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## **The New York State Department Of Labor Issues Guidelines, Instructions and Model Notices For New York's Notice of Pay Law**

On October 26, 2009, Section 195.1 of the New York Labor Law took effect. Section 195.1 requires New York employers to notify employees in writing at the time that they are hired of their rate of pay and of their regular pay day. Further, if the employee is covered by a provision of the applicable federal or state overtime laws, then the notice must also inform each employee of his/her overtime rate.

Shortly thereafter, the New York State Department of Labor (“NYSDOL”) issued guidelines and a form that it initially required New York employers to use in order to comply with Section 195.1. However, the form raised more questions than it answered. As a result, the NYSDOL received numerous questions from New York employers regarding the applicability of the form to various types of employees.

In response to such questions, the NYSDOL has issued new guidelines, instructions and a multitude of model notices for employers to use. Pursuant to the new guidelines, employers are still required to provide new employees with written notice of their rate of pay, regular pay day and overtime rate (if applicable) at the time such employees are hired. Employers must have the employee sign a statement acknowledging receipt of the written notice and the employer must keep the signed notice for six years. The guidelines also contain additional information regarding the information an employer must provide to commissioned salespersons and farm employees.

The guidelines can be found at: <http://www.labor.state.ny.us/formsdocs/wp/LS52.pdf>

The NYSDOL has also issued a number of model notices for employers to consider when attempting to comply with Section 195.1. Specifically, the NYSDOL has created model notices for, among others:

- (a) Employees being paid at a single hourly rate, which can be found at <http://www.labor.state.ny.us/formsdocs/wp/LS54.pdf>
- (b) Employees being paid at multiple hourly rates, which can be found at <http://www.labor.state.ny.us/formsdocs/wp/LS55.pdf>

- (c) Employees paid a weekly rate or a salary for a fixed number of hours, which can be found at <http://www.labor.state.ny.us/formsdocs/wp/LS56.pdf>
  
- (d) Employees paid a salary for varying hours, day rate, piece rate, flat rate or other non-hourly pay, which can be found at <http://www.labor.state.ny.us/formsdocs/wp/LS57.pdf> and
  
- (e) Employees who are exempt from applicable overtime provisions, which can be found at <http://www.labor.state.ny.us/formsdocs/wp/LS59.pdf>

The NYSDOL's instructions for its model notices can be found at:  
<http://www.labor.state.ny.us/formsdocs/wp/LS53.pdf>

Significantly, the NYSDOL no longer requires employers to use its model notices. Employers can use their own notices as long as the notices provide the employee with the required information, the employee is given a copy and the employee signs an acknowledgement of receipt, which the employer keeps for six years.

Employers should note that the NYSDOL's instructions for its model notices requires employers to identify the overtime exemption that is being applied to employees who are classified as exempt from overtime. Employers must be careful when providing such information as it may create additional concerns for such employers down the road.