

Action Required by New York State Employers

Did you know that the Wage Theft Prevention Act (WTPA) became law in the State of New York (NY) on April 9th 2011? Do you know if you are compliant with this regulation? If you answered “NO” to either of those questions, we suggest you continue reading and take action immediately if you have employees in the State of New York.

Do We Need to Comply?

Section 195.1 of the WTPA Labor Law requires all employers, other than government agencies, to give employees the following information at the time of hire (before work is performed) and on or before February 1 of each year.

Employers' Compliance Obligations

Private-sector employers are required to provide a written notice to new, non-exempt employees and the notice must provide the following information and be provided in English **and in** the employee's primary language:

- a) The employee's rate or rates of pay (including overtime rate of pay if non-exempt)
- b) The basis of the wage payment (*e.g.*, per hour, per shift, per week, piece rate, commission, etc.)
- c) The employer's regular payday
- d) Any allowances the employer intends to claim as a part of the minimum wage including tip, meal and lodging allowances
- e) The employer's name and any names under which it does business (*i.e.*, any DBA's)
- f) The employer's telephone number and physical address of its main office or principal place of business and, if different, the employer's mailing address

*The above is a basic breakdown of the requirements under WTPA and not meant to be a full list of every requirement. Details of this requirement can be obtained from the [New York Department of Labor](#).

Employee Acknowledgement Forms

The employer must have the employee sign a statement acknowledging receipt of the written notice in English and the employee's primary language. Employees must also acknowledge that they have properly identified their primary language to their employer. The employer must keep the signed and dated notice and acknowledgement for six years and provide a copy to the employee. Employees cannot waive the written notice requirement under New York's Wage Theft Prevention Act and the obligation to provide the annual written notice of wage rates applies regardless of whether any of the information from previous years has changed.

Template Forms and Delivery Methods

Employers are not required to use the state form, but the notices must be on separate forms, *i.e.*, not part of a broader letter or other document. Although notices may be provided electronically, the employee must be able to acknowledge receipt of the notice and print it out. Sample notices are available at the state agency [website](#).



You can also access the New York State Department of Labor Wage Theft Prevention Act Fact Sheet [here](#).

How Can HR Knowledge Help?

HR Knowledge understands that WTPA compliance is complicated and can be an administrative hassle to remain compliant. HR Knowledge has partnered with ADP to provide a WTPA Compliance Package. This service can provide annual employee wage notices for your company's NY employees. We would produce notices for all employees set up with New York State Unemployment Insurance (SUI).

Key Points and Next Steps for Employers

- Notices must be provided to new employees at the time of hire (before work is performed). The notice of acknowledgement should become part of the New Hire process, similar to the W-4 form.
- Employers must provide the notice to current employees on or before February 1 of each year.
- Employers should utilize the link provided above to access NYS DOL's templates to complete these notices and provide to each of their employees working in NY.
- Employers should collect and maintain the employee acknowledgements in each employee's personnel folder. Employers are required to keep the signed and dated notices and acknowledgement for six years and provide a copy to the employee.
- If you are interested in receiving 2014 Employee WTPA Notices through the HR Knowledge/ADP program, please complete the order form on our website and return to your Client Account Manager. You can access the order form on our website here: **(Insert Link)**
- **HR Knowledge must receive requests for the annual employee wage notices by January 15, 2014. This is to ensure that you are able to distribute these notices to your employees by February 1, 2014.**

Other States with Similar Requirements

In addition to New York, the following states have enacted similar legislation: Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Louisiana, Maryland, New Hampshire, North Carolina, Pennsylvania, South Carolina, Utah, and West Virginia. Employers in those jurisdictions should review their offer letter and employment agreements to ensure compliance with all applicable requirements.

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this advisory, please contact HR Knowledge at 508.339.1300 or email us at HR@hrknowledge.com.