

MEMORANDUM

DATE: November 11, 2016

TO: Hotel Associations of New York City
 General Members

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

RE: New York State Minimum Wage Increase and Associated Wage Theft Prevention Act Notice

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, 2016.

Minimum wage and related items

Effective December 31, 2016, the minimum wage in New York State for all non-exempt employees shall increase from \$9.00 as follows:

	NYC businesses employing 11 or more workers	NYC businesses employing 10 or fewer workers	Long Island, Westchester, and Suffolk Counties	Remainder of New York State
December 31, 2016	\$11.00	\$10.50	\$10.00	\$9.70

In addition, in order to be eligible for the executive, administrative, or professional exemptions from overtime, effective December 1, 2016, employees must be paid a minimum of \$913.00 per week, an increase from \$675.00 per week during the prior year. This increase is the result of the United States Department of Labor's adoption of changes to the

federal overtime thresholds. For more information, please see our memorandum dated May 19, 2016.

New York State Department of Labor (“DOL”) regulations allow employers to take a tip credit from the minimum wage if an individual is a tipped employee. Last year, the DOL increased the minimum wage for all tipped employees to \$7.50. Effective December 31, 2016, the minimum wage for tipped employees must be equal to two-thirds (2/3) of the minimum wage (rounded to the nearest five cents), or \$7.50, whichever is greater.

Below is a chart itemizing the applicable minimum wage rates, tip credits and overtime rates for tipped employees.

December 31, 2016	Minimum Wage	Overtime Rate	Tipped Minimum Wage	Tip Credit	Tipped OT Rate
NYC businesses employing 11 or more workers	\$11.00	\$16.50	\$7.50	\$3.50	\$13.00
NYC businesses employing 10 or fewer workers	\$10.50	\$15.75	\$7.50	\$3.00	\$12.75
Long Island, Westchester, and Suffolk Counties	\$10.00	\$15.00	\$7.50	\$2.50	\$12.50
Remainder of New York State	\$9.70	\$14.55	\$7.50	\$2.20	\$12.35

Beginning December 31, 2015, New York State began implementing a schedule of minimum wage increases for all fast food workers within the state¹. This increase shall continue both in New York City and outside of New York City as follows:

- For New York City, the minimum wage for fast food workers shall be increased to:
 - \$12.00 on December 31, 2016

¹ A “fast food employee” is one who works in a chain establishment of limited service which is one (1) of thirty (30) or more such establishments nationally and whose job duties include at least one of the following: customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance.

- \$13.50 on December 31, 2017; and
- \$15.00 on December 31, 2018

For the rest of the state, the minimum wage for fast food workers shall be increased to:

- \$10.75 on December 31, 2016
- \$11.75 on December 31, 2017
- \$12.75 on December 31, 2018
- \$13.75 on December 31, 2019
- \$14.50 on December 31, 2020; and
- \$15.00 on December 31, 2021

Finally, please be mindful of the notice requirements still in effect pursuant to the New York State Wage Theft Prevention Act. All employers must continue to provide wage rate notices to employees in English and their primary language within ten (10) days of hire, or face penalties for failure to do so. Employers must also continue to collect signed acknowledgements of receipt from new employees. The requirements regarding earnings statements, wage changes or change in status remain the same. Employees must be notified seven (7) days before any changes to such information, such as the wage increases discussed in this memorandum. Our previous memorandum discussing the amendments to the Act can be found here:

[http://www.kanekessler.com/files/Dec. 31 2014 - Regarding Wage Theft Protection - Changes effective 2015.pdf](http://www.kanekessler.com/files/Dec._31_2014_-_Regarding_Wage_Theft_Protection_-_Changes_effective_2015.pdf).

If you have any questions, please do not hesitate to contact David R. Rothfeld, Lois M. Traub, Alexander Soric, Jennifer Schmalz, Jaclyn Ruocco, Michael C. Lydakis or Robert L. Sacks.

cc: Joseph E. Spinnato, Esq.
Vijay Dandapani, Chairman

*This memo is provided for informational purposes only.
It is not intended as legal advice and readers should consult counsel to discuss how these matters relate to their individual circumstances*