



**CHRISTIANSON**

*CPAs & Consultants*

# *Minnesota Wage Theft Law Workshop*

*September 12<sup>th</sup>, 2019*

# Minnesota Wage Theft Law

- > Law changes effective July 1, 2019
- > Criminal provisions of law effective August 1, 2019
- > \$3.1 million earmarked for the enforcement of the State's wage and hour laws
- > All employers no matter size or industry

# Minnesota Wage Theft Law

- > Wage theft occurs when employers do not pay their workers what is owed for the work that has been performed
- > Estimated up to 40,000 Minnesota workers pursue complaints of wage theft each year
- > In 2018, the MN Department of Labor collected \$1.8 million in wages for workers
- > It is estimated that annually employers fail to pay employees over \$11.9 million!

# What's New

- > Updated definition of wages
  - > Includes salary, earnings, and gratuities which must be paid at least once every 31 days
  - > All commissions must be paid at least once every three months on a regular payday
- > Written employee notice
- > Additional earnings statement requirements
- > Record keeping requirement changes
- > Criminal sanctions for noncompliance

# Employee Notice

- > Must contain information about an employee's employment status and terms of employment
- > Required to keep a copy of the signed notice for each employee
- > Must be provided in English
- > Must include a statement in multiple languages that they can request the notice to be provided in another language
- > Written notice of any changes to the information included in original notice

# Employee Notice

- > Employee personal info – name, address, phone number, and etc.
- > Legal name of employer including address, phone number, and email address
- > Employment status
- > Rate of pay
- > Allowances
- > Time off benefits
- > Deductions
- > Pay period information

# Employee Notice

- > New employees
- > Current employees
- > Changes to information



# Earnings Statements

- > Must be provided in writing or electronic means at the end of each pay period
- > New information required
  - > Rate(s) of pay including whether the employee is paid by the hour, shift, day, week, salary, piece, commission or other method
  - > Allowances claimed for permitted meals and lodging
  - > Employer's telephone contact information
  - > Physical address of the main office and a mailing address, if different



# Earnings Statements

- > Previously required information
  - > Employee name
  - > Total hours worked in the pay period
  - > Total gross pay
  - > Net pay
  - > List of deductions
  - > Date pay period ended
  - > Employer's legal and operating name

A close-up photograph of a pay stub. The document is tilted and shows various sections. At the top, there is a date '04/07' and a partial amount '3.86'. Below this, the section 'TAX DEDUCTION(S):' is visible, listing 'FED TX Withholding Tax' (24.85), 'FED TX EE Social Security Tax' (786.62), 'FED TX EE Medicare Tax' (183.96), and 'CT TX Withholding Tax' (716.42). Below that, the section 'OTHER DEDUCTION(S):' is visible, listing 'Tax Advance' (19.73), '04/07 Imp Inc Core Life' (16.62), and '04/07 Imp Inc Core LTD' (61.41). At the bottom, the 'NET PAY' is shown as '\$6,535.97'. A separate line shows 'Amount' with '\$ 650.00' and '\$ 5885.97'.

Description	Amount
TOTAL GROSS PAY	4,933.42
TAX DEDUCTION(S):	
FED TX Withholding Tax	24.85
FED TX EE Social Security Tax	786.62
FED TX EE Medicare Tax	183.96
CT TX Withholding Tax	716.42
OTHER DEDUCTION(S):	
Tax Advance	19.73
04/07 Imp Inc Core Life	16.62
04/07 Imp Inc Core LTD	61.41
<b>NET PAY</b>	<b>\$6,535.97</b>

# Recordkeeping Requirements

- > Amendments to Minn. Stat. § 177.30
- > Under existing law, employers are required to keep various records for three years. The new law requires the following additional records be kept for three years:
  - > Hours worked for employees paid at piece rate and the number of pieces completed at each piece rate
  - > A list of the personnel policies provided to the employee, including the date the policies were given to the employee and a brief description of the policies
  - > A copy of the notice that is required to be provided to and signed by each employee at the start of employment and a copy of any written changes to the notice that were subsequently provided to employees

# Recordkeeping Requirements

- > The law does not require employers to provide and obtain signed wage statements from existing employees. However, the Department of Labor strongly encourages employers to provide the written notice with the information required under the new law to all employees when the law took effect. Employers are required to provide written notice to all employees when changes are made to items included in the wage statement.
- > This wasn't addressed in the law. A risk-averse employer, therefore, may wish to issue wage notices to current employees.

