



## Season 3, Episode 15: “Uniform Matters: Understanding the Uniform Credit in New York”

Speaker: Lee Jacobs, Barclay Damon

**[Lee Jacobs]:** Hello, and welcome. My name is Lee Jacobs, and it’s my pleasure to welcome you to Barclay Damon’s latest episode of the *Labor & Employment Podcast*. This episode is entitled “Uniform Matters: Understanding the Uniform Credit in New York.” In this episode, we’re going to dive into the intricacies of the uniform credit in New York, a critical topic for many employers and employees in the hospitality and other industries. And for those listeners who might not be directly affected by the uniform credit, I still encourage you to stay tuned. Understanding these regulations can help you manage your workforce more effectively and ensure compliance with state laws.

**[Lee]:** Before we jump into it, let’s set the stage by discussing the importance of uniform policies and credits. In previous episodes, we’ve covered various wage and hour issues, including the tip credit and overtime calculation. Today, we’ll focus on how the uniform credit works, its implications, and best practices for compliance. Now, this episode is actually part of a series inspired by a question from my colleague, Rosemary Enright, who’s unable to join us for today’s episode. But I promise you, listeners, she’ll be back soon. Her question to me was, how do I calculate overtime when someone has a tip credit? Now, we previously discussed the tip credit in detail, and we’ll soon discuss something called the meal deduction. But here we’re going to explore another critical aspect: the uniform credit. Now to legally charge your employees for things like meals or if employees should be reimbursed for purchasing or laundering uniforms, specific requirements by the law must be followed. This episode is going to tackle uniforms, and our next episode will tackle meal credits. So what is a uniform? Let’s clarify and clear this definition up first from the very outset. A uniform is defined as clothing that is required by an employer that is not suitable for wear outside of work.

**[Lee]:** This can include specific types of clothing such as branded shirts, pants, aprons, or any other attire that distinguishes employees as part of the business. Uniforms are common as we talked about in the hospitality industry, but are also in retail, health care, and other sectors. Now, what is a uniform credit? The uniform credit is an allowance that employers are required to pay to their employees to offset the cost of providing and maintaining uniforms. The New York State Department of Labor has established rules that ensures that an employee’s wages are not unfairly reduced because they have to either purchase a required uniform or launder and maintain a uniform—something that is not street ready or something that is wash-and-wear ready. So the law says that if you require your employees to purchase a uniform or wear something that is not street-ready or not wash-and-wear, you must reimburse them for the costs of that uniform or for the costs for maintaining that uniform.

**[Lee]:** So the first thing we need to be aware of when we’re talking about these things and note, I’m not even going to discuss the costs of... what it actually costs an employee, what you have to reimburse your employees for having a uniform, because my advice to you would be is: don’t do it. Don’t require a required uniform that you must charge your employees for, or don’t require a uniform that’s not street-ready or wash-and-wear.

**[Lee]:** And we’ll define both of these terms. But the very first thing that we need to do is to have a notice and recordkeeping requirements. We have to provide notice of our uniform, of our dress code, of our whatever it may be, in our employee handbook. And then we need to keep detailed costs of these uniforms and

other types of maintenance that we're trying to do. Now, regardless of your industry, as we've talked about, employers must purchase or reimburse employees for required uniforms. They are also responsible for paying for the maintenance of required uniforms. Here are some ways that employers can avoid uniform maintenance pay. One: Establish a dress code. Instead of requiring a uniform, a required uniform, employers can establish a dress code that allows employees to wear ordinary clothing of a specific color or style.

**[Lee]:** Here we would be cautious not to specify name brands or detailed requirements, as this may obligate an employer to purchase and maintain these items. So it's simply a dress code, a black polo shirt and blue jeans, a white button-down shirt and khaki pants. Business casual clothing. It's just a dress code. Clothes that an employee can find in their regular store, or perhaps even in their own closet, and clothes that can be washed and worn. Excuse me, be washed and wear... worn and thrown into their regular laundry with their other clothing. And it's also clothing that an employee can just walk out and be street ready in. A second concept is something, as is simple as providing just name tags or aprons or vests to your employees. Employers can provide a name tag or apron that employees wear with their regular clothing that is governed by a dress code. Keeping these items at the workplace and cleaning them on site can avoid additional maintenance costs. Think of a certain store. Big, blue, big-box store. Every employee there wears appropriate work attire and a vest with their name tag on it. Think of a home supply depot where everyone there wears clothes that fits within a certain dress code, and everyone wears a issued orange apron.

