
BOND INFORMATION MEMO

Labor and Employment Law

January 2014

New York State Department of Taxation and Finance Provides Guidance Regarding the Minimum Wage Reimbursement Credit

On December 30, 2013, the New York State Department of Taxation and Finance issued a Technical Memorandum providing guidance on a new tax incentive for employers who employ students in New York and pay them the state minimum wage rate. This tax incentive coincides with the three-stage state minimum wage increase. The New York minimum wage rate increased to \$8.00 per hour on December 31, 2013, and is scheduled to increase to \$8.75 per hour on December 31, 2014, and \$9.00 per hour on December 31, 2015.

The minimum wage reimbursement credit took effect on January 1, 2014, and will end on December 31, 2018. It allows eligible employers, or owners of eligible employers, to obtain a refundable tax credit equal to the total number of hours worked by certain students during the taxable year for which they are paid minimum wage, multiplied by the applicable tax credit rate for that year. The tax credit rate is \$.75 for 2014, \$1.31 for 2015, and \$1.35 for 2016 through 2018. If during this time, the federal minimum wage is increased to more than 85% of New York's minimum wage, the tax credit rates will be reduced to an amount equal to the difference between New York's minimum wage and the federal minimum wage.

An eligible employer is a corporation, sole proprietorship, limited liability company, or a partnership that is subject to certain New York taxes (*i.e.*, personal income tax, franchise tax, etc.). A student qualifies for the tax credit if the student is:

1. 16-19 years old;
2. employed in New York State;
3. paid at the New York minimum wage rate during some part of the tax year; and
4. enrolled full-time or part-time in an eligible educational institution during the period he or she is paid the New York minimum wage rate.



Bond publications are for clients and friends of the firm and are not a substitute for professional counseling or advice. For information about our firm, practice areas and attorneys, visit our website, www.bsk.com.
Attorney Advertising • © 2014 Bond, Schoeneck & King, PLLC



Commitment • Service • Value • Our Bond

The educational institution does not have to be located in New York State, but it must maintain a regular faculty and curriculum, and must have a regularly enrolled student body in attendance where its educational activities are regularly carried on. Examples of educational institutions include secondary schools, colleges, universities, and trade, technical, and vocational schools. Correspondence schools, on-the-job training courses, and schools only offering courses through the Internet do not qualify as educational institutions.

Employers must obtain documentation to verify that the individual is enrolled as a student at an eligible educational institution, and must make such documentation available to the Tax Department upon request. Examples of acceptable documentation include:

1. a student identification card;
2. a current or future course schedule issued by the school;
3. a letter from the school verifying the student's current or future enrollment; or
4. working papers (a Student General Employment Certificate – AT-19).

Employers should familiarize themselves with this new tax incentive, as many may employ students who qualify for the credit. To the extent employers do employ such students, they should immediately verify the student's status and obtain the appropriate documentation. It is important to note that employers are prohibited from discharging an employee and replacing that employee with an eligible student in order to qualify for the tax credit. Additionally, a student who is used as the basis for this tax credit may not be used by an employer as the basis for any other tax credit.

To learn more, contact Kerry W. Langan at (315) 218-8305 or klangan@bsk.com.