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**Please Note:** This resource provides only a general overview of some of the laws that may be applicable in a given state. We cannot guarantee the completeness of the information featured in our Multi-State Laws Comparison Tool. For information regarding whether a state has a law governing a particular topic, please contact your state labor department.

## Recordkeeping

### *Federal Law*

## Federal Law

Various federal laws require employers to keep records related to an individual's employment. Key requirements include the following:

- Forms I-9 (used to verify an employee's identity and employment authorization) must be kept for three years after the date of hire or one year after the date employment ends, whichever is later.
- Records of [employment taxes](#) must be kept for at least four years after any relevant tax filings.
- Payroll records should be kept for a minimum of three years under the Fair Labor Standards Act.
- Personnel or employment records related to any [equal opportunity laws](#) must generally be kept for one year.
- [ERISA](#) requires certain employee benefit plan records to be kept for at least six years after the filing date of relevant documents.
- Covered employers with more than 10 employees must keep [injury and illness records under OSHA](#) for five years following the end of the calendar year to which the records apply (different requirements apply to medical and exposure records).
- [FMLA records](#) (for employers with 50 or more employees) must generally be kept for at least three years.

States may also have specific recordkeeping requirements. In order to comply with the law, it is important to understand what documents and forms must be collected, how long you need to keep information in your files, and any confidentiality rules that may apply.

### *New York*

## New York Recordkeeping Requirements

Employers are generally required under both federal and state law to retain certain types of records relating to their current and former employees. The chart below outlines the general state law requirements for recordkeeping in New York.

Category	Employer Requirements	Retention Period
<b>Wage, Hour, and Payroll Records</b>	Employers must keep weekly payroll records that show the following for each employee: <ul style="list-style-type: none"><li>• Name, address, and Social Security number;</li><li>• Daily/weekly hours;</li><li>• Rate(s) of pay and basis of payment;</li></ul>	6 years

	<ul style="list-style-type: none"> <li>• Deductions;</li> <li>• Allowances, if any, claimed as part of the minimum wage;</li> <li>• Gross and net wages;</li> <li>• Student classification (if applicable); and</li> <li>• When a piece rate is used, the rate(s) and number of pieces completed at each rate.</li> </ul> <p>In addition, for executive, administrative, or professional employees, the employer's records must show each employee's:</p> <ul style="list-style-type: none"> <li>• Name, address, and Social Security number;</li> <li>• Occupation description; and</li> <li>• For employees in an executive or administrative capacity, total wages, and the value of any allowances for each payroll period.</li> </ul>	
<p><b>Unemployment Insurance</b></p>	<p>The following information must be retained for each employee:</p> <ul style="list-style-type: none"> <li>• Name and Social Security number;</li> <li>• Beginning and ending dates of each pay period;</li> <li>• Total amount of compensation for each pay period, including value of non-cash remuneration (e.g., board, rent, housing) and tips; and</li> <li>• Total amount of compensation subject to unemployment compensation contributions under state law.</li> </ul>	<p>3 years</p>
<p><b>Safety and Health/Workers' Compensation</b></p>	<p>The following organizational records must be kept for workers' compensation:</p> <ul style="list-style-type: none"> <li>• Federal Employer Identification Number;</li> <li>• Business name and form (corporation, partnership, e.g.);</li> <li>• Articles of incorporation or organization; and</li> <li>• Current list of officers, partners, or principals of the business.</li> </ul> <p>The following employment records must be kept for each employee:</p>	<p>3 years</p>

	<ul style="list-style-type: none"> <li>• Name, Social Security number (or taxpayer identification number);</li> <li>• Each day, month, and year or pay period of employment;</li> <li>• A description of general duties sufficient to allow classification for workers' compensation premium purposes;</li> <li>• All records provided for salary, wage, or earned income;</li> <li>• The value of other remuneration such as meals, tips, or lodging;</li> <li>• Federally required annual wage or earnings statements;</li> <li>• All written agreements with the employee describing the terms of employment;</li> <li>• Tax records filed pursuant to federal and state law.</li> </ul>	
	Records must be kept of <b>any injury or illness incurred by an employee</b> in the course of employment on the appropriate form prescribed by the workers' compensation board.	18 years
	Employers must keep a record of the name, address, and Social Security number of each employee who <b>uses or handles a hazardous substance</b> , and which substance was handled by which employee.	40 years
<b>Child Labor</b>	Employment certificates must be kept on file for each minor.	Certificates must be returned to minors upon termination of employment.

**Additional requirements and exceptions to the information above may apply, especially for specific industries.** For more information, please contact the [New York Labor Department](#).

## Wage Payment Timing

### *Federal Law*

## Federal Law

Wages required by the federal Fair Labor Standards Act are due on the regular payday for the pay period covered. The timing of paydays is a matter governed by state law.

### *New York*

## Wage Payment Timing in New York (NY)

Employers in New York are generally required to pay employees at least twice per month on paydays designated in advance.

- Fringe benefits (such as vacation or holiday pay) must be paid within 30 days after payment is required to be made.

### Special Rules for Employers in Certain Industries

- **Clerical and other workers** must be paid the wages earned in accordance with the agreed terms of employment, but not less frequently than semimonthly, on regular pay days designated in advance by the employer.
- **Manual workers** must generally be paid weekly and not later than 7 calendar days after the end of the pay period. Non-profit organizations may pay workers twice a month if that is their agreement. Under certain conditions, a large business may ask the state Labor Department for permission to pay its manual workers twice per month.
- **Commission salespeople** must receive wages, salary, drawing account, or commissions at such times as provided in the employment agreement, but they must be paid at least once a month and not later than the last day of the month following the month in which the money is earned. If a salesperson receives monthly payments of wages, salary, drawing account, or commissions that are substantial, additional compensation such as bonuses or "incentive" earnings may be paid at such times as agreed by the employer and salesperson.

