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CLIENT ALERT

New York Labor Law Wage Notice and Recordkeeping Requirements Go Into Effect October 26, 2009

Effective October 26, 2009, New York employers will be obligated to notify new employees, at the time of hiring and in writing, about certain terms and conditions of employment. Specifically, all new hires must receive written notice of (a) their regular rate of pay, (b) their overtime rate of pay, if applicable, and (c) the employer's regular pay days. Under the amended law, employers have the option of providing the required notice through written offer letters or employment agreements. Regardless of the form of notice provided, the amended law also requires that employers obtain written confirmation from each new employee that he or she received the written notice. We recommend that employers maintain such confirmation for the entirety of the employee's employment, plus for seven years after termination. The full text of the law, as amended, is available on the website of the New York State Legislature, <http://public.leginfo.state.ny.us/menuf.cgi>.

The legislation amending the New York Labor Law was signed by Governor David A. Patterson on July 28, 2009. (See our August 13, 2009 Client Alert, available at www.putneyllaw.com/cu_081309b.html). Prior to the amendment, employers were merely required to advise new employees of their rate of pay and regular payday, but were not required to provide notice of the overtime rate. Employers were also not previously required to provide this information in writing or to obtain the employee's written acknowledgment. (We remind New York employers that the remuneration arrangements for commissioned employees must be in writing.)

The amended law does not require that employers retroactively provide such written notice for current employees, and does not require that employers provide supplemental notice when an employee's rate of pay changes during the course of employment. However, best practices may include such written notice.

If the Commissioner of Labor determines that an employer has not complied with amended Section 195, the Commissioner may issue a compliance order to the employer, as well as monetary penalties, as applicable: \$1,000 for the first violation; \$2,000 for the second violation; and \$3,000 for the third or subsequent violation.

New York employers should take steps to review their current new hire process and develop written notice and acknowledgment forms to ensure compliance by the amended law's October 26, 2009 effective date. We are available to assist you in preparing these documents. Additionally, we recommend that employers determine the appropriate overtime rates of pay for all non-exempt employees, and confirm they are indeed in compliance with federal and state statutes requiring overtime compensation for non-exempt employees.

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

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