

DECEMBER 28, 2016

## New York State Has Adopted Amendments to Existing Minimum Wage Orders

BY ON DECEMBER 28, 2016

The New York State Department of Labor (NYSDOL) has adopted the proposed amendments to its Wage Orders – ending weeks of speculation about whether and when increases in the minimum salaries for employees to be exempt from overtime will come into force.<sup>1</sup> This article summarizes the changes, which will take effect on December 31, 2016.

### Schedule of NYS Minimum Salaries for Overtime Exemption

The amendments are significant. Notably, the exemption thresholds for executive and administrative employees<sup>2</sup> will increase depending on employer size, location, and year.<sup>3</sup>

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1 Although there was speculation about whether the proposed wage order would be adopted, Section 652.2 of the New York Labor Law required that the previous wage orders be modified to provide increases proportional to the increases in the minimum wage that were adopted on April 4, 2016. In addition, on December 27, 2016, the Department of Labor posted FAQs on its website stating that the new minimum salaries were to be effective December 31, 2016.

2 Note that in contrast to federal regulations governing the exemption of professional employees under the Fair Labor Standards Act, (29 C.F.R. § 541.300), New York does not impose a minimum salary requirement for exemption of professional employees.

3 See Emma Fursland and Bruce Millman, *Proposed Amendment to New York State Wage Orders Set to Substantially Raise Salary Requirements For Exempt Employees*, Littler Insight (Nov. 1, 2016).

The schedule of minimum salaries for exemption<sup>4</sup> is as follows:

<b>New York City</b>	
<u>Large Employers of 11 or more employees</u>	
12/31/2016	\$825.00 per week
12/31/2017	\$975.00 per week
12/31/2018	\$1,125.00 per week
<u>Small Employers of 10 or fewer employees</u>	
12/31/2016	\$787.00 per week
12/31/2017	\$900.00 per week
12/31/2018	\$1,012.50 per week
12/31/2019	\$1,125.00 per week

<b>Nassau, Suffolk, and Westchester Counties</b>	
12/31/2016	\$750.00 per week
12/31/2017	\$825.00 per week
12/31/2018	\$900.00 per week
12/31/2019	\$975.00 per week
12/31/2020	\$1,050.00 per week
12/31/2021	\$1,125.00 per week
<b>Outside of Nassau, Suffolk, and Westchester Counties</b>	
12/31/2016	\$727.50 per week
12/31/2017	\$780.00 per week
12/31/2018	\$832.00 per week
12/31/2019	\$885.00 per week
12/31/2020	\$937.50 per week

<sup>4</sup> In April 2016, the New York State legislature announced increases to minimum wages for non-exempt employees, effective on December 31, 2016. For more information and analysis, see Stephen Fuchs, *Minimum Wage Increases in New York: What Employers Should Know*, Littler Insight (Apr. 18, 2016).

Employers should be aware that a close reading of the Wage Order for Miscellaneous Occupations might support an argument that employees covered by that wage order who are exempt under the Fair Labor Standards Act and who meet the lower federal salary threshold but do not meet the higher New York threshold may nonetheless be exempt so long as their salary is sufficient to pay them time and one-half New York's minimum rate for all overtime hours.<sup>5</sup> However, we have found no direct DOL interpretation or application of that Wage Order provision to the *salary level* of "white collar" employees. Further, reliance on that provision may require an employer to track the hours of such exempt employees, to demonstrate that their salaries were sufficient to cover the overtime requirement. Therefore employers are cautioned to consult with counsel before relying on that provision to pay exempt white collar employees a salary less than the state threshold.

### **NYSDOL Clarifies Legislation and Proposed Wage Orders in Recent FAQs**

On December 27, 2016, the NYSDOL published new frequently asked questions ("FAQs") on its minimum wage website that clarify many aspects of the recent minimum wage legislation and its wage orders.<sup>6</sup>

First, the website makes clear that the NYSDOL intends the new minimum salary thresholds to be effective immediately – that is, December 31, 2016, because of state law.

