

CLIENT ALERT

MINIMUM WAGE DEVELOPMENTS IN NEW YORK – 2020

With 2020 upon us, many New York employers must prepare for scheduled minimum wage increases that will take effect December 31, 2019. While the minimum wage will remain the same in 2020 for employers in New York City with 11 or more employees, all other New York employers will see the minimum wage rise based upon where the employee is located and the size of the employer.

Please note the following new minimum wage and overtime rates and, as necessary, issue new 195.1 Notice of Pay Rate forms to your employees as soon as possible reflecting the effective date of the new rate of pay as December 31, 2019:

All Employers

Beginning December 31, 2019:

<p>NYC employers with 11 or more employees (no change):</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Minimum Wage</th> <th style="width: 50%;">Overtime Rate</th> </tr> <tr> <td style="text-align: center;">\$15.00</td> <td style="text-align: center;">\$22.50</td> </tr> </table>	Minimum Wage	Overtime Rate	\$15.00	\$22.50	<p>NYC Employers with 10 or fewer employees:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Minimum Wage</th> <th style="width: 50%;">Overtime Rate</th> </tr> <tr> <td style="text-align: center;">\$15.00</td> <td style="text-align: center;">\$22.50</td> </tr> </table>	Minimum Wage	Overtime Rate	\$15.00	\$22.50
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<p>Nassau / Suffolk / Westchester – All Employers:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Minimum Wage</th> <th style="width: 50%;">Overtime Rate</th> </tr> <tr> <td style="text-align: center;">\$13.00</td> <td style="text-align: center;">\$19.50</td> </tr> </table>	Minimum Wage	Overtime Rate	\$13.00	\$19.50	<p>Rest of State (Outside NYC, Nassau, Suffolk & Westchester)- All Employers:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Minimum Wage</th> <th style="width: 50%;">Overtime Rate</th> </tr> <tr> <td style="text-align: center;">\$11.80</td> <td style="text-align: center;">\$17.70</td> </tr> </table>	Minimum Wage	Overtime Rate	\$11.80	\$17.70
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Tipped Food Service Workers – Restaurant/Hospitality Industry

The term “food service worker” applies to any tipped employee who is primarily engaged in the serving of food or beverages to customers. Examples of “food service workers” in the restaurant industry include wait staff, bartenders, captains, and bussing personnel. Provided that the food service workers weekly tips plus wages equals or exceeds the basic minimum hourly wage rate, tip credits towards the wages of tipped food service worker may be taken as follows:

NYC Employer – 11 or more employees (no change) :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Tipped Overtime Rate
\$15.00	\$10.00	\$5.00	\$17.50

NYC Employer – 10 or fewer employees :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Tipped Overtime Rate
\$15.00	\$10.00	\$5.00	\$17.50

Nassau / Suffolk / Westchester – All Employers :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Tipped Overtime Rate
\$13.00	\$8.65	\$4.35	\$15.15

Rest of the State (Outside NYC, Nassau, Suffolk & Westchester) :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Tipped Overtime Rate
\$11.80	\$7.85	\$3.95	\$13.75

Tipped Service Employees (Non-Food Service Workers): Restaurant/Hospitality Industry

The term “service employee” applies to any tipped employee other than a “food service worker” or “fast food employee.” Examples of “service employees” in the restaurant

industry are delivery persons, coat check employees, and hosts. Provided that the tipped service employees' weekly average of tips is at least the hourly Minimum Tip Threshold rate listed below, and the weekly tips received plus wages equals or exceeds the basic minimum hourly wage rate, tip credits towards the wages of tipped service employees may be taken as follows:

NYC Employer – 11 or more employees (no change) :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Minimum Tip Threshold	Tipped Overtime Rate
\$15.00	\$12.50	\$2.50	\$3.25	\$20.00

NYC Employer – 10 or fewer employees :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Minimum Tip Threshold	Tipped Overtime Rate
\$15.00	\$12.50	\$2.50	\$3.25	\$20.00

Nassau / Suffolk / Westchester – All Employers :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Minimum Tip Threshold	Tipped Overtime Rate
\$13.00	\$10.85	\$2.15	\$2.80	\$17.35

Rest of the State (Outside NYC, Nassau, Suffolk & Westchester) :

Minimum Wage	Tipped Minimum Wage	Tip Credit	Minimum Tip Threshold	Tipped Overtime Rate
\$11.80	\$9.85	\$1.95	\$2.55	\$15.75

