



Greater New York
Automobile Dealers
Association

New York State Labor Law 195 Required Notice

Dealership Employee Pay Rate and Payday Forms

Instructions for Completing Notice and Acknowledgement Forms

Hourly Rate Employee

Flat, Straight Salary

Exempt from Overtime (ie., salespersons, etc.)

Exempt from Overtime (ie., service writers, etc.)

Exempt from Overtime (ie., managers, etc.)

employee relations plan
erp



Greater New York
Automobile Dealers
Association

Completing Employee Pay Rate and Payday Notice and Acknowledgement Forms

New York Labor Law Section 195 Required Notice

New York State Labor Law requires dealers to provide a wage notice to every new employee at the time they are hired. Dealers must also provide this notice seven days before any change in pay rate(s), allowances claimed, or payday, or any of the other information contained in the wage notice unless the change is reflected on the wage statement that accompanies the payment of wages.

The New York State Department of Labor (NYSDOL) has published templates of the required forms which dealers can customize for their employees. As a benefit of membership, GNYADA's Employee Relations Plan is providing you with the enclosed examples of completed forms. Blank forms can be found at www.gnyada.com/dealers/payforms/overview.

Also included are section-by-section instructions which correspond to the required NYSDOL forms. Depending on your employee classification system, employees such as BDC workers may be classified differently. Be sure to use the form that corresponds to your own pay plan. Included on the sample exempt forms is language to help you identify the specific exemption for employees not entitled to overtime pay.

Carefully follow the instructions to properly complete each form.

Instructions

STEPS 1-6

This is general information. For specific legal advice, consult your dealership's attorney.

01 EMPLOYER INFORMATION: Dealers must complete the following information in the box provided on the left side of the form:

- Name
- Doing Business As (DBA) name(s) (if any)
- Physical Address
- Mailing Address
- Phone Number

Note: the form provides space for the dealership's FEIN number - this information is optional.

02 NOTICE GIVEN: Dealers must indicate in the form whether the notice is given:

- At hiring
- Before a change in pay rate(s), allowances claimed (likely not applicable to Dealers) or payday, unless the change is reflected on the statement that accompanies the payment of wages.

03 EMPLOYEE'S RATE(S) OF PAY: Dealers must state the employee's rate(s) of pay.

Special Considerations:

Technicians: Dealers should state the applicable hourly rate and, if applicable, "See attached incentive plan."

Employees paid commission: Dealers should state the applicable rate and then state: "Your terms of employment with the Dealership, including calculation of commissions, are set forth in a separate agreement attached hereto."

The separate agreement (see Sample Commission Agreement) must contain the terms and conditions of employment, including how commissions are calculated, and must be signed by both the Dealer and the employee.

04 ALLOWANCES TAKEN: Dealers must indicate if any allowances are taken against the minimum wage. This does not include "demo allowances." Allowances taken against the minimum wage include meal credits, lodging credits and tips. If no allowances are taken, check the box for "none."

05 REGULAR PAYDAY: Dealers must state the day of the week on which employees are paid.

06 PAY IS: Dealers must specify whether the employee is paid weekly, bi-weekly (every two weeks) or at some other frequency.

- Manual workers, e.g., technicians, partspersons, etc. must be paid at least weekly.
- Clerical and other workers (e.g., office personnel) must be paid at least bi-weekly.
- Commissioned salespersons, commissioned service writers/managers and commissioned F&I employees must be paid in accordance with the terms of the commission agreement, at least monthly.

STEPS 7-8

07 OVERTIME PAY RATE(S): Dealers must state the overtime pay rate for all non-exempt employees.

Except as provided herein, the overtime pay rate must be at least 1 ½ times the employees' regular rate for all non-exempt employees with a single rate of pay. For exempt employees the dealer may state the applicable exemption, however, such information is optional.

WHITE COLLAR EXEMPTION

Administrative, Executive, Highly-Compensated

Dealer should state the following:

■ Administrative, executive, or highly-compensated employee exemption (29 U.S.C. § 213(a)(1) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. In order to be exempt from federal minimum wage and overtime requirements, you must be paid a weekly salary of at least \$970.*

Administrative Exemption applies if:

1. Employee is paid at least \$970* per week on a salary basis;
2. Employee's primary duty is performance of office or non-manual work directly related to management or general business operations of the employer or customers; and
3. Employee's primary duty includes the exercise of discretion and independent judgement with respect to matters of significance.

