

CLIENT ALERT

New York State Department of Labor Issues Guidance and Sample Templates in Connection With the New York Wage Theft Prevention Act

Apr. 12, 2011

The New York State Department of Labor ("NYSDOL") has now issued guidance and Notice and Acknowledgment Templates to assist employers in New York State in complying with the wage and hour notification and recordkeeping requirements mandated by the New York Wage Theft Prevention Act ("Act"), which took effect on April 9, 2011. (Please click [here](#) for our detailed summary of the Act: *New York Wage Theft Prevention Act Takes Effect on April 9, 2011*.)

Among the documents issued by the NYSDOL to facilitate compliance with the Act are: (i) Guidelines for Written Notice of Rates of Pay and Regular Payday; (ii) various Templates for Notices and Acknowledgments; (iii) Instructions for these Notice and Acknowledgment Templates; and (iv) Wage Theft Prevention Act Frequently Asked Questions ("FAQs").

While Templates for Notices and Acknowledgments are included among the NYSDOL's guidance, employers are not required to use them. Employers may create their own Notices and Acknowledgments, as long as they include all the information required by the Act.

The NYSDOL's guidance addresses whether the Notice for Exempt Employees must include information about the specific overtime exemption(s) applicable to exempt employees. These materials advise that such inclusion is optional. The NYSDOL has not, based on these regulatory publications, deemed information on specific overtime exemptions "material and necessary" within the meaning of the statute. According to the NYSDOL, the annual Notice required by the Act must be provided to employees each year between January 1 and February 1. Notices provided at other times of the year do not satisfy this requirement.

According to the Guidelines, Instructions and FAQ's, the NYSDOL has prepared Notice Templates in English, Chinese, Haitian-Creole, Korean, Polish, Russian and Spanish, although Templates are currently available on the NYSDOL website only in English, Chinese, Korean and Spanish. Employees who identify one of these non-English languages as their primary language must receive Notices and Acknowledgments in that language. These Templates are available by clicking on the NYSDOL link above.

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

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