

March 9, 2010

## **Guidelines Issued for Law Requiring Written Notification of Pay Rates and Pay Day to Employees**

The New York State Department of Labor has issued guidelines for the requirement under the New York Labor Law that employers notify employees in writing of their regular pay day, regular pay rate, and their overtime pay rate.

According to the guidelines, the written notice must be given at the time the employee is hired, before any work is performed. Employers may draft their own notice form as long as the notice conforms to the model notice issued by the Department of Labor. The employee must sign a statement acknowledging receipt of the written notice and the employer must keep the signed notice for six years. Furthermore, the guidelines require that employers notify employees that are exempt from overtime pay about the specific exemption that applies to them.

The Department has also issued guidelines governing the notification of pay day and pay rates for commissioned salespersons. You may recall that in October 2007, we

issued an advisory concerning the Labor Law requirement that the terms of employment for commissioned salespersons must be in writing, signed by both the employer and the employee, and kept by the employer on file for not less than three years.

The pre-hire written notification form will satisfy the employer's obligations with respect to commissioned salespersons if the following provisions are included in the notification form: (1) it meets the requirements of Section 191.1(c) of the New York Labor Law, which governs the payment of commissions to commissioned salespersons; (2) the notification form states whether the commissioned salesperson is eligible for overtime pay and, if not, the specific exemption that applies; (3) the form notifies the commissioned salesperson of the method used to calculate overtime pay, which must include commissions as part of the regular rate; (4) the form notifies the commissioned salesperson of the designated pay day or method for determining when the salesperson

747 Third Avenue  
New York, N. Y. 10017  
Tel: 212-758-7600  
[www.cfk-law.com](http://www.cfk-law.com)

will be paid; (5) it is acknowledged in writing as received by the employee; (6) and it is kept for six years.

In light of these guidelines, employers are advised to be diligent in notifying the newly hired employees of their pay days, pay rates, and their overtime eligibility. Employers that employ commissioned salespersons should be mindful that their new hire notification paperwork should conform to the requirements set forth in the guidelines.

If you have any questions about commissioned salespersons or about drafting new hire paperwork to conform to the guidelines, please contact [Adam Harris](#) at (212) 758-7724 or any member of the firm.

*This Advisory is intended for informational purposes only and should not be considered legal advice. If you have any questions about anything contained in this Advisory, please contact Collazo Florentino & Keil LLP. All rights reserved. Attorney Advertising.*