# Recordkeeping Requirements

- > Inspection by Commissioner, upon demand
  - > All these records must be readily available for inspection by the Commissioner of the Minnesota Department of Labor within 72 hours of a demand.
  - > Employers who fail to maintain the required records were already subject to a \$1,000 fine for each failure to maintain records but will now also be subject to a \$5,000 fine for each repeated violation.

# Recordkeeping Requirements

- > Inspection by Commissioner, upon demand
  - > The records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply with the commissioner's demand within 72 hours.
  - > If records maintained by the employer do not provide sufficient information to determine the exact amount of back wages due, the commissioner may make a determination of wages due based on available evidence.

# Recordkeeping Recommendations

- > Create wage notice templates
- > Create a process for providing wage notices and updated wage notice at required times
- > Contact your payroll vendors regarding required updates to earnings statements

# Recordkeeping Recommendations

- > Review your pay practices to ensure that all earnings other than commissions are paid once every 31 days and that earned commissions are paid at least once every three months
- > Review commission plans regarding payment timing and the provisions for when a commission is considered to be earned
- > Create a system for tracking the personnel policies provided to each employee

# Refresher: What is Wage Theft? 609.52(13)

- > 13) “Wage theft” occurs when an employer with intent to defraud:
  - > fails to pay an employee all wages, salary, gratuities, earnings, or commissions at the employee’s rate or rates of pay or at the rate or rates required by law, including any applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or other legal authority, whichever rate of pay is greater;
  - > directly or indirectly causes any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered;
  - > directly or indirectly demands or receives from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer; or
  - > makes or attempts to make it appear in any manner that the wages paid to any employee were greater than the amount actually paid to the employee.



# Criminal Penalties- August 1, 2019

- > The law incorporates Wage Theft into the regular criminal theft statute
- > UP TO 20 YEARS IMPRISONMENT AND FINE OF UP TO \$100,000.00 if value of wages stolen exceeds \$35,000.00
- > UP TO 10 YEARS IMPRISONMENT AND FINE OF UP TO \$20,000.00 if the value of the wages stolen exceeds \$5,000.00
- > UP TO 5 YEARS IMPRISONMENT AND FINE OF UP TO \$10,000.00 if the value of wages stolen is more than \$1,000.00 but not more than \$5,000
- > UP TO 1 YEAR IMPRISONMENT AND FINE OF UP TO \$3,000.00 if the value of wages stolen is more than \$500.00 but not more than \$1,000.00

# How do They Figure?

- > In determining the value of the wages stolen, the statute allows for the amount of employee wages stolen to be aggregated within any six-month period
- > ALSO – not off the hook for lesser amounts of wage theft : those would be included in a catch-all making them misdemeanors

# But Wait ... There's More...

- > So far, everything we've mentioned is a criminal penalty for "wage theft" as defined in the statute- what about the notice and record keeping requirements
- > The recent revisions of the statute may also make violations of the new record keeping provisions misdemeanors
- > Minnesota Statute 177.32, subd. 1 has been amended to include as a misdemeanor the "repeated failure to make, keep and preserve records as required by section 177.30."