**[Lee]:** Think of your favorite coffee shop where everyone has a green apron. Here we're issuing too people aprons and other pieces of clothing, a name tag, things that are kept in the workspace... if they become dirty or unusable, the employer washes them for the employee and there are no costs, no reimbursements. The employer does not have to pay the employee for one, purchasing anything, or two, laundering anything. The second way to avoid having to pay your employees for their uniforms or maintaining their uniforms is to purchase for them, wash-and-wear uniforms. Employers can provide uniforms that are easy to clean with regular laundry. For instance, a logo t-shirt that can be washed with everyday clothing without the need for special care. Ensure that each employee has enough uniforms based on the average number of workdays per week. Here I can think of a landscaping company for instance, that issues to all of its employees five t-shirts with the landscaping company's logo on the back. This is a required uniform. I'm requiring my employees to wear it. Therefore I would have to reimburse them for it if they were buying the shirt otherwise. So I'm giving it to them for free. And I'm also going to be laundering it for them.

**[Lee]:** I'm going to be giving everyone five of these shirts. And these shirts can go in their regular laundry with their regular clothes. Now I don't have to pay them to maintain it either. Saving my business, a lot of money potentially. Another way to approach this is that you, the employer, provides laundry services for those things that either are specialized or can't be laundered themselves, things that need to be dry cleaned. So employers can take responsibility for laundering uniforms. This can involve assigning laundry duties to an employee or using a professional service. If employees choose to launder their uniforms instead, they must be informed of the free functional and reasonably frequent laundry services provided by the employer in writing. Think of chefs that work in the back of the house of a kitchen. They need to have crisp, clean white uniforms all the time. Certain workers in the health care industry, certain janitorial workers, workers that need to have regular, consistent, clean pieces of clothing. Sometimes clothing that you just cannot throw into your regular laundry machine with your regular wash-and-wear clothing. In these instances, rather than giving your employees money to pay for the washing and cleaning of these clothes, do it yourselves.

**[Lee]:** Have a stack of chef's whites, janitorial clothing, health care worker clothing sitting on a shelf in the changing room, in the locker room ready for your employees to change into it. They arrive at work. They change into their uniform. They're done with their shift. They change out of their uniform. They throw it into the dirty laundry pile. And you, the business, take care of it, whether you launder it yourselves or send it out to a cleaning service. Here, you're not having to pay every single one of your employees the set amount (which we're going to talk about) to clean and maintain the uniforms. Rather, you're paying an outside service.

Controlling costs and controlling tracking of those costs. Now, what are those costs? What must we pay our employees? So if we require our employee to purchase a required uniform that is not street-ready, meaning it's not something that they can just go walk onto the street and wear, then we have to reimburse them completely for the cost of that uniform. Or if we are giving them a required uniform and asking them to launder it themselves, or we are asking them to wear, non-wash-and-wear clothing, then we have to pay them. And this is how much we have to pay them. These are the 2024 rates, by the way, for employees working over 30 hours per week in New York City, Long Island, and Westchester, it's \$19.90 per week. For employees working over 30 hours per week, and the remainder of New York State, it's \$18.65 per week. For employees working more than 20 but fewer than 30 hours per week in New York City, Long Island, and Westchester, it's \$15.75 per week, and the rest of the state it's \$14.80 per week. For employees working 20 hours or fewer per week, it's \$9.50 per week in Long Island, New York City, and Westchester. And outside of those areas, it's \$8.95 per week.

**[Lee]:** So whether you're in the hospitality or other industry, the rules for uniforms are similar. No allowance for supply or maintenance or laundering of required uniforms shall be permitted as part of the minimum wage. If an employee purchases a required uniform, the employer must reimburse them for the cost no later than the time of their next payment of wages. If an employer fails to launder or maintain a required uniform for any employee, they must pay the employee, in addition to the minimum wage prescribed. Meaning the employee gets paid more than their regular wages if they have to wash or clean their uniform.