Second, the FAQs announce that, for purposes of the higher minimum wage and salary thresholds, a "large" employer is defined as "any business that 1) employs one or more employees in New York City and 2) has employed more than 10 employees at any time during the current or prior calendar year and *among all worksites*."<sup>7</sup> [emphasis added]. This size is based on the highest total number of employees at *any given time* during the current or prior calendar year and among worksites. Thus, an employer with only one employee in New York City could be considered a large New York City employer for purposes of the minimum wage and salary requirements. The FAQs also indicate that each part-time employee will count towards the total number of employees needed to reach the threshold.<sup>8</sup>

The FAQs emphasize that the minimum wage rate that applies is the one where an employee performs the work, regardless of where the employer is located. If employees work in two minimum wage regions (e.g., they perform work in Westchester and New York City), an employer must either pay these employees the highest rate for all hours worked, or pay them for each hour worked in every region at the applicable minimum wage rate for that region. Thus, employers must keep track of employee hours worked, rates paid, and wages earned for hours worked in different regions.

Additionally, employees must be made aware of the pay rate applicable to the work they perform. Therefore, according to the NYSDOL, employers may either provide separate Wage Theft Prevention Act notices for each region, job site, job title, and pay rate or they may provide a listing of all rates on a single employee pay notice. The Wage Theft Prevention Act requires, and the FAQs remind employers, that increases in the employee's wage rate must also be reflected in the wage statement provided with their paycheck. Employers in the hospitality industry, however, must also provide their employees with written notice prior to any change in

5 12 NYC.R.R. § 142-2.2. The Wage Order for Miscellaneous Industries does not cover employees in the Building Service or Hospitality Industries. Therefore the possible exception discussed in this paragraph would not apply to employees in those industries.

6 See Department of Labor, Minimum Wage: FAQs (Dec. 27, 2016), available at <https://labor.ny.gov/workerprotection/laborstandards/workprot/minwage.shtm>.

7 The FAQs are not clear whether the reference to "all worksites" includes worksites outside of New York State. However, confirming our expectations, an unofficial spokesperson for the the NYSDOL has advised that the Department is referencing worksites nationwide, and not just those in New York State.

8 For example, 16 part-time employees will now count as 16 employees, requiring the employer to pay the NYC "large" employer minimum wage rate.

hourly rates of pay, and all employers must provide written notice of any decrease in employees' hourly wage or reclassification from exempt to non-exempt *prior* to performance of work at the lower rate.

Lastly, should an employer's workforce drop to below 11 employees at any given time, the employer must wait a full calendar year before becoming subject to the "small" employer rate. For example, a New York City employer that employed more than 20 employees at any time in 2016, but does not employ more than 10 persons throughout 2017, will be considered a small employer in 2018 as long as it continues to employ no more than 10 people.

## **Texas Injunction Does NOT Affect NYSDOL Increases**

On November 22, 2016, a federal judge in the Eastern District of Texas issued a preliminary injunction enjoining the United States Department of Labor from implementing its changes to regulations under the federal Fair Labor Standards Act (FLSA), which would have more than doubled the salary threshold for administrative, executive, and professional employees, and was due to take effect on December 1.<sup>9</sup> The judge in Texas found that the proposed changes in FLSA regulations were contrary to the requirements of the FLSA itself.

This injunction does not affect the increases in New York's minimum salary thresholds. In fact, New York state law *required* that the salary thresholds be increased in proportion to the statutory increases in minimum wages adopted by the legislature and approved by the Governor in April.

Although the NYSDOL regulations create salary thresholds for 2017 that are below the now-enjoined federal thresholds, some New York employers will soon see minimum salaries for exemption leapfrog the proposed federal requirements on December 31, 2017. For example, employers with 11 or more employees will see the minimum salary level for exempt employees working in New York City exceed the federal requirements a year from now.

## **Tip Credits: Hospitality Industry**

### ***Hospitality Service Employees***

Employers should note that the NYSDOL's amendment introduces a "tip threshold" into the tip credit landscape for hospitality industry service employees. Previously, employers were permitted to take a tip credit — up to a certain amount — provided that the employer paid a minimum cash wage and that the total cash wage plus tip exceeded the minimum rate. Under the amendment, the employer may now only claim the tip credit if, *in addition to the above*, the employee earns the hourly "tip threshold," which exceeds the amount of tip credit itself. The good news is that this tip threshold applies only to "service" employees, and does not apply to "food service" employees. Thus, employers need not be concerned about food servers, bussers, runners, bartenders and captains, for example, but do need to be wary about delivery employees, coat check employees, bellhops and doormen, for example, who are "service" employees but not considered "food service" employees.<sup>10</sup>

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<sup>9</sup> See Daniel Thieme, *The DOL Overtime Salary Regulation is Temporarily Enjoined – Now What?*, Littler ASAP (Nov. 28, 2016).

<sup>10</sup> 12 N.Y.C.R.R. § 146-1.3.

