

**INSTRUCTIONS - California Wage Theft Prevention Act (WTPA) Notice to Employee**

Effective January 1, 2012, the California Labor Code section 2810.5(a) requires that certain employment information be provided to covered employees at the time of hire, in the language the employer normally uses to communicate employment-related information. The intention of this regulation is that the employer fill out the form and present it to the employee.

This provision applies to: ALL non-union, non-exempt employees, when hired and for current (staff) employees.

The notice is not required for employees working under a collective bargaining agreement if the agreement provides overtime, other working conditions and premium wage rates for all overtime hours worked, based on a regular hourly rate of not less than 30 percent above the state minimum wage. What this means:

**As of July 1, 2014:** Based on the CA minimum hourly wage of \$9.00, anyone earning a union scale rate of at least \$11.70 per hour does NOT need to receive a notice.

**As of January 1, 2016:** Based on the CA minimum hourly wage of \$10.00, anyone earning a union scale rate of at least \$13.00 per hour does NOT need to receive a notice.

The notice is not required for employees who are exempt from overtime requirements, but clients should be aware that **misclassification of exempt status carries significant liabilities**. For more information please visit [http://www.dol.gov/whd/overtime/fs17a\\_overview.pdf](http://www.dol.gov/whd/overtime/fs17a_overview.pdf).

As freelance employees are generally laid off at the end of each project, providing a notice for each project onto which they are hired is recommended.

If working in multiple job categories at multiple rates, all rates should be indicated or new forms should be provided. Please keep in mind that for non-exempt employees, California generally requires daily overtime of at least 1.5X over eight hours and 2X after 12 hours. It also requires 1.5X for hours over 40 in a week as well as any work on the 7th consecutive day of employment in a work week.

Consistent with CA overtime regulations, the form asks for “Rate(s) of pay \$\_\_\_\_\_” and “Overtime rate(s) of pay \$\_\_\_\_\_.”

“Rate(s) of pay” refers to the 1X straight time rate. “Overtime rate(s) of pay” refers to the rate, typically 1.5X, paid after 8 hours. If you will be paying premium overtime after 10, 12 or 14 hours, the related hourly rates should be indicated. See CAPS time card prep memos for related guidance.

Allowances are allowable deductions from an employee’s pay for employer-provided meals or lodging. In our experience this is not typical of industry practice, so in most cases this would be left blank.

Regular Pay Day: California requires employers to establish a work week, pay periods and regular pay days. CA labor code Section 201.5 provides that freelance hires who complete their assignments may be paid on these established pay cycles. The production company’s payday and pay cycle should be indicated.

Acknowledgement: Both the production company representative and the employee should fill in and sign the Acknowledgement section. The production company should retain the original and should provide a copy to the employee. Do not send a copy to CAPS; any copies sent to CAPS will be destroyed.

The attached form has been updated consistent with changes directed by the CA DLSE on 4/12/2012.

Please e-mail [BusinessAffairs@capspayroll.com](mailto:BusinessAffairs@capspayroll.com) with any questions or concerns.

**NEW CALIFORNIA PAID SICK LEAVE**

Unless exempt, the employee identified on this notice is entitled to minimum requirements for paid sick leave under state law which provides that an employee:

- a. May accrue paid sick leave and may request and use up to 3 days or 24 hours of accrued paid sick leave per year;
- b. May not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and
- c. Has the right to file a complaint against an employer who retaliates or discriminates against an employee for
  1. requesting or using accrued sick days;
  2. attempting to exercise the right to use accrued paid sick days;
  3. filing a complaint or alleging a violation of Article 1.5 section 245 et seq. of the California Labor Code;
  4. cooperating in an investigation or prosecution of an alleged violation of this Article or opposing any policy or practice or act that is prohibited by Article 1.5 section 245 et seq. of the California Labor Code.

