



Subject: OT FOR TIPPED EMPLOYEES

Restaurants and other employers of “tipped employees” are entitled to pay their tipped employees less than minimum wage (as little as \$2.13 per hour) IF the employee’s wages plus tips they collect are at least the current Federal minimum wage of \$7.25 (or a higher state minimum rate. Indiana’s current minimum wage is also \$7.25).

Many restaurants pay \$2.13 per hour to their servers, with customer tips being “credited” of \$5.12 against the \$7.25 minimum wage.

Calculating Overtime Wages for Tipped Employees

Restaurants and other employers of “tipped employees” often assume they can satisfy their “overtime” pay wage requirement by paying \$3.20 per hour ($\2.13×1.5) to tipped employees, for hours per week in excess of 40. This can be a costly mistake! **A correct calculation of the overtime wage amount for a tipped server earning \$2.13 in wages as follows:**

Federal minimum wage	\$7.25
Rate for hours in excess of 40 per week	<u>x 1.5</u>
OT rate	10.88
Less “tip credit” (\$7.25 less \$2.13 per hour)	<u>(5.12)</u>
Required wage for hours over 40	<u>\$5.76</u>

If an employer pays a tipped employee more than the required \$2.13 per hour, the overtime hourly wage would be more than \$5.76 and can be calculated with the above simple formula.

A Few Observations

- Overtime is based on hours in excess of 40 per week. If an employer pays employees bi-weekly, and an employee works 30 hours one week and 50 hours in “week 2” the employee is legally entitled to 10 hours at the overtime (1 ½ X) rate;
- An employer must maintain detailed records of daily hours worked and tips reported in order to prove their calculated wage and overtime payments; and
- Minimum wage and overtime laws are vigorously enforced by the Department of Labor. Either the DOL or an employee can sue an employer for back wages plus onerous penalties.

Conclusion

If you employ people who receive customer tips, make sure you correctly calculate minimum wage and overtime pay for those employees. This requirement certainly applies to restaurants, but also to many barbershops, styling salons, taxi and limo drivers, motels, parking attendants, etc.

AccuPay's teams of CPP's and CPA/advisors correctly calculates minimum wage and OT rates for many employers who pay "tipped employees". Call us at 885-7600 with your questions about "tipped employees" or "tip reporting".

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