Employees who may qualify: Office Manager, Controller

Executive Exemption applies if:

1. Employee is paid at least \$970* per week on a salary basis;
2. Employee's primary duty is managing the enterprise, or a customarily recognized department or subdivision of the enterprise; and
3. Employee customarily and regularly directs the work of two or more other full-time employees; and
4. Employee has the authority to hire and fire employees, or the employee's suggestions and recommendations as to hiring, firing, advancement, promotion or other change of status must be given particular weight.

Employees who may qualify: General, Sales, Service Managers

Highly-Compensated Employee Exemption applies if:

1. Employee is paid total annual compensation of \$122,148 or more (must include at least \$970* per week on a salary basis); and
2. Employee customarily and regularly performs at least one of the duties of an exempt executive, administrative or professional employee.

Employees who may qualify: General Managers, Sales Managers

NOTE: Dealers claiming a White Collar exemption must pay an employee a weekly salary of at least \$675** to be exempt from state minimum wage and overtime requirements. If such an employee is paid less than \$675** per week, the dealer must ensure that the total compensation for that workweek equals or exceeds the minimum wage for all hours worked in that workweek up to 40 hours and at least 1½ times the minimum wage for all hours worked in excess of 40 in that workweek.

SALESPERSON, PARTSPERSON AND MECHANIC EXEMPTION

Salespersons, partpersons and mechanics qualify for this exemption (Dealers should note that the United States Department of Labor [DOL] recently decided not to specifically include service managers, service writers, service advisors, or service salespeople as a qualifying exemption.) The term "mechanic" does not include employees primarily performing such nonmechanical work as washing, cleaning, painting, polishing, tire changing, installing seat covers, dispatching, lubricating or other nonmechanical work.

Dealer should state the following:

■ Automobile salesperson, partperson and mechanic exemption (29 U.S.C. § 213(b)(10)(A) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. Your total compensation shall be equal to or exceed the minimum wage for all hours worked up to 40 hours in a workweek and at least 1½ times the minimum wage for all hours worked in excess of 40 in a workweek.

Salesperson Exemption applies if:

Employee spends over 50% of his/her time making sales or obtaining orders or contracts for the sale of vehicles.

Partperson Exemption applies if:

Employee spends over 50% of his/her time requisitioning, stocking and dispensing parts.

Mechanic Exemption applies if:

Employee spends over 50% of his/her time doing mechanical work in servicing an automobile.

COMMISSION EMPLOYEE EXEMPTION

Dealer should state the following:

■ The commission exemption (29 U.S.C. § 7(i) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. In any workweek in which you work in excess of 40 hours, your total compensation shall be equal to or exceed at least 1½ times the minimum wage for each and every hour worked.

Commission Employee Exemption applies if:

1. Employee's regular rate of pay exceeds 1 ½ times the applicable minimum wage for every hour worked in a workweek in which overtime hours are worked; and
2. More than half the employee's total earnings in a representative period (not less than a month) consists of commissions.

Employees who may qualify: F&I employees, Service Writers

08 EMPLOYEE ACKNOWLEDGMENT: Dealers must provide notice in the primary language of the employee in the New York State Department of Labor (NYSDOL) publishes template notices in the employee's primary language. Employees must complete, sign and date the acknowledgment.

The NYSDOL has prepared templates in English, Spanish, Chinese, Russian, Haitian Creole, Polish and Korean. Templates are available at: <https://labor.state.ny.us/formsdocs/wp/ellsformsandpublications.shtm>.

* Proposed by the United States Department of Labor. These figures will be indexed and revised annually.

** Effective after 12/31/15

Hourly Rate Employees



Notice and Acknowledgement of Pay Rate and Payday

Under Section 195.1 of the New York State Labor Law

Notice for Hourly Rate Employees

01

Employer Information

Name:

New York Motors, Inc.

Doing Business As (DBA) Name(s)

New York Motors Ford

FEIN (optional):

Physical Address:

123 Main Street, New York, NY 10000

Mailing Address:

P.O. Box 1234, New York, NY 10000

Phone: (212)123-4567

02

Notice given:

- At hiring
- Before a change in pay rate(s), allowances claimed or payday

LS 54 (02/15)

03

Employee's rate of pay:

\$ 10.00 per hour

04

Allowances taken:

- None
- Tips _____ per hour
- Meals _____ per meal
- Lodging _____
- Other _____

05

Regular payday: Thursday

06

Pay is:

- Weekly
- Bi-weekly
- Other

07

Overtime Pay Rate:

\$ 15.00 per hour (This must be at least 1½ times the worker's regular rate with few exceptions.)

