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CLIENT ALERT

N.Y.S. Department of Labor to Allow Non-Standard Acknowledgment Form to Comply with Amended Labor Law §195

The amended New York Labor Law §195 went into effect on October 26, 2009. (See our October 13, 2009 Client Alert, available at http://www.putneylaw.com/cu_101309.html). Under the amended law, employers must obtain a signed acknowledgment from each new employee setting forth (a) the employee's regular rate of pay, (b) the employee's overtime rate of pay, if applicable, and (c) the employer's regular pay days.

Initially, the New York State Department of Labor (the "Department" or "NYSDOL") had indicated that, in order to fully comply with §195, employers must obtain from each employee a signed standard NYSDOL acknowledgment form. (See our October 29, 2009 Client Alert, available at http://www.putneylaw.com/cu_102909.html). As of December 2, 2009, however, the Department has changed its position and has announced that no particular form is required. While employers may still choose to utilize or adapt the NYSDOL sample form (available at http://www.labor.state.ny.us/workerprotection/laborstandards/PDFs/LS_52_Hourly_Rate_Plus_Overtime.pdf), employers may also create their own forms to allow for the consideration of more complex compensation arrangements, such as salaried, exempt, or commissioned employees. We are available to assist you in drafting these forms. The NYSDOL is also expected to provide sample forms for a variety of payment agreements on its website.

If you should have any questions regarding the acknowledgment requirements or any other related issues, please contact us.

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