# Civil Exposure

- > Everything mentioned so far relates to potential criminal penalties
- > New law also brings violations of the statute – including notice and record-keeping lapses – into the realm of civil enforcement
- > May include investigation and civil penalties by the Minnesota Department of Labor and Industry: Attorney General Keith Ellison forming a special wage unit within his office
- > Civil lawsuit claims for violations - e.g. retaliation



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***Questions?***



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## *Thank you!*

*Teresa Carlson – Manager – [TCarlson@ChristiansonCPA.com](mailto:TCarlson@ChristiansonCPA.com)*

## Employee notice

1. Employee:		Address:	
Phone number:		Email address:	
Date employment began:			
2. Legal name of employer:		Main office/Principal place of business address:	
Phone number:		Email address:	
Operating name of employer (if different):			
Mailing address (if different):			
3. Employment status (exempt or non-exempt):			
<input type="checkbox"/> Employee is exempt from: <input type="checkbox"/> minimum wage <input type="checkbox"/> overtime <input type="checkbox"/> other provisions of Minnesota Statutes 177			
Legal basis for exemption:			
<input type="checkbox"/> Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)			
4. Rate: \$		Additional rates (if applicable):	
How applied:			
Paid by:	Hour <input type="checkbox"/>	Shift <input type="checkbox"/>	Day <input type="checkbox"/>
	Week <input type="checkbox"/>		
	Salary <input type="checkbox"/>	Piece <input type="checkbox"/>	Commission <input type="checkbox"/>
			Other method <input type="checkbox"/>
Overtime is owed after: _____ hours			
Allowances claimed:			
\$	per meal for meal allowance (max = 60% of one hour of adult minimum wage per meal)		
\$	per day for lodging allowance (max = 75% of one hour of adult minimum wage per day)		
	(or fair market value)		
5. Leave benefits available:			
<input type="checkbox"/> Sick leave <input type="checkbox"/> Paid vacation <input type="checkbox"/> Other paid time off			
How benefits are accrued: Number of hours _____ or days _____			
per <input type="checkbox"/> year <input type="checkbox"/> month <input type="checkbox"/> per pay period <input type="checkbox"/> per hours worked			
Terms of use:			
6. Deductions that may be made from employee's pay and amounts:			
7. Number of days in the pay period:		Regularly scheduled payday:	
Date employee will receive first payment of wages earned:			
8. Other information relevant to this position:			
I, the employee, have received a copy of this notice: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Employer signature	Date	Employee signature	Date

This document contains important information about your employment. Check the box at left to receive this information in this language.

Spanish / Español	Este documento contiene información importante sobre su empleo. Marque la casilla a la izquierda para recibir esta información en este idioma.
Hmong / Hmoob	Daim ntawv no muaj cov xov tseem ceeb hais txog thaum koj ua hauj lwm. Khij lub npauv ntawm sab laug yog koj xav tau cov xov tseem ceeb no txhais ua lus Hmoob.
Vietnamese / Việt ngữ	Tài liệu này chứa thông tin quan trọng về việc làm của quý vị. Đánh dấu vào ô bên trái để nhận thông tin này bằng Việt ngữ.
Simp. Chinese / 简体中文	本文件包含与您的雇用相关的重要信息。勾选左边的方框将接收以这种语言提供的信息。
Russian / русский	Данный документ содержит важную информацию о вашем трудоустройстве. Отметьте галочкой квадрат слева для получения этой информации на данном языке.
Somali / Soomaali	Dokumentigan waxaa ku qoran macluumaad muhiim ah oo ku saabsan shaqadaada. Calaamadi sanduuqan haddii aad rabto inaad macluumaadkan ku hesho luqaddan.
Laotian / ພາສາລາວ	ເອກະສານນີ້ມີຂໍ້ມູນທີ່ສໍາຄັນກ່ຽວກັບການຈ້າງງານຂອງທ່ານ. ກວດເບິ່ງກ່ອງທີ່ຢູ່ເບື້ອງຊ້າຍເພື່ອຮັບຂໍ້ມູນນີ້ໃນພາສານີ້.
Korean / 한국어	이 문서에는 귀하의 고용 형태에 관련된 중요한 정보가 담겨있습니다. 이 언어로 이 정보를 받기를 원하시면 왼쪽 상자에 체크하여 주세요.
Tagalog / Tagalog	Ang dokumentong ito ay nagtataglay ng mahalagang impormasyon tungkol sa iyong pagtatrabaho. Lagyan ng tsek ang kahon sa kaliwa upang matanggap ang impormasyong ito sa wikang ito.
Oromo / Oromoo	Waraqaan kun waayee hojii keetii odeeffannoo barbaachisoo ta’an qabatee jira. Saaxinnii karaa bitaatti argamu kana irratti mallattoo godhi yoo afaan Kanaan barreeffama argachuu barbaadde.
Amharic/ አማርኛ	ይህ ደብዳቤ ለአጠቃላይ የሚመለከት አስፈላጊ መረጃ የያዘ ነው። ይህንን ደብዳቤ በስተግራ በኩል ባለው ቋንቋ ተተርጉሞ እንዲሰጥክ ከፈለጉ በዛው በስተግራ በኩል ባለው ሳጥን ውስጥ ምልክት ያድርጉ።
Karen / ကညီကျိာ်	လံာ်တိလံာ်မိတခါအံးဟံယုာ်တံာ်ဂုာ်တံာ်ကျိာ်အကါဒိာ်လါအဘာ်ယးဒီးနတံာ်ဖဲတံာ်မနုာ်လိာ်. တါနီဒိတံာ်အလါအစုာ်တကယလါတံာ်ကဒီးနတံာ်ဂုာ်တံာ်ကျိာ်လါကျိာ်တခါအံးအဂီၢ်တက့ာ်.

