

# Wage Law Changes Take Effect in New York State

January 3, 2017

## Minimum Wage

New York State's minimum wage, formerly \$9.00 per hour, has now increased and will continue to increase. As of December 31, 2016, there are different minimum wages depending on where the employee performs work:

In the City of New York

- Large employers (11 or more employees): \$11.00 per hour
- Small employers (10 or fewer employees): \$10.50 per hour

Downstate (Nassau, Suffolk, and Westchester Counties) (all employers): \$10.00 per hour

All other areas of New York State: \$9.70 per hour

These rates will increase further on December 31, 2017, and each year thereafter. Please see

<http://www.cullenanddykman.com/news-advisories-124.html> for the schedule of future minimum wage changes.

## Minimum salaries for exempt employees

All employees are required to be paid overtime at a rate of one and one-half times their regular rates of pay for all hours over 40 in a workweek unless they are considered "exempt" from the overtime laws. In order to be considered exempt they must predominantly perform certain "duties" (generally, Executive, Administrative, or Professional), must be paid on a "salary basis" (i.e. not hourly, no deductions for hours not worked in a workweek except under narrow conditions), and must be paid a "minimum salary". You may have heard that the Federal Department of Labor had adopted a rule which would increase the minimum salary from \$455 to \$913 per week and that this rule was enjoined (i.e. put on hold) by a Federal court. However, New York State has already had a higher minimum salary for exempt employees (\$675 per week), and that minimum increased on December 31, 2016, as well. The minimum exempt salary is 75 times the minimum wage; since there are now three minimum wages in New York State, there are three different minimum salaries as well:

In the City of New York:

- Large employers (11 or more employees): \$825 per week
- Small employers (10 or fewer employees): \$787.50 per week

Downstate (Nassau, Suffolk, and Westchester Counties) (all employers): \$750.00 per week

All other areas of New York State: \$727.50 per week

Any Executive or Administrative employees earning less than these salaries are NOT exempt from overtime, no matter what their duties may be. (For some reason, New York does not have a minimum salary for Professional employees, so the current Federal minimum of \$455 still applies.)

These minimum salaries will also increase on December 31 of each of the next few years. In addition, there are changes in the allowable amounts of tip credits, uniform maintenance allowances, and lodging allowances, for those employers who utilize them. A full summary of the changes in all the minimum wages, minimum salaries, and allowances can be found in the New York State Department of Labor's publication at <https://www.labor.ny.gov/formsdocs/wp/Part142.pdf> or in the attachment below.

Please note that this is a general overview of developments in the law, and does not constitute legal advice. If you have questions regarding these provisions or any other aspect of employment law, please contact Thomas B. Wassel at 516-357-3868 or [twassel@cullenanddykman.com](mailto:twassel@cullenanddykman.com), Gerard Fishberg at 516-357-3703 or [gfishberg@cullenanddykman.com](mailto:gfishberg@cullenanddykman.com), James G. Ryan at 516-357-3750 or [jryan@cullenanddykman.com](mailto:jryan@cullenanddykman.com), Cynthia A. Augello at 516-357-3753 or [caugello@cullenanddykman.com](mailto:caugello@cullenanddykman.com), or Douglas Bohn at 516-357-3879 or [dbohn@cullenanddykman.com](mailto:dbohn@cullenanddykman.com).

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