Table 1: Service Employees<sup>11</sup>

Effective Date	Tipped Employees in New York City, 11 or More Employees	Tipped Employees in New York City, Fewer Than 11 Employees	Employees in Nassau, Suffolk, and Westchester Counties	Employees in the Remainder of New York State
<b>December 31, 2016</b>	Cash Wage: \$9.15	Cash Wage: \$8.75	Cash Wage: \$8.35	Cash Wage: \$8.10
--	Tip Credit Rate: \$1.85	Tip Credit Rate: \$1.75	Tip Credit Rate: \$1.65	Tip Credit Rate: \$1.60
Min. hourly rate: \$11	Tip Threshold: \$2.40	Tip Threshold: \$2.30	Tip Threshold: \$2.15	Tip Threshold: \$2.10
<b>December 31, 2017</b>	Cash Wage: \$10.85	Cash Wage: \$10.00	Cash Wage: \$9.15	Cash Wage: \$8.65
--	Tip Credit Rate: \$2.15	Tip Credit Rate: \$2.00	Tip Credit Rate: \$1.85	Tip Credit Rate: \$1.75
Min. hourly rate: \$13	Tip Threshold: \$2.80	Tip Threshold: \$2.60	Tip Threshold: \$2.40	Tip Threshold: \$2.25
<b>December 31, 2018</b>	Cash Wage: \$12.50	Cash Wage: \$11.25	Cash Wage: \$10.00	Cash Wage: \$9.25
--	Tip Credit Rate: \$2.50	Tip Credit Rate: \$2.25	Tip Credit Rate: \$2.00	Tip Credit Rate: \$1.85
Min. hourly rate: \$15	Tip Threshold: \$3.25	Tip Threshold: \$2.95	Tip Threshold: \$2.60	Tip Threshold: \$2.40
<b>December 31, 2019</b>		Cash Wage: \$12.50	Cash Wage: \$10.85	Cash Wage: \$9.85
--		Tip Credit Rate: \$2.50	Tip Credit Rate: \$2.15	Tip Credit Rate: \$1.95
Min. hourly rate: \$15		Tip Threshold: \$3.25	Tip Threshold: \$2.80	Tip Threshold: \$2.55
<b>December 31, 2020</b>			Cash Wage: \$11.65	Cash Wage: \$10.40
--			Tip Credit Rate: \$2.35	Tip Credit Rate: \$2.10
Min. hourly rate: \$15			Tip Threshold: \$3.05	Tip Threshold: \$2.70
<b>December 31, 2021</b>			Cash Wage: \$12.50	
--			Tip Credit Rate: \$2.50	
Min. hourly rate: \$15			Tip Threshold: \$3.25	

<sup>11</sup> 12 NYC.R.R. § 146-1.3(a).

## Food Service Workers

The amendments increase the required “cash wage” rate (*i.e.*, hourly wage paid before tips) and “tip credit” rate, on a yearly basis, and now require that an employee’s total tips received plus wages equals or is greater than the hourly “total” rate.<sup>12</sup>

**Table 2: Food Service Employees<sup>13</sup> (excluding Fast Food Employees)<sup>14</sup>**

Effective Date	Tipped Employees in New York City, 11 or More Employees	Tipped Employees in New York City, Fewer Than 11 Employees	Employees in Nassau, Suffolk, and Westchester Counties	Employees in the Remainder of New York State
<b>December 31, 2016</b>	Cash Wage: \$7.50 Tip Credit Rate: \$3.50 Total: \$11.00	Cash Wage: \$7.50 Tip Credit Rate: \$3.00 Total: \$10.50	Cash Wage: \$7.50 Tip Credit Rate: \$2.50 Total: \$10.00	Cash Wage: \$7.50 Tip Credit Rate: \$2.20 Total: \$9.70
<b>December 31, 2017</b>	Cash Wage: \$8.65 Tip Credit Rate: \$4.35 Total: \$13.00	Cash Wage: \$8.00 Tip Credit Rate: \$4.00 Total: \$12.00	Cash Wage: \$7.50 Tip Credit Rate: \$3.50 Total: \$11.00	Cash Wage: \$7.50 Tip Credit Rate: \$2.90 Total: \$10.40
<b>December 31, 2018</b>	Cash Wage: \$10.00 Tip Credit Rate: \$5.00 Total: \$15.00	Cash Wage: \$9.00 Tip Credit Rate: \$4.50 Total: \$13.50	Cash Wage: \$8.00 Tip Credit Rate: \$4.00 Total: \$12.00	Cash Wage: \$7.50 Tip Credit Rate: \$3.60 Total: \$11.10
<b>December 31, 2019</b>		Cash Wage: \$10.00 Tip Credit Rate: \$5.00 Total: \$15.00	Cash Wage: \$8.65 Tip Credit Rate: \$4.35 Total: \$13.00	Cash Wage: \$7.85 Tip Credit Rate: \$3.95 Total: \$11.80
<b>December 31, 2020</b>			Cash Wage: \$9.35 Tip Credit Rate: \$4.65 Total: \$14.00	Cash Wage: \$8.35 Tip Credit Rate: \$4.15 Total: \$12.50
<b>December 31, 2021</b>			Cash Wage: \$10.00 Tip Credit Rate: \$5.00 Total: \$15.00	