The following applies to the employee identified on this notice: (Check one box)

1. Accrues paid sick leave only pursuant to the minimum requirements stated in Labor Code §245 et seq. with no other employer policy providing additional or different terms for accrual and use of paid sick leave.
2. Accrues paid sick leave pursuant to the employer’s policy which satisfies or exceeds the accrual, carryover, and use requirements of Labor Code §246.
3. Employer provides no less than 24 hours (or 3 days) of paid sick leave at the beginning of each 12-month period.
4. The employee is exempt from paid sick leave protection by Labor Code §245.5. (State exemption and specific subsection for exemption): \_\_\_\_\_



# California Wage Theft Prevention Act (WTPA) Notice to Employee

Effective January 1, 2012, California Labor Code section 2810.5(a) requires that the following information be provided to certain employees at the time of hire, in the language the employer normally uses to communicate employment-related information. This provision applies to **ALL non-union, non-exempt employees and ALL union, non-exempt employees working under a Collective Bargaining Agreement (CBA), IF the CBA does not expressly provide for the wages, hours of work, and working conditions of the employee, and if the CBA does not provide premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent above the state minimum wage.** For freelance employees this notice should be provided for each project for which they are hired. Employees must be paid the agreed rate for all work in the hired category on a project basis. Any rate changes must be documented by a new notice.

**Hiring Employer Legal Name/Prod. Co.** (including any d/b/a/s) \_\_\_\_\_

Main Office address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Mailing address (if different) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone (\_\_\_\_) \_\_\_\_-\_\_\_\_\_

Is hiring employer a staffing agency/business (e.g. Temporary Services Agency, Employee Leasing Co., or Professional Employer Organization [PEO])?

Yes  No

**Employee Name:** \_\_\_\_\_ Your Job/Occupation Category is: \_\_\_\_\_

Project Name/# \_\_\_\_\_ Start Date \_\_\_\_\_

**Non-Exempt Employees:** Rate(s) of pay \$ \_\_\_\_\_ Overtime rate(s) of pay \$ \_\_\_\_\_

Rate by (check box):  Hour  Day  Week  Other (provide specifics): \_\_\_\_\_

Does a written agreement exist providing the rate(s) of pay? (check box)  Yes  No

If yes, are all rate(s) of pay and bases thereof contained in the written agreement? (check box)  Yes  No

Allowances, if any, claimed as part of minimum wage (incl. meals or lodging): \_\_\_\_\_

(If the employee has signed the acknowledgment of receipt below, it does not constitute a "voluntary written agreement" as required under the law between the employer and employee in order to credit any meals or lodging against the minimum wage. Any such voluntary written agreement must be evidenced by a separate document.)

**Regular pay day:** \_\_\_\_\_

**Workers Comp. Ins. Carrier:** AIG C/O Sedgwick CMS Insured Employer of Record: CAPS, LLC

Policy No.: 015684714 Address: PO Box 14440, Lexington, KY 40512-4440 Phone: 866-495-7844

### Acknowledgement of Receipt: (Optional)

_____ (PRINT NAME of Employer representative)	_____ (PRINT NAME of Employee)
_____ (SIGNATURE of Employer representative)	_____ (SIGNATURE of Employee)
_____ (Date)	_____ (Date)

The employee's signature on this notice merely constitutes acknowledgment of receipt.

Labor Code section 2810.5(b) requires that the employer notify you in writing of any changes to the information set forth in this Notice within seven calendar days after the time of the changes, unless one of the following applies: (a) All changes are reflected on a timely wage statement furnished in accordance with Labor Code section 226; (b) Notice of all changes is provided in another writing required by law within seven days of the changes. The full text of Labor Code section 2810.5 may be found at [http://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LAB&sectionNum=2810.5](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=2810.5).

This form is an adaptation of the template notice issued by CA DLSE on April 12, 2012 which may be found at [www.dir.ca.gov/DLSE](http://www.dir.ca.gov/DLSE) and is designed to meet the specific production needs of CAPS clients. This form is intended solely for purposes of compliance with CA Labor Code Sec. 2810.5, is not a contract and does not change the "at will" status of any "at will" employee recipient. This form is made available as an aid to compliance with CA Labor Code Sec. 2810.5. It is not intended as legal advice, nor as a substitute for review by legal counsel.

**Original should be retained by the Employer. A duplicate signed copy should be provided to the employee. Do not send a copy to CAPS.**