## Wage Notification Requirements

The New York [Wage Theft Prevention Act](#) amended the [New York Labor Law](#) to expand employee notifications, enhance available remedies for wage law violations, and strengthen whistleblower protections. Highlights of the law are outlined below.

### Time of Hire Notice and Written Acknowledgement

Employers are required to provide employees, **at the time of hiring**, a notice containing the following information:

- The rate(s) of pay (including the regular hourly and overtime rates of pay for employees not exempt from overtime pay) and the basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
- Any allowances claimed as part of the minimum wage, including tip, meal, or lodging allowances;
- The regular pay day designated by the employer; and
- The name (including any "doing business as" names) used by the employer, along with the physical and mailing addresses and telephone number of the employer's main office or principal place of business.

This notification must be provided in writing, in English and in the language identified by each employee as his or her primary language.

Additionally, the employer must obtain a signed and dated written acknowledgement of receipt of this notice from each employee (in English and in the employee's primary language) each time such notice is provided. This acknowledgement must include an affirmation by the employee that the employee accurately identified his or her primary language to the employer, and that the notice provided by the employer was in that language (or as otherwise required under the law). Employers are required to maintain this acknowledgement for 6 years.

Under the law, the New York State Department of Labor is responsible for preparing dual-language templates that comply with these requirements. Please [click here](#) for these templates. Note: When an employee identifies as his or her primary language a language for which a template is not available from the labor commissioner, the employer must provide that employee an English-language notice or acknowledgment.

Employers are also required to notify employees in writing of any changes to the information required by the above notice at least 7 calendar days in advance, unless the change is listed on the employee's pay stub.

### **Payroll and Paystub Notice**

Employers are required to provide each employee with a statement **with every payment of wages**, listing the following:

- The dates of work covered by that payment of wages;
- Name of employee, name of employer, and address and phone number of employer;
- Rate(s) of pay and basis of the wage payment, such as hourly, shift, daily, weekly, salary, piece or commission;
- Gross wages;
- Deductions;
- Allowances, if any, claimed as part of the minimum wage; and
- Net wages.

For employees who are not exempt from overtime pay, this statement must also include:

- The regular hourly rate or rates of pay;
- The overtime rate or rates of pay;
- The number of regular hours worked; and
- The number of overtime hours worked.

Payroll records showing the hours worked per week, the rate or rates of pay and the basis of the wage payment, gross wages, deductions, allowances, and net wages for each employee also must be maintained by the employer for 6 years.

To view a sample wage statement, please [click here](#).

Note: Under a [local law](#) ("Introduction Number 1396-A") in New York City, a **fast food employer** must pay **schedule change premiums** at such time as the employer pays an employee wages owed for work performed during that work week. Schedule change premium pay must be **separately noted on a wage stub** or other form of written documentation and **provided to the employee** for that pay period. [Click here](#) for more information, including details on additional requirements and the scope of coverage. [Rules](#) are also available.

## **Enforcement Provisions**

### Action by Employee

- If any employee is not provided the "time of hire" notice within 10 business days of his or her first day of employment, the employee may recover damages of **\$50** for each work day that the violations occurred or continue to occur (but not to exceed a total of **\$5,000**) together with costs and reasonable attorney's fees. A court may also award other relief, including injunctive and declaratory relief.
- If any employee is not provided with the required "payroll/paystub" notice (with every payment of wages), he or she will recover damages of **\$250** for each work day that the violations occurred or continue to occur (but not to exceed a total of **\$5,000**) together with costs and reasonable attorney's fees. The court may also award other relief, including injunctive and declaratory relief, that the court in its discretion deems necessary or appropriate.

### Action by Labor Commissioner on Behalf of Employee

- On behalf of any employee not provided the "time of hire" notice, the commissioner may (among other things) assess against the employer damages of **\$50** for each work day that the violations occurred or continue to occur, but not to exceed a total of **\$5,000**.
- On behalf of any employee not provided the "payroll/paystub" notice (with every payment of wages), the commissioner may (among other things) assess against the employer damages of **\$250** for each work day that the violations occurred or continue to occur, but not to exceed a total of **\$5,000**.

There are also potential criminal penalties for violating the law.

For more information about the Wage Theft Protection Act, please review § 195 of the New York [Labor Code](#). For more information about wage payment timing generally in New York, please [click here](#).

[Click here](#) to view a chart outlining the final paycheck timing requirements for each state.

## New York City "Freelance Workers"

- A [law](#) enacted by the New York City Council establishes and enhances protections for **freelance workers**, including, among other things, the right to **timely payment**.
  - The term "freelance worker" means any natural person or any organization composed of no more than one natural person, whether or not incorporated or employing a trade name, **that is hired or retained as an independent contractor** by a hiring party to provide services in exchange for compensation. The term does not include certain sales representatives and lawyers.
  - The contracted compensation must be paid to the freelance worker **on or before the date such compensation is due under the terms of the contract**. If the contract does not contain a payment date or mechanism by which the date will be determined, payment must be made **no later than 30 day after completion of the freelance worker's services under the contract**. [Click here](#) for more information.