<sup>12</sup> For further explanation and analysis, see *Minimum Wage Increases in New York: What Employers Should Know*, supra note 4.

<sup>13</sup> 12 N.Y.C.R.R. § 146-1.3(b).

<sup>14</sup> Note: No tip credit is permitted for fast food employees.

## Uniform Maintenance Pay

The Hospitality Wage Order amendment implements new yearly increases to the uniform maintenance allowance, based on total weekly hours worked, as well as size and location of employer.<sup>15</sup> In the case where an employee works in two minimum wage regions (e.g., New York City and Nassau), employers may either pay the higher uniform maintenance allowance for the week or prorate the allowance for the number of hours worked in each region. Employers should immediately plan and budget for these yearly increases.

**Table 3: Uniform Maintenance Allowance<sup>16</sup>**

New York City			
Large Employers of 11 or more employees			
On or after December 31	High Rate  (Paid, in addition to minimum wage, to employees who work in excess of 30 hours per week)	Medium Rate  (Paid, in addition to minimum wage, to employees who work 20 -- 30 hours per week)	Low Rate  (Paid, in addition to minimum wage, to employees who work fewer than 20 hours per week)
2016	\$13.70	\$10.80	\$6.55
2017	\$16.20	\$12.80	\$7.75
2018	\$18.65	\$14.75	\$8.90
Small Employers of 11 or more employees			
2016	\$13.05	\$10.35	\$6.25
2017	\$14.95	\$11.80	\$7.15
2018	\$16.80	\$13.30	\$8.05
2019	\$18.65	\$14.75	\$8.90

<sup>15</sup> For further explanation and analysis, see *Proposed Amendment to New York State Wage Orders Set to Substantially Raise Salary Requirements For Exempt Employees*, *supra* note 3.

<sup>16</sup> 12 NYC.R.R. § 146-17.

### Nassau, Suffolk, and Westchester Counties

On or after December 31	<i>High Rate</i> (Paid, in addition to minimum wage, to employees who work in excess of 30 hours per week)	<i>Medium Rate</i> (Paid, in addition to minimum wage, to employees who work 20 -- 30 hours per week)	<i>Low Rate</i> (Paid, in addition to minimum wage, to employees who work fewer than 20 hours per week)
2016	\$12.45	\$9.85	\$5.95
2017	\$13.70	\$10.80	\$6.55
2018	\$14.95	\$11.80	\$7.15
2019	\$16.20	\$12.80	\$7.75
2020	\$17.40	\$13.75	\$8.30
2021	\$18.65	\$14.75	\$8.90

### Outside of Nassau, Suffolk, and Westchester Counties

On or after December 31	<i>High Rate</i> (Paid, in addition to minimum wage, to employees who work in excess of 30 hours per week)	<i>Medium Rate</i> (Paid, in addition to minimum wage, to employees who work 20 -- 30 hours per week)	<i>Low Rate</i> (Paid, in addition to minimum wage, to employees who work fewer than 20 hours per week)
2016	\$12.05	\$9.55	\$5.75
2017	\$12.95	\$10.25	\$6.20
2018	\$13.80	\$10.90	\$6.60
2019	\$14.70	\$11.60	\$7.00
2020	\$15.55	\$12.30	\$7.45



**Meal Credits**

Employers may take a “meal credit” for meals provided to the employee (including: “Food Service,” Hospitality “Service,” and “Other” employees). Meal credits may be considered part of the employee’s wages *so long as* each meal credit’s value does not exceed the following rates:

