

Engage PEO Client Alert

New York New Hire Wage Notices

New York State requires New Hire Wage Theft Prevention Act Notices which must be acknowledged by the employee to be provided to employees at hire and during certain events triggering changes to their pay.

New Hires and Wage Changes - Compliance

To comply with the Wage Theft Prevention Act employers in New York must provide Wage Notices to employees upon hire. It is important to remember that employers must also provide wage notices whenever the information on the original wage notice changes.

For example, a change in pay date or how the employee is paid, hourly or weekly, would trigger a new notice. Written notice should be given seven (7) days in advance of such a change. Except for employers in the hospitality industry, a wage increase does not need prior written notice as long as it is shown on the next wage statement. Employers in the hospitality industry currently need to give a new notice every time a wage rate changes.

Although employers are not required to use the state provided forms doing so ensures compliance and also may be beneficial since the form also must be provided in the employee's primary language (if the NYDOL offers a translation) regardless of whether the person understands English.

Attached are the three most frequently used forms, however, employers using other methods of pay or who have employees with a primary language other than English should refer to:

<https://www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm>. This state site provides the forms in multiple languages and for multiple types of pay arrangements.

Employers should have employees sign the forms and then retain the signed acknowledgment for six (6) years. A copy should also be provided to the employee.



**Notice and Acknowledgement of Pay Rate and Payday
Under Section 195.1 of the New York State Labor Law
Notice for Hourly Rate Employees**

1. Employer Information

Name:

Doing Business As (DBA) Name(s):

FEIN (optional):

Physical Address:

Mailing Address:

Phone:

2. Notice given:

- At hiring
- Before a change in pay rate(s), allowances claimed or payday

3. Employee's rate of pay:

\$ _____ per hour

4. Allowances taken:

- None
- Tips _____ per hour
- Meals _____ per meal
- Lodging _____
- Other _____

5. Regular payday: _____

6. Pay is:

- Weekly
- Bi-weekly
- Other

7. Overtime Pay Rate:

\$ _____ per hour (This must be at least 1½ times the worker's regular rate with few exceptions.)

8. Employee Acknowledgement:

On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below. I told my employer what my primary language is.

Check one:

- I have been given this pay notice in English because it is my primary language.
- My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

Print Employee Name

Employee Signature

Date

Preparer's Name and Title

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.



Notice and Acknowledgement of Pay Rate and Payday
Under Section 195.1 of the New York State Labor Law
Notice for Exempt Employees

1. Employer Information
Name:
Doing Business As (DBA) Name(s):
FEIN (optional):
Physical Address:
Mailing Address:
Phone:

- 2. Notice given:
[] At hiring
[] Before a change in pay rate(s), allowances claimed, or payday

3. Employee's pay rate(s): State if pay is based on an hourly, salary, day rate, piece rate, or other basis.

Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

- 4. Allowances taken:
[] None
[] Tips _____ per hour
[] Meals _____ per meal
[] Lodging _____
[] Other _____

5. Regular payday: _____

- 6. Pay is:
[] Weekly
[] Bi-weekly
[] Other: _____

7. Overtime Pay Rate:
Most workers in NYS must receive at least 1 1/2 times their regular rate of pay for all hours worked over 40 in a workweek, with few exceptions. A limited number of employees must only be paid overtime at 1 1/2 times the minimum wage rate, or not at all.

This employee is exempt from overtime under the following exemption (optional):

8. Employee Acknowledgement:
On this day, I received notice of my pay rate, overtime rate (if eligible), allowances, and designated payday. I told my employer what my primary language is.

- Check one:
[] I have been given this pay notice in English because it is my primary language.
[] My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

Print Employee Name

Employee Signature

Date

Preparer Name and Title

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.

Please note: It is unlawful for an employee to be paid less than an employee of the opposite sex for equal work. Employers also may not prohibit employees from discussing wages with their co-workers.

Sample Pay Notice for the Hospitality Industry - Updated

More information is available in Part § 146-2.2.

Please note: It is unlawful for an employee to be paid less than an employee of the opposite sex for equal work. Employers also may not prohibit employees from discussing wages with their co-workers.

Notice of Pay Rates and Pay Day

Company name and address _____

Preparer's name and title _____

Employee's name and address _____

Your regular rate of pay will be \$_____ per hour for the first 40 hours in a week.

Your overtime rate of pay will be \$_____ per hour for hours over 40.

Your designated pay day will be: _____

For Tipped Employees Only:

The tip credit taken will be \$_____ per hour. (See page 2 for the maximum allowed amount.)

If you do not receive enough tips over the course of a week to bring you up to the minimum hourly rates for the first 40 hours and 1½ times that amount per hour for hours over 40, you will be paid additional wages that week to make up the difference. See page 2 for the minimum hourly wage amounts.

For Service Employees in Resort Hotels Only (if different from rates given above):

If your weekly average of tips received is at least the minimum threshold for tips per hour (see page 2 for a listing of the minimum threshold tips), your regular rate of pay will be \$_____ per hour and your overtime rate of pay will be \$_____ per hour. The tip credit taken will be \$_____ per hour.

Preparer's Signature: _____ Date: _____

I have been notified of my pay rate, overtime rate, tip credit if applicable, and designated pay day on the date given below.

Employee's Signature: _____ Date: _____

For Tipped Employees Only:

CREDIT FOR TIPS RECEIVED (maximum)	12/31/16 - 12/30/17	12/31/17- 12/30/18	12/31/18- 12/30/19	12/31/19- 12/30/20	12/31/20- 12/30/21	12/31/21- 12/30/22
NYC - Large Employers (11 or more)	\$3.50	\$4.35	\$5.00	\$5.00	\$5.00	\$5.00
NYC - Small Employers (10 or less)	\$3.00	\$4.00	\$4.50	\$5.00	\$5.00	\$5.00
Long Island & Westchester	\$2.50	\$3.50	\$4.00	\$4.35	\$4.65	\$5.00
Remainder of New York State	\$2.20	\$2.90	\$3.60	\$3.95	\$4.15	TBD

CASH WAGE PAID BY EMPLOYER (minimum)	12/31/16 - 12/30/17	12/31/17- 12/30/18	12/31/18- 12/30/19	12/31/19- 12/30/20	12/31/20- 12/30/21	12/31/21- 12/30/22
NYC - Large Employers (of 11 or more)	\$7.50	\$8.65	\$10.00	\$10.00	\$10.00	\$10.00
NYC - Small Employers (10 or less)	\$7.50	\$8.00	\$9.00	\$10.00	\$10.00	\$10.00
Long Island & Westchester	\$7.50	\$7.50	\$8.00	\$8.65	\$9.35	\$10.00
Remainder of New York State	\$7.50	\$7.50	\$7.50	\$7.85	\$8.35	TBD

For Service Employees in Resort Hotels Only

THRESHOLD TIPS REQUIRED IN RESORT HOTELS (minimum)	12/31/16 - 12/30/17	12/31/17- 12/30/18	12/31/18- 12/30/19	12/31/19- 12/30/20	12/31/20- 12/30/21	12/31/21- 12/30/22
NYC - Large Employers (of 11 or more)	\$6.15	\$7.30	\$8.40	\$8.40	\$8.40	\$8.40
NYC - Small Employers (10 or less)	\$5.90	\$6.75	\$7.60	\$8.40	\$8.40	\$8.40
Long Island & Westchester	\$5.60	\$6.15	\$6.75	\$7.30	\$7.85	\$8.40
Remainder of New York State	\$5.45	\$5.85	\$6.25	\$6.60	\$7.00	TBD