

# Client Alert **Employment & Labor**

*Important Employment Legislative Developments Impacting  
Both NY and NJ Employers*

## **New York Employers**

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### **Welcome Expansion of Authorized Wage Deductions**

As a result of a newly enacted amendment to New York State's Labor Law, the number of authorized deductions employers can make from employee wages has expanded.

New York, like many states, has long had a statute which permitted wage deductions only for items authorized by law (such as tax withholdings) and for items authorized in writing for the benefit of the employee (such as insurance premiums, charitable contributions and dues payable to a labor organization). The law did not allow for deductions for overpayment of wages or wage advances, which was quite restrictive.

### **Additional Deductions for the Benefit of the Employee**

On September 8, 2012, Section 193 of the New York Labor Law was amended to allow employers to make additional wage deductions with an employee's written consent for payments such as tuition, room, board and fees related to certain educational institutions, certain child care expenses, and other transportation, charitable and health related payments.

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All such deductions must be authorized in writing by the employee, must be voluntarily, and be for the benefit of the employee. The employer must provide written notice of all terms and conditions of payment and the manner in which the deductions will be made and advance written notice of any substantial changes. Employers must also meet New York State wage and hour recordkeeping requirements.

#### **Employer Recovery of Overpayments and Repayment of Salary Advances**

Significantly, the amendment permits employers to deduct from employee wages to recover an overpayment of wages where such overpayment is due to a mathematical or other clerical error by the employer. In addition, the amendment permits the repayment of advances of salary or wages made by the employer to the employee. Both of these permissible deductions address common issues faced by employers.

Employers will be required to provide advance notice to the employee prior to making a deduction, as well as to implement a procedure for employees to dispute the amount of the deduction. Further, employers must make current account information available to the employee that details expenditures and deductions.

The new law will take effect on November 6, 2012 and currently is set to expire three years after the effective date.

## **New Jersey Employers**

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### **Beware of New Posting and Notice Requirements**

Effective November 21, 2012, New Jersey employers with 50 or more employees will be required to post in the workplace and distribute to each of its employees a notice of his or her right to be “free of gender inequity or bias in pay, compensation, benefits or other terms or conditions of employment..” The New Jersey Department of Workforce and Labor (“NJDOL”) will be preparing the new notice.

The new law requires employers to distribute the notice to all employees (1) by no later than 30 days after it is issued by the NJDOL, (2) at the time of hire if the worker is hired after the date the new law was enacted, (3) annually, on or before December 31 of each year, and (4) at any time upon the employee’s request. The notice must be made available via one of three specified methods. Additionally, the employer, within three days of receipt of the notice, must distribute and obtain a signed

acknowledgement from each employee confirming that he/she read and understood the terms of the notice, and there are language posting requirements as well.

Although the statute is scheduled to take effect on November 21, 2012, employers will have an additional 30 days to comply with the the new law once the NJDOL issues the new notice.

### Employer Action Items

- » New Jersey employers should be aware that the notice will be published shortly by the NJDOL, and be prepared to disseminate and post it as required.
- » New York employers should begin to prepare forms that will assist them to comply with the new permitted deductions and required notices to employees concerning such deductions.

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If you have any questions regarding the above, or require assistance in preparing forms that will be helpful in implementation of these new laws, please contact any of the following Sills Cummis & Gross attorneys.

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