**Table 4: Meal Credits in Restaurants and All-Year Hotels<sup>17</sup>**

<b>Effective Date</b>	<b>Tipped Employees in New York City, 11 or More Employees</b>	<b>Tipped Employees in New York City, Fewer Than 11 Employees</b>	<b>Employees in Nassau, Suffolk, and Westchester Counties</b>	<b>Employees in the Remainder of New York State</b>
<b>December 31, 2016</b>	Food Service: \$2.85 Service: \$3.05 Other: \$3.80	Food Service: \$2.80 Service: \$2.90 Other: \$3.60	Food Service: \$2.70 Service: \$2.80 Other: \$3.45	Food Service: \$2.65 Service: \$2.70 Other: \$3.35
<b>December 31, 2017</b>	Food Service: \$3.25 Service: \$3.60 Other: \$4.50	Food Service: \$3.05 Service: \$3.35 Other: \$4.15	Food Service: \$2.85 Service: \$3.05 Other: \$3.80	Food Service: \$2.75 Service: \$2.90 Other: \$3.60
<b>December 31, 2018</b>	Food Service: \$3.60 Service: \$4.15 Other: \$5.15	Food Service: \$3.35 Service: \$3.75 Other: \$4.65	Food Service: \$3.05 Service: \$3.35 Other: \$4.15	Food Service: \$2.90 Service: \$3.10 Other: \$3.80
<b>December 31, 2019</b>		Food Service: \$3.60 Service: \$4.15 Other: \$5.15	Food Service: \$3.25 Service: \$3.60 Other: \$4.50	Food Service: \$3.00 Service: \$3.30 Other: \$4.05
<b>December 31, 2020</b>			Food Service: \$3.45 Service: \$3.90 Other: \$4.80	Food Service: \$3.15 Service: \$3.45 Other: \$4.30
<b>December 31, 2021</b>			Food Service: \$3.60 Service: \$4.15 Other: \$5.15	

<sup>17</sup> 12 N.Y.C.R.R. § 146-19(a).

## Lodging Credits

Employers may take “lodging credits” for lodging provided to the employee (including: “Food Service,” “Hospitality Service,” and “Other” employees). These credits may be considered as part of the employee’s wages so long as they do not exceed the hourly, daily or weekly amounts listed below:

**Table 5: Lodging Credits in Restaurants<sup>18</sup>**

Effective Date	Tipped Employees in New York City, 11 or More Employees	Tipped Employees in New York City, Fewer Than 11 Employees	Employees in Nassau, Suffolk, and Westchester Counties	Employees in the Remainder of New York State
December 31, 2016	<b>Food Service:</b> \$1.70/day or \$11.00/week  <b>Service:</b> \$2.15/day or \$13.80/week  <b>Other:</b> \$2.70/day or \$17.10/week	<b>Food Service:</b> \$1.65/day or \$10.65/week  <b>Service:</b> \$2.05/day or \$13.20/week  <b>Other:</b> \$2.55/day or \$16.35/week	<b>Food Service:</b> \$1.60/day or \$10.30/week  <b>Service:</b> \$1.95/day or \$12.55/day  <b>Other:</b> \$2.45/day or \$15.55/week	<b>Food Service:</b> \$1.60/day or \$10.10/week  <b>Service:</b> \$1.90/day or \$12.20/week  <b>Other:</b> \$2.35/day or \$15.10/week
December 31, 2017	<b>Food Service:</b> \$1.95/day or \$12.45/week  <b>Service:</b> \$2.55/day or \$16.30/week  <b>Other:</b> \$3.20/day or \$20.20/week	<b>Food Service:</b> \$1.85/day or \$11.75/week  <b>Service:</b> \$2.35/day or \$15.05/week  <b>Other:</b> \$2.95/day or \$18.65/week	<b>Food Service:</b> \$1.70/day or \$11.00/week  <b>Service:</b> \$2.15/day or \$13.80/week  <b>Other:</b> \$2.70/day or \$17.10/week	<b>Food Service:</b> \$1.65/day or \$10.60/week  <b>Service:</b> \$2.00/day or \$13.05/week  <b>Other:</b> \$2.55/day or \$16.20/week
December 31, 2018	<b>Food Service:</b> \$2.15/day or \$13.85/week  <b>Service:</b> \$2.90/day or \$18.85/week  <b>Other:</b> \$3.65/day or \$23.35/week	<b>Food Service:</b> \$2.00/day or \$12.80/week  <b>Service:</b> \$2.65/day or \$16.95/week  <b>Other:</b> \$3.30/day or \$21.00/week	<b>Food Service:</b> \$1.85/day or \$11.75/week  <b>Service:</b> \$2.35/day or \$15.05/week  <b>Other:</b> \$2.95/day or \$18.65/week	<b>Food Service:</b> \$1.75/day or \$11.10/week  <b>Service:</b> \$2.15/day or \$13.95/week  <b>Other:</b> \$2.70/day or \$17.25/week

<sup>18</sup> 12 NYC.R.R. § 146-19(b).

