



## New York DOL Issues Model Notices for New Hires

*New York state law now requires employers to provide all newly hired employees written notice of their pay rate, overtime rate (if applicable), and regular payday. Recently, the New York State Department of Labor issued guidelines, instructions, and model notices for common types of compensation arrangements.*

### Background

Since October 26, 2009, New York state law has required employers to provide new hires written notice of their regular rate of pay, overtime rate (if applicable), and regular payday at the time of hire, and to obtain a written acknowledgement of receipt. (See our November 10, 2009 [For Your Information](#).) Initially, the New York State Department of Labor (NYSDOL) indicated that employers must provide notice on an NYSDOL form issued for this purpose, but later reversed its position. (See our December 9, 2009 [For Your Information](#).) Recently, the NYSDOL posted model notices that employers may opt to use, along with instructions and other guidance.

### New Guidance, Instructions and Model Notices

The new [guidelines](#) confirm that employers can use or adapt the model forms, or create their own forms to satisfy New York requirements. Regardless of which forms are used, each of the following conditions must be satisfied –

- the required information is given at the time of hiring, before any work is performed
- the employee is given a copy
- the employee signs an acknowledgement of receipt, which the employer retains for six years.

Significantly, the guidelines add a requirement that notice to exempt employees state the specific overtime exemption that applies. The guidelines also explain how employers can satisfy their notice obligations with respect to commissioned salespersons.

**Model Notices.** Because the initial NYSDOL form focused on employees paid on an hourly basis, it did not lend itself to those employed under other common compensation arrangements. NYSDOL has now posted six model notices along with [instructions](#) for choosing which form to use and for determining applicable regular and overtime rates. The new model notices are designed specifically for –

- [Hourly Rate Employees](#)

- [Multiple Hourly Rate Employees](#)
- [Employees Paid a Weekly Rate or Salary for a Fixed Number of Hours \(40 or fewer in a week\)](#)
- [Employees Paid a Salary for Varying Hours, Day Rate, Piece Rate, Flat Rate or Other Non-Hourly Pay](#)
- [Employees Paid a Prevailing Rate or Mixed Prevailing Rate With Other Work](#)
- [Exempt Employees](#).

**BUCK COMMENT.** *Because the model notices do not contain an employer certification provision, it appears the NYSDOL has dropped the requirement that the preparer certify the notice's accuracy under penalty of perjury.*

## Conclusion

Employers can now consider whether to use or adapt the NYSDOL model notices for different types of compensation arrangements, create their own forms, or tailor existing offer letters and employment agreements to satisfy New York notice requirements. Buck's consultants are available to assist you in this process.

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*This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.*