

Required Tip Credit Notifications

May 06, 2011

Employers who use the Fair Labor Standards Act (FLSA) "tip credit" provision should be aware that the Department of Labor's new notice requirements for the use of the tip credit took effect May 5, 2011.

On April 5, 2011 the Department of Labor issued final regulations impacting an employer's use of a "tip credit" for tipped employees. Among the changes made by the new regulations is a requirement that employers who elect to take a tip credit inform employees:

- Of the amount of the cash wage to be paid to the employee;
- Of the additional amount by which the wages of the employee are increased by the tip credit (the value of which may not exceed actual tips received);
- That all tips must be retained by the employee (except for a valid tip pooling arrangement); and
- That the tip credit shall not apply to any employee who has not been informed of the requirements stated above.

Even though the Department of Labor did not mandate that employers provide notice to employees in writing, employers who apply a tip credit should strongly consider using a written acknowledgement that adheres to the final regulation's requirements. WorkLife HR Field Representatives and WorkLife HR Managers can assist you in creating a document specific to your company. They can be contacted at (888) 344-3794.

IMPORTANT: This document is designed to provide a general overview of the subject. It does NOT attempt to cover all of the law's provisions and should NOT be used as legal advice for implementation activities. We encourage you to seek professional advice, including legal counsel, regarding how the new requirements will affect your specific circumstances.

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