08

Employee Acknowledgement:

On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated payday on the date given below. I told my employer what my primary language is.

Check one:

- I have been given this pay notice in English because it is my primary language.
- My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

John Smith

Print Employee Name

John Smith

Employee Signature

January 1, 2015

Date

Carrol Shelby / General Manager

Preparer's Name and Title

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.

Flat, Straight Salary

(entitled to overtime pay)



Department of Labor

Notice and Acknowledgement of Pay Rate and Payday for

Under Section 195.1 of the New York State Labor Law

Employees Paid a Weekly Rate or a Salary for a Fixed Number of Hours (40 or Fewer in a Week)

01 Employer Information

Name:
New York Motors, Inc.

Doing Business As (DBA) Name(s)
New York Motors Ford

FEIN (optional):

Physical Address:
123 Main Street, New York, NY 10000

Mailing Address:
P.O. Box 1234, New York, NY 10000

Phone: (212)123-4567

03 Employee's Pay Rate:
\$ 400.00 per week

Weekly hours 40 (Specify the number of hours for which the weekly rate or salary will be paid.)

04 Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

05 Allowances taken:
 None
 Tips _____ per hour
 Meals _____ per meal
 Lodging _____
 Other _____

08 Employee Acknowledgement:
On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below. I told my employer what my primary language is.

Check one:
 I have been given this pay notice in English because it is my primary language.
 My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

John Smith
 Print Employee Name

John Smith
 Employee Signature

January 1, 2015
 Date

Carrol Shelby / General Manager
 Preparer's Name and Title

02 Notice given:
 At hiring
 Before a change in pay rate(s), allowances claimed or payday

06 Regular payday: Thursday

07 Pay is:
 Weekly
 Bi-weekly
 Other

Overtime Pay Rate:
 \$ 15.00 per hour (This must be at least 1½ times the worker's regular rate, with few exceptions.)

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.

Exempt from Overtime

(ie., salespersons, etc.)



Notice and Acknowledgement of Pay Rate and Payday

Under Section 195.1 of the New York State Labor Law

Notice for Exempt Employees

01 Employer Information

Name:
New York Motors, Inc.

Doing Business As (DBA) Name(s)
New York Motors Ford

FEIN (optional):

Physical Address:
123 Main Street, New York, NY 10000

Mailing Address:
P.O. Box 1234, New York, NY 10000

Phone: (212)123-4567

02 Notice given:

- At hiring
- Before a change in pay rate(s), allowances claimed or payday

LS 59 (02/15)

03 Employee's pay rate(s): State if pay is based on an hourly, salary, day rate, piece rate, or other basis.

Weekly salary of \$ 500. Your terms of employment with the Dealership, including calculation of commissions, are set forth in a separate agreement attached hereto.

Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

04 Allowances taken:

- None
- Tips _____ per hour
- Meals _____ per meal
- Lodging _____
- Other _____

05 Regular payday: Thursday

06 Pay is:

- Weekly
- Bi-weekly
- Other: _____

07 Overtime Pay Rate:

Most workers in NYS must receive at least 1½ times their regular rate of pay for all hours worked over 40 in a workweek, with few exceptions. A limited number of employees must only be paid overtime at 1½ times the minimum wage rate, or not at all.

This employee is exempt from overtime under the following exemption (optional): _____

08 Employee Acknowledgement:

On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below. I told my employer what my primary language is.

Check one:

- I have been given this pay notice in English because it is my primary language.
- My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

John Smith

Print Employee Name

John Smith

Employee Signature

January 1, 2015

Date

Carrol Shelby / General Manager

Preparer's Name and Title

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.

Automobile salesperson, partsperson and mechanic exemption (29 U.S.C. § 213(b)(10)(A) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. Your total compensation shall be equal to or exceed the minimum wage for all hours worked up to 40 hours in a workweek and at least 1 ½ times the minimum wage for all hours worked in excess of 40 in a workweek.

*\$9.00 minimum wage in New York is effective 12/21/15

Exempt from Overtime

(ie., service writers, etc.)



Department of Labor

Notice and Acknowledgement of Pay Rate and Payday

Under Section 195.1 of the New York State Labor Law

Notice for Exempt Employees

01

Employer Information

Name:

New York Motors, Inc.

