



New York: Wage Theft Prevention Act Written Notice becomes Effective February 1st

January 31, 2012

Dear Client:

The New York Wage Theft Prevention Act outlines an employer's responsibility to communicate an employee's terms of employment in a written notice. Effective **February 1st 2012**, employers must present the written notice to employees at the time of hire and annually thereafter (on or before February 1st of each subsequent year). The written notice should include:

- The employee's rate(s) of pay;
- The basis of the employee's rate(s) of pay (e.g., by the hour, shift, day, week, salary, piece, commission, or other);
- Whether the employer intends to claim allowances as part of the minimum wage, including tip, meal, or lodging allowances, and the amount of those allowances;
- The employee's regular pay day designated by the employer in accordance with the frequency of pay requirements in New York Labor Law Section 191;
- The name of the employer and any "doing business as" names used by the employer;
- The physical address of the employer's main office or principal place of business, and a mailing address if different; and
- The telephone number of the employer.

Employers can notify employees in writing within seven calendar days if changes transpire to the information above, through a new written notice or modified paycheck stub.

The written notice can be written in English and in any other language primarily spoken by employees. The New York Department of Labor (NYDOL) offers translations of the notice in Chinese, Haitian Creole, Korean, Polish, Russian and Spanish ([online](#)). Additionally, the Act allows employers to distribute the notice electronically, if the employer can confirm the employee will receive the notice along with the acknowledgement form and the employee can print a copy of the notice for their records.

Employers must obtain a signed and dated acknowledgement of the notice for each employee. If the employee refuses to acknowledge the notice, the employer is advised to note the employee's refusal to sign. Copies of the notice and accompanying acknowledgement must be retained for **six years** to serve as documentation upon request of the NYDOL.

Fines: Failure to provide the notice within ten business days of the new hire's starting date could potentially result in costly litigation, where the employee can recover \$50 for each work week, with up to a maximum of \$2,500 along with attorney's fees and cost.

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Best Practices Recommendations

As a part of SCI's *Best Practices* consultation, employers are encouraged to:

- Review their current new hire process.
- Carefully review the NYSDOL Statute requirements, guidelines and model forms before creating their own notice and acknowledgment forms.
- Ensure new hires and current employees receive the notice, sign the acknowledgement and return it in a timely manner either during the time of hire or annually on or before February 1st.

SCI's Assistance to Clients

SCI can assist you in gaining a better understanding of the updated guidelines and help to identify additional strategies for regulation of the law.

Access this NYSDOL website for further information on the Law, model notices and forms:

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

All content in this notice is based on current information and supersedes previous communications regarding this topic. If you have any questions or concerns, please contact your assigned SCI Professional.

Sincerely,

SCI Companies