



D'Arcangelo & Co., LLP
Certified Public Accountants & Consultants

Celebrating 60 Years
510 Haight Ave, Poughkeepsie, N.Y. 12603
845.473.7774 Fax: 845.454.8485
www.darcangelo.com

140 Church St.
Millbrook, N.Y. 12545
845.677.6823
Fax: 845.677.0004

Mid-Hudson Partners
Michael C. Betros, CPA/PFS
John J. Cina, CPA/PFS
Wayne E. Sauer, CPA
Joanne M. Casabura, CPA, CFP
Gretchen M. Bradshaw, CPA
Brenda K. Santoro, CPA
James P. Booth, CPA
David Purcell, CPA

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Dear Client:

On April 9, 2011, the Wage Theft Prevention Act took effect in New York State. The law requires a number of new standards for employers to follow, including a requirement for employers to give written notice of wage rates to all employees at the time of hiring (within 10 business days of the employee's first day of employment) **and on or before February 1st of each year.**

The notice must include:

- Rate or rates of pay, including overtime rate of pay (if it applies)
- How the employee is paid: by the hour, shift, day, week, commission, etc.
- Regular payday
- Official name of the employer and any other names used for business (DBA)
- Address and phone number of the employer's main office or principal location
- Telephone number of the employer
- Allowances taken as part of the minimum wage (tips, meals, and lodging deduction)

This notice must be given in both English and in the primary language of the employee (if the Labor Department offers a translation). Currently the Department of Labor offers translations for Spanish, Chinese, Korean, Creole, Polish and Russian. **Employees must sign and date an acknowledgement and return the form to the employer. The employer must keep the signed statements for 6 years.**

You can use your own notice or one of the sample notices provided by the NYS Department of Labor. See the NYS Department of Labor website for samples at:

<http://www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm>

Listed below are the types of sample forms available based on the employee type and how they are paid, please be sure you are completing the proper form for your employees.

- Hourly Rate Employees
- Multiple Hourly Rates
- Employees Paid a Weekly Rate or Salary for a Fixed Number of Hours (40 or fewer in a week)
- Employees Paid a Salary for Varying Hours, Day Rate, Piece Rate, Flat Rate, or Other Non-Hourly Pay
- Temporary Help Firms
- Prevailing Rate and Other Jobs
- Exempt Employees



If you fail to provide this notice of wage rates to your employees you may have to pay damages of up to \$50 per week, per employee, up to a maximum of \$2,500 per employee.

Another requirement under the Wage Theft Protection Act is that all employee wages statements include the following information:

- Name of employee and employer
- Address and phone number of employer
- Rate(s) of pay (regular and overtime)
- Number of regular hours worked
- Number of overtime hours worked
- Whether paid by hour, shift, salary, etc.
- Dates of work covered by payment of wages
- Gross wages
- Deductions
- Allowances
- Net wages

You should review your employee wages statements to be sure all of the required information is being included. If you fail to provide wage statements to your employees you may have to pay damages up to \$100 per week, per employee, up to a maximum of \$2,500 per employee.

The Department of Labor's website includes the following documents to assist you with complying with the new standards.

- Wage Theft Protection Act Fact Sheet (<http://www.labor.ny.gov/formsdocs/wp/P715.pdf>)
- Wage Theft Prevention Frequently Asked Questions (FAQ) sheet (<http://www.labor.ny.gov/workerprotection/laborstandards/PDFs/wage-theft-prevention-act-faq.pdf>).

Additional details about the Wage Theft Protection Act can be found on the NYS Department of Labor's website.

If you have any additional questions, please feel free to contact us.

Sincerely,

D'Arcangelo & Co., LLP



Notice and Acknowledgement of Pay Rate and Payday
Under Section 195.1 of the New York State Labor Law
Notice for Hourly Rate Employees

1. Employer Information

Name:

Doing Business As (DBA) Name(s):

FEIN (optional):

Physical Address:

Mailing Address:

Phone:

3. Employee's rate of pay:

\$ _____ per hour

4. Allowances taken:

None

Tips _____ per hour

Meals _____ per meal

Lodging _____

Other _____

5. Regular payday: _____

6. Pay is:

Weekly

Bi-weekly

Other

7. Overtime Pay Rate:

\$ _____ per hour (This must be at least 1½ times the worker's regular rate with few exceptions.)

8. Employee Acknowledgement:

On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below. I told my employer what my primary language is.

Check one:

I have been given this pay notice in English because it is my primary language.

My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

Print Employee Name

Employee Signature

Date

Preparer's Name and Title

- 2. Notice given:**
- At hiring
 - On or before February 1st
 - Before a change in pay rate(s), allowances claimed or payday

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.



**Notice and Acknowledgement of Pay Rate and Payday
Under Section 195.1 of the New York State Labor Law
Notice for Exempt Employees**

1. Employer Information

Name:

Doing Business As (DBA) Name(s):

FEIN (optional):

Physical Address:

Mailing Address:

Phone:

3. Employee's pay rate(s): State if pay is based on an hourly, salary, day rate, piece rate, or other basis.

Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

4. Allowances taken:

- None
- Tips _____ per hour
- Meals _____ per meal
- Lodging _____
- Other _____

5. Regular payday: _____

6. Pay is:

- Weekly
- Bi-weekly
- Other: _____

7. Overtime Pay Rate:

Most workers in NYS must receive at least 1½ times their regular rate of pay for all hours worked over 40 in a workweek, with few exceptions. A limited number of employees must only be paid overtime at 1½ times the minimum wage rate, or not at all.

This employee is exempt from overtime under the following exemption (optional): _____

8. Employee Acknowledgement:
On this day, I received notice of my pay rate, overtime rate (if eligible), allowances, and designated payday. I told my employer what my primary language is.

Check one:

I have been given this pay notice in English because it is my primary language.

My primary language is _____, I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

Print Employee Name _____

Employee Signature _____

Date _____

Preparer Name and Title _____

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.

2. Notice given:

- At hiring
- On or before February 1
- Before a change in pay rate(s), allowances claimed, or payday