Pay" form to all employees, regardless of their position or role within the organization: (i) at the time of hire, (ii) each time the employee's pay rate changes, and (iii) **between January 1 and February 1 of each year**. The notice must contain the following information:

- The employee's normal rate(s) of pay and the basis thereof (hourly, shift, weekly, salary, etc.);
- If applicable, the employee's overtime rate of pay;
- The employee's regular pay day;
- Any allowances claimed against the minimum wage (tip credit, meal credit, lodging allowances, etc.);
- The name of the employer (including any "doing business as" name);
- The address of the employer's main office, and a mailing address (if different); and,
- The employer's telephone number.

The written notice must be signed by both the employee and the employer and the employer must retain a record of the signed notice for at least six years.

The New York Department of Labor (NYDOL) has issued sample Notice of Pay forms that employers may use although they are not required to do so. However, it is recommended that employers use the NYDOL forms to ensure full compliance with WTPA. The NYDOL sample forms can be obtained from the [NYDOL's website](#).

In addition, WTPA requires employers to issue the required Notice of Pay forms in English and the employee's native language, if not English, provided the NYDOL has created Notice of Pay forms in the employee's primary language. Currently, the NYDOL has issued forms in English, Spanish, Chinese, Haitian Creole, Korean, Polish, and Russian, which are available on the NYDOL's website at the above link.

If the employer fails to comply with these requirements, employees may bring suit against the employer and obtain civil penalties of up to \$2,500 plus attorneys' fees.

If you have questions about this Alert, please contact Glenn S. Grindlinger at 212.905.2305 or ggrindlinger@foxrothschild.com, Daniel N. Kuperstein at dkuperstein@foxrothschild.com, or any member of Fox Rothschild's [Labor & Employment Department](#).

