



New Year Compensation Memos

January 2024 Employer Alert

As part of starting off the new year successfully, as an employer, you should be individually issuing to each of your employees a new year compensation memo. This memo is a part of best HR practices, to help define, limit, and satisfy your obligations as an employer.

What is a new year compensation memo?

A new year compensation memo is a single page document that individually lets your employees know for the upcoming year:

- their 2024 annual salary or hourly wage
- their 2024 commission, bonus, vacation, and other compensation entitlements
- whether there is any earned and unpaid 2023 vacation pay entitlement and when it will be paid out
- whether there is any earned and unpaid 2023 overtime pay entitlement and when it will be paid out
- that compensation packages are to be treated confidentially and not discussed with coworkers

Why is a new year compensation memo important?

A new year compensation memo allows you to properly keep track of what each employee is entitled to. All too often there can be a disconnect between what the employee believes and what the employer believes are the employee's entitlements. For example, an employee may think that they have racked up 35 overtime lieu hours, but their manager may think that the total is only 5 overtime lieu hours. Or a rogue supervisor may have promised an employee a \$5,000 salary increase, but the reality is

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that no increase is planned by management. Using a new year compensation memo can help ensure everyone is on the same page.

In addition, a new year compensation memo can also be used to define and limit your obligations as an employer. For example, the memo can be used to confirm that the new bonus program is discretionary and only awarded during active employment. Or the memo can be used to confirm that overtime entitlements only kick in after 44 hours of work in a week and any overtime hours are to be approved in advance. Or the memo can be used to confirm how vacation days are to be scheduled. While the employment agreements and the Employee Handbook are the best place for defining and limiting your obligations as an employer, the new year memo can provide a great additional opportunity.

Finally, a new year compensation memo can also potentially be used as a defence in the event of a Ministry of Labour claim or civil litigation. The annual memos issued to an employee, will allow you as the employer to easily confirm that the employee received all of their entitlements. In addition, the annual memos issued to an employee can be used to establish a cap or limitation period. As a brief overview, when entitlements accrue without any hard payout date, no limitation period clock starts to run. As such, an employee could potentially sue for vacation pay going back 10+ years. However, if you use a memo to confirm all earned and unpaid vacation is now to be paid out, then the limitation period clock starts to run. The employee is then only able to sue for vacation pay going back 2 years (being the normal limitation period). A new year compensation memo can potentially block claims for entitlements more than 2 year prior.

If you have not already adopted the practice of issuing new year compensation memos to your employees, then now is a perfect time to start. For more information or for a tailored template new year compensation memo to be used by your business, please contact [our firm](#).

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