

Payroll New York, Unique Aspects of New York Payroll Law and Practice

The New York State Agency that oversees the collection and reporting of State income taxes deducted from payroll checks is: Department of Taxation and Finance New York State Income Tax Bureau W.A. Harriman Campus Albany, NY 12227-0125 (800) 225-5829 (in state) www.tax.state.ny.us/ New York requires that you use New York form "IT-2104, Employee's Withholding Allowance Certificate" or a Federal W-4 Form for New York State Income Tax Withholding. Not all states allow salary reductions made under Section 125 cafeteria plans or 401(k) to be treated in the same manner as the IRS code allows. In New York cafeteria plans are not taxable for income tax calculation; taxable for unemployment insurance purposes. 401(k) plan deferrals are not taxable for income taxes; taxable for unemployment purposes. In New York supplemental wages are taxed at an 8.2% flat rate. W-2s are not required to be sent in New York. The New York State Unemployment Insurance Agency is: Division of Unemployment Insurance State Campus, Bldg. 12 Albany, NY 12240 (518) 457-2635 www.labor.state.ny.us/business_ny/unemployment_insurance/unemployment_insurance.html The State of New York taxable wage base for unemployment purposes is wages up to \$8,500.00. New York requires Magnetic media reporting of quarterly wage reporting if the employer has at least 250 employees that they are reporting that quarter. Unemployment records must be retained in New York for a minimum period of three years. This information generally includes: name; social security number; dates of hire, rehire and termination; wages by period; payroll pay periods and pay dates; date and circumstances of termination. The New York State Agency charged with enforcing the state wage and hour laws is: Department of Labor Division of Labor Standards State Office Bldg. Campus Building 12, Rm. 532 Albany, NY 12240 (518) 457-4321 www.labor.state.ny.us/ The minimum wage in New York is \$5.15 per hour. The general provision in New York concerning paying overtime in a non-FLSA covered employer is one and one half times regular rate after 40-hour week. New York State new hire reporting requirements are that every employer must report every new hire and rehire. The employer must report the federally required elements of: Employee's name Employee's address Employee's social security number Employer's name Employers address Employer's Federal Employer Identification Number (EIN) This information must be reported within 20 days of the hiring or rehiring. The information can be sent as a W4 or equivalent by mail, fax or electronically. There is a \$20.00 penalty for a late report and \$450 for conspiracy in New York. The New York new hire-reporting agency can be reached at 800-972-1233 or 800-225-5829 or on the web at www.tax.state.ny.us/wt/newhire.htm New York does not allow compulsory direct deposit New York requires the following information on an employee's pay stub: Gross and Net Earnings explanation of wage computation if requested itemized deductions New York requires that employee be paid no less often than semimonthly; weekly for manual workers (semimonthly if commissioner of labor agrees); less frequently for FLSA-exempt employees paid over \$600 a week. New York requires that the lag time between the end of the pay period and the payment of wages to the employee not exceed seven days for manual workers. New York payroll law requires that involuntarily terminated employees must be paid their final pay by next regular payday (by mail if employee requests) and that voluntarily terminated employees must be paid their final pay by the next regular payday or by mail if employee requests it. Deceased employee's wages of \$30,000 must be paid within 30 days of death to the designated beneficiary or surviving spouse; \$15,000 within 31 days to 6 months to the surviving spouse, adult children, parent, sibling, niece or nephew, creditor, or person paying funeral expenses (in that order); \$5,000 if more than 6 months after death to distributee, creditor, or funeral expenses. Escheat laws in New York require that unclaimed wages be paid over to the state after three years. The employer is further required in New York to keep a record of the wages abandoned and turned over to the state for a period of 5 years (after Dec. 31 of year report is filed). New York payroll law mandates no more than \$1.85 may be used as a tip credit. In New York the payroll laws covering mandatory rest or meal breaks are only that all employees must have 30 minutes for noon meal from 11 a.m.- 2 p.m. (60 in factory); another 20 minutes from 5 p.m.-7 p.m. if shift starts before 11 a.m. and goes after 7 p.m.; 45 minutes during shift of at least 6 hours starting between 1 p.m. and 6 a.m. (60 in factory). New York statute requires that wage and hour records be kept for a period of not less than six years. These records will normally consist of at least the information required under FLSA. The New York agency charged with enforcing Child Support Orders and laws is: Division of Child Support Enforcement New York State Department of Family Assistance 40 N. Pearl St. Albany, NY 12243 (518) 474-9081 <https://newyorkchildsupport.com/home.html> New York has the following provisions for child support deductions: When to start Withholding First pay period after 14 days from service. When to send Payment Within 7 days of Payday. When to send Termination Notice "Promptly" Maximum Administrative Fee no provision Withholding Limits Federal Rules under CCPA. Please note that this article is not updated for changes that can and will happen from time to time.

About the Author

Charles J. Read, CPA has been in the payroll, accounting and tax business for 30 years, the last fifteen in private practice. Mr. Read is the author of How to Start a New Business. To find professional payroll service at a budget price go to www.PayrollonaBudget.com a paperless payroll company. For a full service payroll bureau with CPAs on staff visit www.CustomPayroll.com . See an excerpt of Mr. Reads interviews from William Shatners Heartbeat of America television show on the web sites linked above.