

REMINDER: Deadline Approaches for Issuance of Annual Notices under New York's Wage Theft Prevention Act

January 10, 2012

Only a few weeks remain before the February 1, 2012 deadline for all private sector employers (including private not-for-profit employers) in New York State to provide each of their New York employees with the annual Notice now required by the amendments to the New York Labor Law brought about by the New York State Wage Theft Prevention Act (NYWTPA). As described in our December 15, 2010, [New York's Wage Theft Prevention Act Increases Employer Obligations and Penalties](#) and March 30, 2011, [Update on NYS Wage Theft Prevention Act](#) client alerts, employers must issue the annual Notices to employees between January 1 and February 1, 2012. Employers who miss the deadline or otherwise fail to comply with the NYWTPA's requirements face the possibility of an action by individual employees and/or the New York State Department of Labor (NYSDOL), with the potential for civil and/or criminal penalties.

The NYWTPA requires that the annual Notice be tailored to *each* employee and include, among other things, information about that employee's regular rate(s) of pay and basis of pay and, if applicable, overtime rate(s) of pay. Employers must issue the Notice in English *and*, with exceptions, the primary language identified by each employee. The NYSDOL has issued six versions of a Notice form in English and translated them into several languages. Employers are *not* required to use the NYSDOL templates but should include all the same information if they craft their own versions, and may issue the Notices electronically, *provided* certain legal requirements are satisfied.

In addition to providing the required annual Notice, employers must obtain a signed, dated Acknowledgement from each employee, certifying that s/he received the annual Notice in his or her primary language. Employers must retain a copy of each Notice and the Acknowledgement for six (6) years.

Employers who have operations in California also are reminded that California recently adopted its own version of the Wage Theft Prevention Act, with notice requirements that took effect on January 1, 2012. (See alerts of December 30, 2011, [California Labor Commissioner Issues Long-Awaited Guidance On Wage Theft Prevention Act](#) and January 4, 2012, [UPDATE: California Labor Commissioner Amends Recently-Issued Guidance Regarding Wage Theft Prevention Act](#).)

Please contact us if we can assist you in your compliance efforts or if you have questions as you work through the mechanics of completing and issuing the required annual and new hire Notices.