



# Changes Come to Wage and Hour Law of New York State

December 30, 2014

Two laws passed by the New York State Legislature have changed certain provisions in the State's wage and hour laws.

First, carrying out the provisions of a law passed some time ago, New York's minimum wage is increased from \$8.00 per hour to \$8.75 per hour, effective December 31, 2014. Any employees earning less than this amount must be increased to the new rate as of that date. Employers are not required to change the wages of employees already earning \$8.75. The minimum wage will increase again on December 31, 2015, to \$9.00 per hour. Additionally, the exemption from overtime rules for executive and administrative employees has changed as well. In order to be eligible for these exemptions, employees must meet certain "duties" requirements AND receive a weekly salary which is not subject to be reduced based on the number of hours worked, with certain exemptions. Federal law requires salaries for exempt employees to be at least \$455 per week, but New York State has long required the more substantial salary of \$600 per week. As of December 31, 2014, the minimum has increased to \$656.25 per week. It will increase again on December 31, 2014, to \$675 per week. The minimum salary for the third major class of exempt employees, professionals, remains at the Federal minimum of \$455.

Second, for those food service workers who regularly receive tips, employers are required to pay wages of \$5.00 per hour and credit for tips of \$3.75 per hour. Employees must earn a minimum of \$8.75 per hour, including the tip credit; if employees are tipped less than \$3.75 per hour, the employer must make up the difference. For service employees in restaurants who receive tips (other than wait staff, bartenders, captains, and bussing staff), the minimum wage is \$5.65, with a tip credit of \$3.10 per hour.

Finally, Governor Cuomo has signed into law modification in the State's Wage Theft Prevention Act ("WTPA"). That Act, adopted in 2010, requires employers to notify all employees of their rates of pay, whether they are paid on an hourly basis or salary basis, whether they are eligible for overtime, and what the regular payday is, among other pieces of information. The WTPA also provides penalties for employers who retaliate against employees who complain about not being paid properly. The State Department of Labor's Fact Sheet on the WTPA is located at <http://www.labor.ny.gov/formsdocs/wp/P715.pdf>. As originally adopted, the WTPA required the notice be given at the time of hire AND every year before February 1. The new law repeals the annual notice requirement and makes certain other changes to the law. The law will go into effect in early March, but the Governor's signing statement indicates that there is already an agreement in place to adopt an amendment repealing the annual notice requirement immediately, so employers will not have to send those notices in January 2015. The Department of

Labor has already announced it will not require the annual notices in anticipation of the change in the law. See <http://www.labor.ny.gov/workerprotection/laborstandards/employer/wage-theft-prevention-act.shtm>.

If you have any questions about these laws or any other employment-related laws, feel free to contact the members of our Labor and Employment Department: Thomas Wassel at 516-357-3868 or [twassel@cullenanddykman.com](mailto:twassel@cullenanddykman.com), or Gary Fishberg at 516-357-3703 or [gfishberg@cullenanddykman.com](mailto:gfishberg@cullenanddykman.com).

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