

**I work in a job where I make tips. Do I have the right to minimum wage?** Yes. Like other employees, you have the right to the minimum wage of \$7.25 per hour. Unlike other employees, a part of your wages can be paid through the tips that you earn. You are a “tipped employee” if you customarily and regularly make over \$30 a month in tips. Your employer only has to pay you \$2.13 per hour in your paycheck, as long as you make at least \$5.12 per hour in tips (for a total of \$7.25 per hour – the minimum wage). Your employer can take a credit against your wages for the amount you earn in tips (called a “tip credit”). If you earn less than \$5.12 per hour in tips in a work week, your employer must make up the difference so that you receive \$7.25 per hour in that work week. *Note:* The tip credit is only for tipped work. If you spend the morning shift cooking (non-tipped work) and the afternoon shift waiting tables (tipped work), your employer can only use the tip credit for the hours you spent waiting tables. For the hours spent cooking, you must be paid at least \$7.25 an hour in your paycheck, regardless of what you made in tips.

**How can I tell if I am making minimum wage?** Minimum wage is calculated on a work week by work week basis. (A work week is seven 24-hour periods in a row. Your employer cannot change the work week to avoid paying you properly.) Your tips and wages must add up to at least \$7.25 an hour for each hour worked in a single work week, or your employer must make up the difference. To see if you are making minimum wage, add your wages for a single work week to your tips for the same period. Divide the total by the number of hours you have worked. This is your hourly rate for the week, which must be at least \$7.25.

### What are my rights as a tipped employee?

- *Tip credits* - Your employer must tell you the amount of the tip credit, if any. The credit cannot be for more than the tips that you earn. The maximum allowed by law is \$5.12 per hour.
- *Overtime* - You are entitled to one and a half times your regular hourly pay for every hour over 40 worked in a single work week. Minimum overtime is at least \$10.88 an hour (1-1/2 X \$7.25 an hour). You may be entitled to more if you make a lot in tips.
- *Pay periods* - Like other employees, you are entitled to be paid at least twice a month, and on a regular schedule.
- *Earnings statement* – Your employer must give you a written earnings statement (pay stub) even if you are paid in cash. The statement must have the employer’s name and address, your name, the pay period, your wages for that period, hours worked, the tip credit (if any), and itemized deductions.
- *Deductions* – Your employer can deduct for payroll taxes or as ordered by a court (for example, for child support). Any other deductions must be for a lawful purpose and you must agree to them in writing. Deductions for customer walkouts, breakage, and cash register shortages are not allowed. If uniforms are required, your employer must provide them and cannot make deductions for them.

**Can my employer take my tips?** No. It is illegal for your employer to take any of your tips, even if you agree. If your employer takes your tips, your employer can’t pay you \$2.13 an hour; it has to pay \$7.25 an hour in your check. However, if your employer complies with very strict requirements, you can be required to contribute a percentage of your tips to a tip pool.

**What is a tip pool?** A tip pool is an arrangement where employees share a percentage of their tips. Contributions must be “reasonable” (usually no more than 15%), but there is no set percentage. Tip pools include tipped employees and other service employees who have regular contact with customers. Tip pools *cannot* include managers or supervisors, even if they make tips. Back-line workers, such as cooks, dishwashers, and food preparers also cannot participate. If you are part of a tip pool that includes ineligible employees, you are owed all tips you made to the pool, the full \$7.25 minimum wage, and other damages.

**Who keeps a record of my tips?** By law, your employer is required to record keep a record of information including hours worked, tips paid, and amounts the employer pays you. You must also report all of your tips to your employer and to the IRS.