

NEW YORK STATE MINIMUM WAGE INCREASED FOR UPSTATE EMPLOYEES AND RELATED DEVELOPMENTS

Hodgson Russ Labor & Employment Alert
December 27, 2022

Upstate Minimum Wage Increase

Effective December 31, 2022, the minimum wage in upstate New York (all of New York State except Nassau, Suffolk, and Westchester counties and New York City), will rise from \$13.20 to \$14.20 per hour. The minimum wage for employees in New York City, Nassau, Suffolk, and Westchester counties will remain at \$15.00 per hour. The thresholds for tip credits; allowances for lodging, meals, and utilities; and uniform maintenance pay will also rise for upstate employees on December 31, 2022.

Fast Food Minimum Wage

The minimum wage for employees working at fast food establishments anywhere in New York State will remain at \$15.00 per hour. A fast food establishment is any business that meets the following criteria: primarily serves food or drinks; offers limited service where customers order and pay before eating; and is part of a chain of 30 or more locations. A fast food worker is an individual 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.

Minimum Salary Thresholds for Exempt Employees

Employees who are exempt from overtime pay under the executive and administrative exemptions must receive a certain minimum salary to retain their exempt status. The minimum salary threshold for such exempt employees working in New York City and Nassau, Suffolk, and Westchester Counties will remain at \$1,125.00 per week. The New York State Department of Labor has proposed that the minimum salary threshold for such exempt employees working in upstate New York increase from \$990.00 per week to \$1,064.25 per week on December 31, 2022.

With respect to the professional exemption, there is no minimum salary level requirement under New York law. However, there is a weekly minimum salary threshold under the federal Fair Labor Standards Act of \$684.00, which went into effect on January 1, 2020.

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Minimum Wage for Home Care Aides

The minimum wage schedule for home care workers in New York increased on October 1, 2022 to \$17.00 per hour in New York City, and Nassau, Suffolk, and Westchester counties, and to \$15.20 per hour for such employees in upstate New York State. However, on December 31, 2022, the minimum wage for home care aides in upstate New York will increase to \$16.20 per hour.

Next Steps for Employers

Employers should make sure that their policies and practices comply with these new requirements.

If you have any questions or comments concerning these new minimum wage and salary threshold obligations, or other wage and hour issues, please contact [Glen P. Doherty](#) (518.433.2433), [Peter C. Godfrey](#) (716.848.1246), [Charles H. Kaplan](#) (646.218.7513), [Kinsey O'Brien](#) (716.868.1287), or any other member of [Hodgson Russ's Labor & Employment Practice](#).