

KANE KESSLER, P.C.
1350 Avenue of the Americas
New York, N.Y. 10019
(212)541-6222
Fax (212) 541-9799
Direct dial (212) 519-5154
drothfeld@kanekessler.com

DATE: December 3, 2014

FROM: Kane Kessler, P.C.
Labor and Employment Law Department

RE: New York State Minimum Wage Increases for 2015 and 2016

New York State laws and regulations set forth the minimum wage to be paid to all non-exempt workers across the State. These regulations also establish the wages to be paid to tipped employees along with the related credits, deductions, and reimbursements to which employers are entitled or for which they are responsible. This memorandum serves as a reminder of the upcoming wage-related increases effective December 31, 2014 as well as those that will take effect on December 31, 2015.

Minimum wage and related items

Effective December 31, 2014, the minimum wage in New York State increases for all non-exempt employees from \$8.00 per hour to \$8.75 per hour. The minimum wage will increase again on December 31, 2015 to \$9.00 per hour, or the Federal minimum rate, whichever is greater. At present, the Federal minimum hourly wage is \$7.25 per hour.

In addition, in order to be eligible for the executive or administrative exemption from overtime, effective December 31, 2014, employees must be paid a minimum of \$656.25 per week, an increase from \$600.00 per week during the prior year. Effective December 31, 2015, that minimum salary will increase to \$675 per week.

New York State Department of Labor regulations allow employers to take a tip credit from the minimum wage if an individual is a tipped employee. The current tip credit is \$3.00 per hour for food service workers (e.g. servers and bus persons) and \$2.35 per hour for non-food service workers (e.g. delivery persons and bathroom attendants). Effective December 31, 2014, these amounts will increase to \$3.75 and \$3.10, respectively, and effective December 31, 2015 to \$4.00 and \$3.35, respectively. During all of these years, the direct wage required to be paid to tipped food service workers is presently set to remain at the current rate of \$5.00 per hour and the direct wage required to be paid to tipped non-food service workers will remain at the current rate of \$5.65 per hour.

Below is a chart itemizing the applicable minimum wage rates, tip credits and overtime rates for tipped food service and tipped non-food service workers.

Effective Date	NYS Minimum Wage	Regular NYS OT rate	NYS Tip credit for food service workers	NYS Direct wage for food service workers	NYS Tipped OT rate for food service workers	NYS Tip credit for non-food service workers	NYS Direct wage for non-food service workers	NYS Tipped OT rate for non-food service workers
12/31/14	\$8.75	\$13.13	\$3.75	\$5.00	\$9.38	\$3.10	\$5.65	\$10.03
12/31/15	\$9.00	\$13.50	\$4.00	\$5.00	\$9.50	\$3.35	\$5.65	\$10.15

Further, effective December 31, 2014, the meal credit for employees in the hospitality industry will increase to \$3.00 per meal. Effective December 31, 2015, it will increase to \$3.10 per meal.

Finally, uniform maintenance pay has also increased. Effective December 31, 2014, employers will have to pay employees for the maintenance of their uniforms in the amount of \$10.90 per week if they work 30 hours or more, \$8.60 per week if they work between 20 and 30 hours and \$5.20 per week if they work 20 hours or less. Those figures will increase effective December 31, 2015 to \$11.20, \$8.85 and \$5.35 per week, respectively.

NYS Wage and Hour Board Hearing regarding tip minimum wage

There is a significant likelihood that the tip minimum wage will increase. Earlier this year, Governor Cuomo authorized New York State Department of Labor Commissioner Peter Rivera to consider what changes, if any, should be made to the required cash wage rates and the allowable credits for tips, meals, and lodging for food service workers and service employees in the hospitality industries.

In response to Governor Cuomo’s directive, Commissioner Rivera approved a Wage and Hour Board comprised of Chair Timothy Grippen (retired Broome County Executive), Heather C. Briccetti (President and CEO of the Business Council), and Peter Ward (President of the New York Hotel and Motel Trades Council). The Board reconvened on November 13, 2014 in Buffalo, NY and will meet for a final time this year on December 9, 2014 in Albany, NY.

If you have any questions, please do not hesitate to contact David R. Rothfeld, Judith A. Stoll, Lois M. Traub, Alexander Soric, Robert L. Sacks, or Michael C. Lydak.