



# New York State Increases Minimum Wages

January 14, 2016

Employees at the lowest end of the pay scale received a New Year's Eve benefit from the New York State Legislature. Effective December 31, 2015, the minimum wage for employees in the State has increased from \$8.75 to \$9.00 per hour. The State's minimum wage is now \$1.75 per hour higher than the Federal minimum wage, which has been stuck at \$7.25 per hour since 2009.

In addition, "service employees" and "food service employees" who regularly receive tips also received an adjustment. Employers are allowed to claim a "tip credit" for such employees, and pay less than the general minimum wage, under the assumption that the employees will earn at least the minimum wage when hourly wages and tips are added together. (If they don't add up to at least minimum wage, the employer must make up the difference.) Prior to December 31, 2015, for "service employees" the employer could take a tip credit not to exceed \$3.10 per hour, with the minimum wage set at \$5.65 per hour. For "food service employees", the tip credit was \$3.75 per hour, with the minimum wage set at \$5.00 per hour. However, on or after December 31, 2015, employers now can only claim a tip credit of \$1.50 per hour for all "service" and "food service" employees, which means the new minimum wage for "service" and "food service" employees is \$7.50 per hour. There is no obligation on the part of employers to increase the wages of any employee already earning in excess of the new minimum wages.

The minimum wage increases will increase overtime costs, since such workers are legally entitled to be paid at time and a half for all hours over 40 in a workweek; in other words, the minimum overtime rate has increased from \$13.13 per hour to \$13.50 per hour. For all "service" and "food service" employees, the overtime rate increases to \$12.00 per hour (\$13.50 minus the \$1.50 tip credit.)

If you have any questions about this new law, or any other employment-related inquiries, please contact Thomas B. Wassel at 516-357-3868 or [twassel@cullenanddykman.com](mailto:twassel@cullenanddykman.com), or Gerard Fishberg at 516-357-3703 or [gfishberg@cullenanddykman.com](mailto:gfishberg@cullenanddykman.com), and we will be happy to assist you.

## Practices

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