

MARCH 2, 2010

Reminder regarding offer letters and employment agreements in New York:

Based on amendments to the New York Labor Law Section 195 and recent guidelines issued by the New York State Department of Labor, every employee hired after October 26, 2009 must receive from his or her new employer a WRITTEN NOTIFICATION at the time of hiring (before any work is performed) that contains:

1. The rate of pay.
2. The regular payday(s).
3. For employees who are eligible for overtime compensation, the regular hourly rate of pay and overtime rate of pay.
4. **For employees who are exempt from overtime pay, the specific exemption that applies (for example, administrative, professional or executive).**

Employers must also obtain a SIGNED ACKNOWLEDGEMENT from each employee, confirming that he or she has received this written notification. The employer must keep the signed acknowledgement for not less than six (6) years.

Reminder regarding commissioned salespersons:

Under New York Labor Law Section 191, the terms of employment for commissioned salespersons must:

1. Be in writing.
2. Signed by both the employer and employee.
3. Kept on file by the employer for not less than three (3) years.

This written statement for commissioned salespersons will satisfy the employer's obligations pursuant to New York Labor Law Section 195 described above if the written statement meets the following conditions:

1. It meets all of the requirements of Section 191.
2. It states whether the salesperson is eligible for overtime pay and, if not, states the exemption which applies (for example, administrative, professional or executive).
3. For a salesperson who is eligible for overtime pay, it states the method of calculating the overtime pay (and includes commissions as part of the regular rate of pay).
4. It notifies that salesperson of his or her regular payday or method for determining when payment will be made (at least monthly).
5. It is acknowledged in writing as having been received by the employee.
6. It and the written acknowledgement of receipt are kept on file by the employer for not less than six (6) years.

If you have any questions regarding the foregoing or would like to receive copies of the guidelines or statutes referenced herein, please contact:

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