



LABOR & EMPLOYMENT DEPARTMENT

ALERT

10 COST-SAVING TIPS TO AVOID LAYOFFS AND RIDE OUT THE CURRENT ECONOMIC UNCERTAINTY

By Carolyn D. Richmond

Once again the United States is facing serious economic uncertainty and with Wall Street right in the middle, the ramifications have potentially dire consequences for New York's hospitality industry. Having emerged from the 2008 recession with a number of venerable restaurants no longer in existence, it is now a time for prudence, not panic. While real estate leases cannot be renegotiated easily (if at all), and food costs can only be controlled so much in a global market, labor costs are often the only and best place to find immediate, effective cost savings. However, there are a number of ways to obtain labor cost savings without first resorting to reductions in force. Following are 10 measures that employers can implement in these turbulent times before embarking on a reduction in force.

1. Allow for natural attrition of employees. Do not replace employees whose employment is terminated. Turnover in hospitality is traditionally high, even during poor economic times. Heading into autumn with many front-of-the-house employees heading back to school or pursuing other opportunities, take advantage of this natural turnover to reduce payroll wherever possible. Assess whether a restaurant can get by with three managers rather than four; do not replace the day manager who has decided to return to Los Angeles for better "career" opportunities.

2. Reduce shift hours. Do not allow employees to work doubles—period. Now that the spread of hours provision applies to all nonexempt hospitality employees, save \$7.25 per employee, per day. Wherever nonexempt employees have been permitted to work more than a 10-hour shift or doubles that spread across a day of 10 hours-plus, prohibit it and save money.

3. Schedule shifts more leanly. Pay more attention to actual work demands and schedule as efficiently as possible. Rather than overstaffing and having to make cuts, you can avoid having to pay the resulting three-hour "call in pay" premium in many instances.

4. Eliminate overtime. Wherever possible, eliminate or reduce the ability to work overtime. If the economy continues to head toward another recession, employees (particularly those in the back of the house) will not have the same bargaining power to "insist" on overtime if the alternative is being laid off.

5. Freeze Wages. Freeze wages and upcoming pay increases. Unless guaranteed by contract or a collective bargaining agreement, freezing wages and "annual" raises can result in a significant savings to the bottom line.

6. Reduce pay. While one of the last resorts before having to implement a reduction in force, across-the-board pay reduction is certainly an option—so long as it does not take any employee below the minimum wage.

Pay reductions can be explained to your employees as a measure designed to hopefully avoid painful layoffs. However, they should be implemented from top to bottom and not just on the lowest paid employees.

7. Ensure legal compliance. Now is the time to make absolutely certain your business is complying with all wage and hour and other employment laws. Conduct an audit and confirm that all required records are being kept and stored for the required period of time (typically at least six years). Make sure the proper rates are being paid and overtime is calculated at the right rate. If you operate multiple properties and have employees working at more than one property in a work week, ensure overtime is tracked properly. Inviting the Department of Labor or a private class action suit to come in during a recession has proven to be a very inefficient business model and should be avoided at all costs..

8. Assess uniform maintenance payments. If your business is currently paying the uniform maintenance premium, take a second look at whether the uniform can be altered in any way to avoid the legal necessity of having to pay upwards of \$9.00 a week per employee. While replacing a specific vest and shirt that necessitated the payment with a more generic “machine washable” shirt may be too much of a sacrifice, it is worth consideration.

9. Recover credit card fees. The revised New York Hospitality Wage Order clearly permits restaurants to recover the credit card fees from gratuities paid by customers on credit cards. If you are not already doing so, this is a significant savings and may be worthy of a conversation with your counsel and accountant.

10. Document, document, document. While documenting job performance, disciplinary issues and attendance is always important, it is even more so during these times when layoffs may be on the horizon. Make sure managers are uniformly tracking disciplinary and attendance problems and keeping a paper trail. If layoffs become necessary, performance records may become very relevant and documentation will be necessary to back up decisions when eliminating positions and/or employees.

These are not easy times, but careful preparation can help. Be sure to work with legal counsel when making any of these decisions to minimize, if not prevent, litigation.

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