

## **Wage Theft Protection Act Notification Deadline February 1, 2012**

The New York State Wage Theft Prevention Act (the “WTPA”) became effective on April 9, 2011. This new law requires all private sector employers to provide an annual notice to employees **at the time of hire and before February 1 of each year**. Therefore, it is mandatory for employers to provide their employees the annual notice to existing employees before **February 1, 2012**.

The mandatory notice must include:

- The rate of pay, including overtime pay for non-exempt employees;
- All pay rates for employees with multiple pay rates;
- The salary of exempt employees;
- How the employee is paid: e.g., hourly, shift, week, day, commission, etc.;
- Any allowances claimed as part of the minimum wage (e.g., tips, meals, or lodging and the amount of those allowance);
- Regularly scheduled pay day;
- Employer’s official name and any “doing business as” names;
- Employer’s main office, principal place of business, mailing addresses, and telephone number;
- A written acknowledgement of the employee’s receipt of the notice; and
- An affirmation by the employee that the employee accurately identified his or her primary language to the employer and the he or she received the notice in that language.

In addition, the WTPA requires employers to retain the signed and dated written acknowledgement form from each employee confirming that notice was provided each and every year. The employee is also required to receive a copy. These records (including the employee’s acknowledgement) must be maintained for a minimum of six (6) years.

If an employer does not provide the information above within 10 business days of an employee’s first day, each employee may recover in a civil action, \$50 for each work week that the violation occurs up to \$2,500. The employee may also be awarded reasonable attorney’s fees and costs.

**To avoid these penalties, employers should act now and have all employees complete the annual notice forms before February 1 2012. These documents can be found on the New York State Department of Labor’s website:**

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

Along with the provisions above, the WTPA also requires employers to provide the following information on paystubs when wages are paid:

- Name of employee/name of employer;
- Hours worked;

- Dates of work covered by wages;
- Rate of pay, basis of pay (e.g., hour, shift, salary);
- Allowances, if any, claimed as part of the minimum wage;
- Name, address, and phone number of employer; and
- For non-exempt employees: overtime rate, regular hours and overtime hours worked.

If employers fail to provide employees with pay statements as described above, the Department of Labor may assess damages of \$100 per week per worker. Additionally, the employee may be awarded in a civil action damages in the amount of \$100 for each work week that the violations occurred or continues to occur to the limit of \$2,500. The employee may also be awarded costs and attorneys' fees. The Labor Commissioner may also bring an action on behalf of the employee to collect these damages.

If you have questions regarding compliance with the WTPA or need forms, you may contact Joseph M. Dougherty at (518) 436-0751 or [jdougherty@hinmanstraub.com](mailto:jdougherty@hinmanstraub.com).