



# New York State Law to Increase to \$2,160 as of December 31, 2015

December 7, 2015

Under New York's Exempt Income Protection Act ("EIPA"), certain funds in deposit accounts are exempt from most restraining notices and levies. One exemption under the EIPA is for an amount deemed to be protected wages, with the amount of such exemption tied to the minimum wage. As a result of an upcoming increase in the New York State minimum wage, the amount of the wage exemption under the EIPA will increase from \$2,100 to \$2,160 on December 31, 2015.

The EIPA took effect in 2009 and, among other things, requires financial institutions to exempt certain funds in deposit accounts from the reach of creditors seeking to restrain or levy on those accounts. There are two exemptions under the EIPA: one for wages and one is for the direct deposit or electronic payment of amounts "reasonably identifiable as statutorily exempt" funds during the 45-day period preceding the service of the restraining notice or levy.

Under the wage exemption, a financial institution must make a certain amount available to the depositor based on the amount of the federal or New York State minimum wage (whichever is higher). Because the New York State minimum wage is increasing from \$8.75 to \$9.00 an hour as of December 31, 2015, the amount of the wage exemption under the EIPA is increasing from \$2,100 to \$2,160 as of that date.

Under the exemption for statutorily exempt benefit funds, if there was a direct deposit or electronic payment of such funds in an account during the 45-day period preceding the service of the restraining notice or levy, then the institution generally must make available to the depositor up to \$2,750 from the account despite the restraining notice or levy. The current amount of \$2,750 was increased in April of 2015 and is subject to change in April of 2018 and every three years thereafter based on changes in the consumer price index.

Please note that this is a general overview of the EIPA, and this advisory is not intended as legal advice. The requirements of the EIPA are very detailed and must be reviewed in their totality and also in connection with federal rules protecting certain funds from garnishment.

If you have any questions regarding the EIPA or the exemption of depositor funds from restraint or levy, please feel free to contact Joseph D. Simon at 516-357-3710 or via email at [jsimon@cullenanddykman.com](mailto:jsimon@cullenanddykman.com).

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