Tipped Employees – Other Industries

Employers outside the restaurant/hospitality industry that employ employees who receive tips remain entitled to take a tip credit for employees whose weekly average tips meet or exceed a specified amount, but, as with other minimum wage schedules, that tip credit and tip threshold varies by employer location and size. For example, a New York City employer with 10 or fewer employees is now entitled to take a tip credit of \$2.25 an hour if an employee's weekly average of tips is between \$2.25 and \$3.65 an hour, and a tip credit of \$3.65 if the employee's weekly average of tips equals or exceeds \$3.65 an hour. The minimum wage that must be paid to these tipped employees and the corresponding overtime rate is as follows:

NYC Employer – 11 or more employees (no change) :

Minimum Wage	Tipped Minimum Wage - \$2.25/Hr Credit	Overtime Rate - \$2.25/Hr Credit	Tipped Minimum Wage - \$3.65/Hr Credit	Overtime Rate - \$3.65/Hr Credit
\$15.00	\$12.75	\$20.25	\$11.35	\$18.85

NYC Employer – 10 or fewer employees :

Minimum Wage	Tipped Minimum Wage - \$2.25/Hr Credit	Overtime Rate - \$2.25/Hr Credit	Tipped Minimum Wage - \$3.65/Hr Credit	Overtime Rate - \$3.65/Hr Credit
\$15.00	\$12.75	\$20.25	\$11.35	\$18.85

Nassau / Suffolk / Westchester – All Employers :

Minimum Wage	Tipped Minimum Wage - \$1.95/Hr Credit	Overtime Rate - \$1.95/Hr Credit	Tipped Minimum Wage - \$3.20/Hr Credit	Overtime Rate - \$3.20/Hr Credit
\$13.00	\$11.05	\$17.55	\$9.80	\$16.30

Rest of the State (Outside NYC, Nassau, Suffolk & Westchester) :

Minimum Wage	Tipped Minimum Wage - \$1.75/Hr Credit	Overtime Rate - \$1.75/Hr Credit	Tipped Minimum Wage - \$2.90/Hr Credit	Overtime Rate - \$2.90/Hr Credit
\$11.80	\$10.05	\$15.95	\$8.90	\$14.80

Fast Food Workers

The “fast food minimum wage” applies to workers in fast food restaurants that are part of chains with at least 30 outlets nationally. No tip credit is permitted for fast food employees. The following minimum wage and overtime rates apply to “fast food” workers beginning December 31, 2019:

NYC Fast Food Employers (no change) :

Fast Food Minimum Wage	Fast Food Overtime Rate
\$15.00	\$22.50

Fast Food Employers Outside NYC :

Fast Food Minimum Wage	Fast Food Overtime Rate
\$13.75	\$20.63

Exempt Employees

In addition to an increased minimum wage, the minimum salary requirement for exempt executive and administrative employees will increase effective December 31, 2019, other than for NYC employers with 11 or more employees. The new applicable minimum salary thresholds are as follows:

NYC employers with 11 or more employees (no change):	NYC Employers with 10 or fewer employees:				
<table border="1"> <tr> <td>Minimum Weekly Salary for Exemption</td> <td>\$1,125.00</td> </tr> </table>	Minimum Weekly Salary for Exemption	\$1,125.00	<table border="1"> <tr> <td>Minimum Weekly Salary for Exemption</td> <td>\$1,125.00</td> </tr> </table>	Minimum Weekly Salary for Exemption	\$1,125.00
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Nassau / Suffolk / Westchester – All Employers:	Rest of State (Outside NYC, Nassau, Suffolk & Westchester)- All Employers:				
<table border="1"> <tr> <td>Minimum Weekly Salary for Exemption</td> <td>\$975.00</td> </tr> </table>	Minimum Weekly Salary for Exemption	\$975.00	<table border="1"> <tr> <td>Minimum Weekly Salary for Exemption</td> <td>\$885.00</td> </tr> </table>	Minimum Weekly Salary for Exemption	\$885.00
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The minimum salary requirement for exempt “highly compensated” employees is also increasing for all employers, regardless of location or size, as of January 1, 2020, from \$100,000 to \$107,432 annually.

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Please remember to complete and distribute your Wage Theft Prevention Forms (the 195.1 forms) to reflect the new pay rates. If you would like updated Wage Theft Prevention Forms or would like additional information, please contact the Employment Law Practice Group Leader Amanda M. Fugazy (afugazy@egsllp.com) or the primary EGS attorney with whom you work.



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