Doing Business As (DBA) Name(s)

New York Motors Ford

FEIN (optional):

Physical Address:

123 Main Street, New York, NY 10000

Mailing Address:

P.O. Box 1234, New York, NY 10000

Phone: (212)123-4567

02

Notice given:

- At hiring
- Before a change in pay rate(s), allowances claimed or payday

LS 59 (02/15)

03

Employee's pay rate(s): State if pay is based on an hourly, salary, day rate, piece rate, or other basis.

Weekly salary of \$ 500. Your terms of employment with the Dealership, including calculation of commissions, are set forth in a separate agreement attached hereto.

Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

04

Allowances taken:

- None
- Tips _____ per hour
- Meals _____ per meal
- Lodging _____
- Other _____

05

Regular payday: Thursday

06

Pay is:

- Weekly
- Bi-weekly
- Other: _____

07

Overtime Pay Rate:

Most workers in NYS must receive at least 1½ times their regular rate of pay for all hours worked over 40 in a workweek, with few exceptions. A limited number of employees must only be paid overtime at 1½ times the minimum wage rate, or not at all.

This employee is exempt from overtime under the following exemption (optional): _____

08

Employee Acknowledgement:

On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below. I told my employer what my primary language is.

Check one:

- I have been given this pay notice in English because it is my primary language.
- My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

John Smith

Print Employee Name

John Smith

Employee Signature

January 1, 2015

Date

Carrol Shelby / General Manager

Preparer's Name and Title

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.

The commission exemption (29 U.S.C. § 7(i) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. In any workweek in which you work in excess of 40 hours, your total compensation shall be equal to or exceed at least 1 ½ times the minimum wage for each and every hour worked.

Exempt from Overtime

(ie., managers, etc.)



Notice and Acknowledgement of Pay Rate and Payday

Under Section 195.1 of the New York State Labor Law
Notice for Exempt Employees

01 Employer Information

Name:
New York Motors, Inc.

Doing Business As (DBA) Name(s)
New York Motors Ford

FEIN (optional):

Physical Address:
123 Main Street, New York, NY 10000

Mailing Address:
P.O. Box 1234, New York, NY 10000

Phone: (212)123-4567

02 Notice given:
 At hiring
 Before a change in pay rate(s), allowances claimed or payday

LS 59 (02/15)

03 Employee's pay rate(s): State if pay is based on an hourly, salary, day rate, piece rate, or other basis.

Annual salary of \$75,000.

04 Employers may not pay a non-hourly rate to a non-exempt employee in the Hospitality Industry, except for commissioned salespeople.

- Allowances taken:**
- None
 - Tips _____ per hour
 - Meals _____ per meal
 - Lodging _____
 - Other _____

05 Regular payday: Thursday

06 Pay is:

- Weekly
- Bi-weekly
- Other: _____

07 Overtime Pay Rate:
 Most workers in NYS must receive at least 1½ times their regular rate of pay for all hours worked over 40 in a workweek, with few exceptions. A limited number of employees must only be paid overtime at 1½ times the minimum wage rate, or not at all.

This employee is exempt from overtime under the following exemption (optional): _____

08 Employee Acknowledgement:
 On this day I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below. I told my employer what my primary language is.

Check one:
 I have been given this pay notice in English because it is my primary language.
 My primary language is _____. I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language.

John Smith
 Print Employee Name

John Smith
 Employee Signature

January 1, 2015
 Date

Carrol Shelby / General Manager
 Preparer's Name and Title

The employee must receive a signed copy of this form. The employer must keep the original for 6 years.

Administrative, executive, or highly-compensated employee exemption (29 U.S.C. § 213(a)(1) and 12 N.Y.C.R.R. § 142-2.2) or any other applicable exemption. In order to be exempt from federal minimum wage and overtime requirements, you must be paid a weekly salary of at least \$970.



Greater New York
Automobile Dealers
Association

Greater New York Automobile Dealers Association Employee Relations Plan
18-10 Whitestone Expressway, Whitestone NY 11357
www.gnyada.com | tel 718-746-5900 | 800-245-4640 | fax: 718-746-5557

The Greater New York Automobile Dealers Association (GNYADA) represents franchised new car and truck dealers in New York City, Long Island, and Putnam, Orange, Dutchess, Westchester and Rockland counties. Our members sell, lease, and service new and used cars and trucks. GNYADA also owns and manages the New York International Automobile Show, the oldest and largest-attended auto show in North America.

The Employee Relations Plan(ERP) is a separate membership program that provides members with professional guidance in the complex field of labor and employment relations. ERP services are provided through a hotline to labor law specialists, seminars, and publications.

employee relations plan
erp