



Minimum Wage in New York

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What is the current minimum wage?

As of 12/31/2022, the New York State minimum wage in “upstate” counties is \$14.20 per hour, except for fast food and tipped employees. Following is the schedule by region:

NYC - Big Employers (of 11 or more)	\$15.00
NYC - Small Employers (10 or less)	\$15.00
Long Island & Westchester	\$15.00
Remainder of New York State Workers	\$14.20*

*Future increases will be based on an indexed schedule to be set by the Director of the Division of the Budget in consultation with the Department of Labor following an annual review of the impact.

The New York minimum wage requirements apply to agricultural employers if they have paid wages for farm labor in excess of \$3,000 in the prior year and applies to all employees unless they fall into an exemption. The Fair Labor Standards Act (FLSA) applies to all employees of a covered agricultural employer unless they fall within one of the exemptions described below.

When is an agricultural employee exempt from the FLSA’s minimum wage provisions?

An agricultural employee is exempt from the FLSA’s minimum wage requirements if *any* of the following circumstances apply:

- 1) The employee is employed in a bona fide executive, administrative or professional capacity, or is employed as an outside salesperson (as defined by the U.S. Department of Labor). To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis **at not less than \$684.00 per week**. Job titles do not determine exempt status. In order for an exemption to apply, an employee’s specific job duties and salary must meet all the requirements of the Department’s regulations. More information on the duties test may be found at https://www.dol.gov/whd/overtime/fs17b_executive.pdf
- 2) The employee’s employer did not use more than 500 “man-days” of agricultural labor during any calendar quarter of the preceding calendar year. A “man-day” is defined as any day during which an employee performs agricultural work for at least one hour.
- 3) The employee is the parent, spouse, child, or other member of the employer’s immediate family.

- 4) The employee (a) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which is recognized as generally paying on a piece rate basis in the region of employment; (b) commutes daily from his or her permanent residence to the employer's farm; and (c) the employee has been employed in agriculture less than 13 weeks during the preceding calendar year. (See additional state requirements under Section 1.2 - Piece Rates).
- 5) The employee (a) is 16 years of age or under and is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been and is recognized as generally paying on a piece rate basis in the region of employment; (b) is employed on the same farm as his or her parent or person standing in the place of his or her parent; AND (c) is paid at the same piece rate as employees over age 16 are paid on the same farm.
- 6) The employee is principally engaged in the range production of livestock.

IMPORTANT NOTE: An employee who is exempt from the Fair Labor Standards Act minimum wage requirements may still be subject to the New York minimum wage requirements.

When is an employee exempt from New York's minimum wage provisions?

An agricultural employee is exempt from New York's minimum wage requirements if **any** of the following circumstances apply:

The employee is employed in a bona fide executive, administrative or professional capacity, or is employed as an outside salesperson (as defined by the New York State Department of Labor). To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis **at not less than \$1,065.00 per week** for parts of New York outside of New York City, Long Island, and Westchester. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations. More information on the duties test may be found at <https://labor.ny.gov/legal/counsel/pdf/administrative-employee-overtime-exemption-frequently-asked-questions.pdf>.

- 1) The employee is employed in domestic service in the home of the employer.
- 2) The employee is the parent, spouse, child or other member of the employer's immediate family.
- 3) The employee is a minor under 17 years of age employed as a hand harvest worker on the same farm as his parent or guardian and who is paid on a piece rate basis at the same piece rate as employees 17 years of age and over.
- 4) The employee is an individual employed by/permitted to work for a federal/state/municipal government or political subdivision thereof.
- 5) The employee is an individual who is otherwise subject to the provisions of the New York Minimum Wage Act.

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