**[Lee]:** And as we talked about, it's based upon the number of hours per week that they work. So it's important to understand that the uniform credit is implied as a positive amount to the employee, because they have to launder the uniform themselves. This means that the employer is compensating the employee for the additional expense of maintaining their uniform. Now, if you fail to properly reimburse your employee for their uniforms, their required uniforms or fail to give them a credit for cleaning their uniforms when you should be doing it for them, that can lead to problems. First, it can now... when we should be giving our employees a positive bonus against their wages, if we fail to give them that positive bonus against their wages, it is then going to be treated as a deduction, a deduction from their wages and therefore we have to...then they could fall beneath minimum wage, and we risk suffering not only having to reimburse them for their wages. Excuse me, reimburse them for their failure to pay the uniform credit in the first instance. But now we are suffering penalties for paying our employees below minimum wage. So here are some tips for compliance. The first: clear communication. Provide written notices to your employees in your handbook, in your onboarding documents, and perhaps in separate documents about the uniform requirements and associated costs therewith.

**[Lee]:** Keep accurate records. Maintain detailed records of your uniforms costs, maintenance, and any credits or deductions made against your employee's wages. Regularly review your policies. Periodically review your uniform policies and practices to ensure that they comply with the latest regulations. Because uniform policies are not just about compliance, they also play a crucial role in branding and employee morale. Well-maintained employee uniforms can enhance the professional appearance of your staff and contribute to a positive customer experience. But if you are not paying, if you're not giving your employees enough shirts, or you're asking them to wear something that was required that you have to reimburse them for, or you have to pay them to launder or maintain, or you are laundering and maintaining that special apron or that special tie that can only be dry cleaned, does it really worth the buck? Is it worth these costs? Is it contributing actually to positive customer experiences or improving employee morale? Check in on these things. Make sure that those plans that you had when you were originally starting your business are actually coming to fruition in practice. See if your uniform and your policies relating to it actually are boosting more employee morale, boosting employee's satisfaction, reducing turnover, and leading to a positive customer experience.

**[Lee]:** So the failure to comply with uniform credit regulations can result in significant penalties and back pay obligations. Noncompliance may lead to investigations by the Department of Labor and private lawsuits,

and the need to reimburse employees for improper deductions. If you fail to pay the uniform credit, it can lead to employee's wages dropping below minimum wage and exposing you to fines and penalties. It is so essential to stay informed and to adhere to the regulations to avoid these consequences.

**[Lee]:** So to wrap up, we've covered the definition of uniforms. The concepts of the uniform credit, the legal requirements, maintenance options, pitfalls, and the importance of compliance. Regularly reviewing your uniform policies and staying updated with regulations is key to maintaining a compliant and positive work environment. So if you found this episode helpful, please subscribe, like, and listen to not only this episode, but others. Visit our website for additional resources and feel free to contact us for assistance. So now on to our questions. Before you go, we'd love to hear from you. So we've got some questions for you. So the first question is: how does your business handle uniform maintenance? A, do you do it yourselves? B, do you ask your employees to take care of your uniforms? Or C, you don't have any uniforms whatsoever.

**[Lee]:** Thank you so much for joining me on this episode of Barclay Damon's Labor & Employment Podcast, "Uniform Matters: Understanding the Uniform Credit in New York." I'm Lee Jacobs and I look forward to our next discussion. And until then, stay compliant and keep your workforce looking sharp. Thank you so much, everyone.

**[Ari]:** The *Labor & Employment Podcast* is available on [barclaydamon.com](http://barclaydamon.com), YouTube, and all your favorite streaming podcast platforms. Like, follow, share, and continue to listen. Thanks.

*Disclaimers:*

*This material is for informational purposes only and does not constitute legal advice or legal opinion. No attorney-client relationship has been established or implied.*

*Barclay Damon Live podcast transcripts and captions are automatically generated through artificial intelligence, and the texts may not have been thoroughly reviewed. The authoritative record of Barclay Damon Live programming is the audio file. Thanks for listening.*