## Translation providers approved by the Minnesota Department of Administration

Betmar Languages, Inc.  
6260 Hwy. 65 N.E., #308  
Minneapolis, MN 55432  
763-572-9711  
best@betmar.com

The Bridge World Language Center, Inc.  
110 Second Street S., #213  
Waite Park, MN 56387  
320-259-9239  
mini@bridgelanguage.com

Fox Translation Services  
1152 Mae Street, #122  
Hummelstown, PA 17033  
866-369-1646 or 407-733-3720  
dina@foxcasemanagement.com

Global Translation and Interpreter  
913 E. Franklin Ave., #206  
Minneapolis, MN 55404  
612-722-1244  
sandor@globaltranslations.com

Latin American Translators Network, Inc.  
1720 Peachtree Street N.W., #532  
Atlanta, GA 30309  
800-943-5286, ext. 8641, translations@latn.com  
800-943-5286, ext. 8620, idenis@latn.com

Latitude Prime, LLC  
80 S. Eighth Street, #900  
Minneapolis, MN 55402  
888-341-9080, ext. 501  
elle@latitude.com

Lingualinx Language Solutions, Inc.  
433 River Street, #6001  
Troy, NY 12180  
518-388-9000  
abartlett@lingualinx.com

Prisma International, Inc.  
1128 Harmon Place, #310  
Minneapolis, MN 55403  
612-349-3111  
jromano@prisma.com

Swits, LTD  
110 S. Third Street  
Delavan, WI 53115  
262-740-2590  
translations@swits.us



# Current Employee Changes

Name \_\_\_\_\_ Effective Date \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone #: \_\_\_\_\_  
Regular Pay Rate: \$ \_\_\_\_\_ Hour  
Overtime Pay Rate: \$ \_\_\_\_\_ Hour After \_\_\_\_\_ Hours  
PTO/Vacation Accrued: \_\_\_\_\_ Hours/Pay Period  
Withholding: Married Single Exemptions: \_\_\_\_\_  
(Circle One) (New W-4 Required if changed)

## Payroll Additions:

Health Reimb: \$ \_\_\_\_\_ /Month

Phone Reimb: \$ \_\_\_\_\_ /Month

## Payroll Deductions:

Retirement EE %: \_\_\_\_\_

Medical Insurance: \$ \_\_\_\_\_ /Month

Dental Insurance: \$ \_\_\_\_\_ /Month

Vision Insurance: \$ \_\_\_\_\_ /Month

H.S.A.: \$ \_\_\_\_\_ /Month

\_\_\_\_\_ \$ \_\_\_\_\_ /Payroll

\_\_\_\_\_ \$ \_\_\_\_\_ /Payroll

## Direct Deposit:

Scanned copy to be sent via email - Voided Check Required

\_\_\_\_\_  
Employer Signature

\_\_\_\_\_  
Employee Signature