

CLIENT ALERT

New York Employers Must Comply With New Notice Requirements

Oct.27.2009

Starting October 26, 2009, employers in New York must provide newly-hired employees with written notification of their regular rate of pay, overtime rate of pay, if applicable, and the employer's regular pay dates upon their date of hire. Employers are further required to obtain a written acknowledgement from each employee that he or she has received the required notice.

The new requirements are the result of amendments to Section 195 of the New York Labor Law. The amendments are not retroactive and, therefore, employers are only required to provide the notice to, and obtain the acknowledgement from, employees hired on or after October 26, 2009. Prior to the amendments, employers were only required to inform new hires of their regular rate of pay and normal pay date. No written notice, written acknowledgement, or statement of overtime pay rate was required.

As a practical matter, employers can either (a) prepare a written notice identifying the regular pay day, the employee's regular rate of pay, and overtime rate if applicable, or (b) modify their existing offer letters or other employment forms to provide the required information to new hires.

The law authorizes the Commissioner of Labor to issue regulations regarding the "content and form" of the required acknowledgement. The Commissioner has yet to establish a model acknowledgement form or to offer any guidance on what must be included in such a form. Pending information from the Commissioner, employers should prepare a simple acknowledgement form for employees to sign, which states that the new hire has received information about his or her rate of pay, regular pay day, and overtime rate of pay.

The purpose behind the law is simply to provide employees with an easy way to determine whether their paychecks accurately reflect the agreed upon rate of pay, including the rate for overtime pay, if applicable. The new law serves as yet another reminder that all employers must ensure that their employees are classified properly for purposes of overtime and that they are being paid overtime at the correct pay rate, when appropriate, for all hours worked. This is extremely important given the explosion of lawsuits alleging violations of wage-and-hour laws in recent years.

If you have any questions concerning compliance with this new law, please contact the professionals listed below or your regular Crowell & Moring contact.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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