

FOCUS ON NEW YORK WAGE STATEMENTS

Failure to Comply with Wage Notice Provisions of New York Law Brings Steep Penalties

With the recent flurry of litigation surrounding wage statement requirements, many employers are taking the opportunity to review their compliance with wage statement and wage notification laws. The New York law is significant in that it signifies a growing trend at the state level to ensure greater wage transparency. California has its own version of a wage notification and wage statement law. Many employers are struggling to comply with the California law due to an unavailability of conforming wage statement software. Though this trend is expanding in many states across the country, California and New York are seen as its leaders. An examination of New York's requirements helps to inform an understanding of this trend.

New York's Wage Theft Prevention Act took effect on April 9, 2011. The Act was amended in December 2014, with changes taking effect on February 27, 2015. In general, the Act requires an employer to provide written notice of compensation to employees in their own languages. The following must be included in the wage notification:

- Rate of pay;
- How the employee is paid: by the hour, shift, day, week, piece, commission, etc.;
- Regular pay day;
- Official name of the employer and any names used for doing business;
- Address and phone number of the employer's main office or location; and
- Allowances taken as part of the minimum wage: tips, meal, lodging, etc.

2010 N.Y. Laws ch. 564. The notice of compensation must be provided both at the time of hire and a week before any changes are made. However, wage notifications are not required when the rate of pay increases and the new rate is indicated on the next wage statement.

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The Act also requires employers to provide employees wage statements at each pay period. The wage statements must include:

- Employee's name;
- Employer's name, address, and phone number;
- Dates covered by the payment;
- Hours worked: regular and overtime;
- Rate of pay;
- How the employee is paid: by the hour, shift, day, week, piece, commission, etc.;
- Employee's gross and net wages;
- Itemized deductions; and
- Allowances taken as part of the minimum wage: tips, meal, lodging, etc.

2010 N.Y. Laws ch. 564. Employers who fail with either the wage statement or the wage notification requirement face steep penalties.

Special requirements apply to employees who are not paid a traditional hourly rate. For employees who are paid using multiple hourly rates, wage notifications must contain a description of all hourly rates. Wage statements for those employees must contain all hourly rates used to determine the employee's pay for that period. Employees paid using a piece rate must be notified of the rate, and the wage statement must contain the piece rate and the number of pieces at each rate. For commission-based employees, the notification and wage statement must contain a description of commission rates. Salaried employees must be notified of their salary and the salary rate must be contained in the wage notification. These wage statement and wage notification requirements also apply to exempt employees. Sample wage statements and wage notifications may be found [here](#).