

Client Alert

Minimum Wage Increases Go Into Effect Across New York State

January 11, 2017 – Under recently enacted legislation, which includes a multi-tiered system for minimum wage in New York State, the newest round of increases went into effect on December 31, 2016. Pursuant to these enactments, further increases in the minimum wage will take effect each year through 2021, raising the minimum wage as high as \$15.00 per hour under three different schedules across three state regions: (1) New York City; (2) Nassau, Suffolk, and Westchester counties; and (3) the remainder of New York State (“Upstate”). Businesses in New York City are further divided for purposes of the increases according to the size of an employer’s workforce.

Minimum Wage Increases Generally

The current minimum wage in New York City is now as much as \$11.00 per hour, with minimum wage workers in the surrounding counties earning \$10.00 per hour, and those Upstate earning \$9.70 per hour.

The schedule below summarizes the minimum wage increases.

Effective Date	Workers Employed in New York City by Businesses with 11 or More Employees	Workers Employed in New York City by Businesses with 10 or Fewer Employees	Workers Employed in Nassau, Suffolk and Westchester Counties	Workers in the Remainder of New York State ("Upstate")
December 31, 2016	\$11.00 per hour	\$10.50	\$10.00	\$9.70
December 31, 2017	\$13.00 per hour	\$12.00	\$11.00	\$10.40
December 31, 2018	\$15.00 per hour	\$13.50	\$12.00	\$11.10
December 31, 2019	\$15.00 per hour	\$15.00	\$13.00	\$11.80
December 31, 2020	\$15.00 per hour	\$15.00	\$14.00	\$12.50
December 31, 2021	\$15.00 per hour	\$15.00	\$15.00	To be determined

These new minimum wage laws contain a relief plan to curtail wage hikes based on specific economic analyses. Thus, beginning in 2019, the Director of the Division of Budget, in consultation with the New York Department of Labor, will perform an annual analysis of the different state regions and determine the impact of the minimum wage raise on their economies. This analysis will factor into the minimum wage increase slated for Upstate workers after it reaches \$12.50 on December 31, 2020. It will also be used to assess the effectiveness of the current schedule and determine whether a temporary suspension is necessary.

Minimum Wage Increases for Tipped Employees

The new legislation also increases the minimum wage for tipped employees in the state to *two-thirds of the applicable minimum wage, rounded to the nearest five cents, or \$7.50, whichever is higher*. Although the available tip credit an employer can use to offset minimum wage in the hospitality industry has changed depending on the size and location of the employer, as highlighted below, the new minimum wage for tipped employees prior to the receipt of tips is now \$7.50 per hour across the entire state.

The schedule below summarizes the minimum wage increases for tipped food service employees prior to the receipt of tips.

Effective Date	Tipped Employees in New York City, 11 or More Employees	Tipped Employees in New York City, Fewer Than 11 Employees	Employees in Nassau, Suffolk and Westchester Counties	Employees in the Remainder of New York State (“Upstate”)
December 31, 2016	\$7.50 Tip credit: \$3.50 Total: \$11.00	\$7.50 Tip credit: \$3.00 Total: \$10.50	\$7.50 Tip credit: \$2.50 Total: \$10.00	\$7.50 Tip credit: \$2.20 Total: \$9.70
December 31, 2017	\$8.70 Tip credit: \$4.30 Total: \$13.00	\$8.00 Tip credit: \$4.00 Total: \$12.00	\$7.50 Tip credit: \$3.50 Total: \$11.00	\$7.50 Tip credit \$2.90 Total: \$10.40
December 31, 2018	\$10.00 Tip credit: \$5.00 Total: \$15.00	\$9.00 Tip credit: \$4.50 Total: \$13.50	\$8.00 Tip credit: \$4.00 Total: \$12.00	\$7.50 Tip credit \$3.60 Total: \$11.10
December 31, 2019	\$10.00 Tip credit: \$5.00 Total: \$15.00	\$10.00 Tip credit: \$5.00 Total: \$15.00	\$8.70 Tip credit: \$4.30 Total: \$13.00	\$7.85 Tip credit: \$3.95 Total: \$11.80
December 31, 2020	\$10.00 Tip credit: \$5.00 Total: \$15.00	\$10.00 Tip credit: \$5.00 Total: \$15.00	\$9.35 Tip credit: \$4.65 Total: \$14.00	\$8.35 Tip credit: \$4.15 Total: \$12.50
December 31, 2021	\$10.00 Tip credit: \$5.00 Total: \$15.00	\$10.00 Tip credit: \$5.00 Total: \$15.00	\$10.00 Tip credit: \$5.00 Total: \$15.00	To be determined

Minimum Wage Increases for Fast Food Workers

The tiered schedule of minimum wage raises for workers in fast food establishments that took effect beginning on December 31, 2015 also increased as of December 31, 2016, and will continue to do so in accordance with the schedule set forth below.

Effective Date	New York City	New York State Outside New York City
December 31, 2016	\$12.00	\$10.75
December 31, 2017	\$13.50	\$11.75
December 31, 2018	\$15.00	\$12.75
December 31, 2019	\$15.00	\$13.75
December 31, 2020	\$15.00	\$14.50
July 1, 2021	\$15.00	\$15.00

Recommendations:

The multi-tiered minimum wage system which differs based on geography and type of worker is not without complications. Employers are encouraged to maintain thorough records demonstrating that they have paid workers correctly based on the location and category in which workers are employed. Employers must also, consistent with New York's Wage Theft Prevention Act, as amended, provide notice of changes in wage rates to each affected employee in such employees' preferred language. Employers should also review their employee manuals and all required legal postings to ensure that they are in current compliance with these new minimum wage laws.

The New York State Department of Labor has developed a [Minimum Wage Lookup Tool](https://labor.ny.gov/minimum-wage-lookup/) to help determine the minimum cash wage to be paid by the employer. While this tool does account for common scenarios, there are additional aspects of minimum wage law not covered by this tool. (<https://labor.ny.gov/minimum-wage-lookup/>)

If you require any additional information about these new employment laws, or any other employment-related issue, please contact:

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