Effective Date	Tipped Employees in New York City, 11 or More Employees	Tipped Employees in New York City, Fewer Than 11 Employees	Employees in Nassau, Suffolk, and Westchester Counties	Employees in the Remainder of New York State
December 31, 2019		<b>Food Service:</b> \$2.15/day or \$13.85/week  <b>Service:</b> \$2.90/day or \$18.85/week  <b>Other:</b> \$3.65/day or \$23.35/week	<b>Food Service:</b> \$1.95/day or \$12.45/week  <b>Service:</b> \$2.55/day or \$16.30/week  <b>Other:</b> \$3.20/day or \$20.20/week	<b>Food Service:</b> \$1.80/day or \$11.60/week  <b>Service:</b> \$2.30/day or \$14.80/week  <b>Other:</b> \$2.90/day or \$18.35/week
December 31, 2020			<b>Food Service:</b> \$2.05/day or \$13.15/week  <b>Service:</b> \$2.70/day or \$17.60/week  <b>Other:</b> \$3.40/day or \$21.80/week	<b>Food Service:</b> \$1.90/day or \$12.10/week  <b>Service:</b> \$2.45/day or \$15.70/week  <b>Other:</b> \$3.05/day or \$19.45/week
December 31, 2021			<b>Food Service:</b> \$2.15/day or \$13.85  <b>Service:</b> \$2.90/day or \$18.85/week  <b>Other:</b> \$3.65/day or \$23.35/week	

**Table 6: Hourly Lodging Credits in All-Year Hotels<sup>19</sup>**

<b>Effective Date</b>	<b>Tipped Employees in New York City, 11 or More Employees</b>	<b>Tipped Employees in New York City, Fewer Than 11 Employees</b>	<b>Employees in Nassau, Suffolk, and Westchester Counties</b>	<b>Employees in the Remainder of New York State</b>
<b>December 31, 2016</b>	Food Service: \$0.40 Service: \$0.45 Other: \$0.55	Food Service: \$0.40 Service: \$0.40 Other: \$0.55	Food Service: \$0.40 Service: \$0.40 Other: \$0.50	Food Service: \$0.35 Service: \$0.40 Other: \$0.50
<b>December 31, 2017</b>	Food Service: \$0.45 Service: \$0.50 Other: \$0.65	Food Service: \$0.45 Service: \$0.45 Other: \$0.60	Food Service: \$0.40 Service: \$0.45 Other: \$0.55	Food Service: \$0.40 Service: \$0.40 Other: \$0.50
<b>December 31, 2018</b>	Food Service: \$0.50 Service: \$0.60 Other: \$0.75	Food Service: \$0.45 Service: \$0.55 Other: \$0.70	Food Service: \$0.45 Service: \$0.45 Other: \$0.60	Food Service: \$0.40 Service: \$0.45 Other: \$0.55
<b>December 31, 2019</b>		Food Service: \$0.50 Service: \$0.60 Other: \$0.75	Food Service: \$0.45 Service: \$0.50 Other: \$0.65	Food Service: \$0.40 Service: \$0.45 Other: \$0.60
<b>December 31, 2020</b>			Food Service: \$0.50 Service: \$0.55 Other: \$0.70	Food Service: \$0.45 Service: \$0.50 Other: \$0.65
<b>December 31, 2021</b>			Food Service: \$0.50 Service: \$0.60 Other: \$0.75	

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<sup>19</sup> 12 NYC.R.R. § 146-1.9(c).

## **What Employers Should Do Now**

Now that the amendments have been adopted, employers should immediately review all categories of employees who may be affected by the new NYSDOL regulation and make any necessary changes to ensure compliance. Employers should also ensure that, where required, advance written notice is provided as soon as possible (given the lateness of the NYDOL's announcements), and that wage rate increases are reflected on employee paystubs. Employers may also need to update relevant policies and/or provide training to reclassified employees or their managers to ensure that all employee time is accurately accounted for. For further questions, employers are encouraged to consult with counsel.