

THE TIP CREDIT

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THE TIP CREDIT IN OTHER STATES

- Seven states have no tip credit and require employers to pay the full state minimum wage to tipped employees.
- 26 states provide a tip credit, but require employers to pay a tipped minimum wage that is higher than the \$2.13 per hour required by federal law.
- 17 states allow employers to pay the \$2.13 per hour tipped minimum wage allowed by federal law.

ISSUE

What is the “tip credit” and how is it applied under federal and state laws?

SUMMARY

Under federal and state laws, the “tip credit” generally allows an employer to count certain employees’ tips towards a portion of their minimum wage requirement. In effect, it reduces the employer’s share of the minimum wage, allowing the employer to pay a lower “tipped minimum wage,” as long as the employee’s tips make up the difference. If the tipped minimum wage plus the employee’s tips do not meet the minimum wage requirement, the employer must make up the difference.

Federal and state tip credit laws use different methods to calculate an employer’s tip credit, but both effectively allow employers to pay their tipped employees a tipped minimum wage that is lower than the minimum wage. Federal law allows a \$5.12/hour tip credit and a \$2.13/hour tipped minimum wage. It also allows states to set higher minimum wage requirements and base their tip credits on this higher wage, as Connecticut has done. Connecticut law currently allows a \$3.37/hour tip credit and a \$5.78 tipped minimum wage for most hotel and restaurant employees in positions that customarily receive tips (i.e., wait staff). It also allows a \$1.69/per hour tip credit and \$7.46/per hour tipped minimum wage for bartenders.

Like Connecticut, most other states require employers to pay a tipped minimum wage greater than the federal minimum. However, 17 states allow employers to pay the \$2.13/ hour tipped minimum wage required by federal law and seven states require employers to pay the full minimum wage with no tip credit.

FEDERAL TIP CREDIT

The federal Fair Labor Standards Act (FLSA) requires employers to pay their tipped employees at least \$2.13 per hour, as long as their tips make up the rest of the federal minimum wage requirement. The federal \$2.13 tipped minimum wage has been in place since 1991. At that time, when the federal minimum wage was \$4.25, it effectively allowed employers to take \$2.12 per hour tip credit. However, the tipped minimum wage has not increased since that time, even as the federal minimum wage increased in 1996, 1997, 2007, 2008, and 2009. Thus, under the current \$7.25 federal minimum wage, the \$2.13 tipped minimum wage effectively provides employers with a \$5.12 per hour tip credit.

Under the FLSA, “tipped employees” are those who customarily and regularly receive more than \$30 per month in tips. For additional information about the federal tip credit law, see <http://www.dol.gov/whd/regs/compliance/whdfs15.htm>.

CONNECTICUT’S TIP CREDIT

The FLSA establishes minimum wage requirements that all the states must meet, but it also allows them to set their own minimum wage requirements, including tip credits, if they are more beneficial for employees. Thus, in Connecticut, the state’s \$9.15 minimum wage requirement supersedes the \$7.25 federal minimum wage.

Unlike federal law, which sets a minimum dollar amount which employers must pay their tipped employees, Connecticut law sets its tip credit as a percentage of the minimum wage and allows employers to use an employee’s tips to meet that percentage of their minimum wage requirement. Thus, as the state’s minimum wage increases, the value of the tip credit and the tipped minimum wage also increase (unless legislation adjusts the tip credit percentage separately).

Connecticut law also differentiates between bartenders and other tipped employees in the hotel and restaurant industry who customarily and regularly receive tips. While it provides a tip credit for bartenders’ employers, the credit is smaller than the credit otherwise provided for other hotel and restaurant wait staff. Table 1 shows the tip credit and the employer’s share of the minimum wage under the current minimum wage and increases scheduled for 2016 and 2017.

Table 1. Connecticut's Tip Credit, 2015-2017

<i>Year</i>	<i>Minimum Wage</i>	<i>Tip Credit</i>	<i>Tipped Minimum Wage</i>
2015	\$9.15	Wait staff: 36.8% (\$3.37) Bartenders: 18.5 % (\$1.69)	\$5.78 \$7.46
2016	\$9.60	Wait staff: 36.8% (\$3.53) Bartenders: 18.5% (\$1.78)	\$6.07 \$7.82
2017	\$10.10	Wait Staff: 36.8% (\$3.72) Bartenders: 18.5% (\$1.87)	\$6.38 \$8.23

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Table 2 shows the value of the tip credit and tipped minimum wage by state, as of January 1, 2015, according to the U.S. Department of Labor.

Table 2. The Tip Credit and Tipped Minimum Wage by State (as of 1/1/15)

<i>State</i>	<i>Minimum Wage</i>	<i>Tip Credit</i>	<i>Tipped Minimum Wage</i>
Alabama	\$7.25	\$5.12	\$2.13
Alaska	\$8.75	None	None
Arizona	\$8.05	\$3.00	\$5.05
Arkansas	\$7.50	\$4.87	\$2.63
California	\$9.00	None	None
Colorado	\$8.23	\$3.02	\$5.21
Connecticut	\$9.15	\$3.37 (wait staff) \$1.69 (bartenders)	\$5.78 \$7.46
Delaware	\$7.75	\$5.52	\$2.23
Georgia	\$7.25	\$5.12	\$2.13
Florida	\$8.05	\$3.02	\$5.03
Hawaii	\$7.75	\$0.50	\$7.25
Idaho	\$7.25	\$3.90	\$3.35
Illinois	\$8.25	\$3.30	\$4.95
Indiana	\$7.25	\$5.12	\$2.13
Iowa	\$7.25	\$2.90	\$4.35
Kansas	\$7.25	\$5.12	\$2.13
Kentucky	\$7.25	\$5.12	\$2.13
Louisiana	\$7.25	\$5.12	\$2.13
Maine	\$7.50	\$3.75	\$3.75
Maryland	\$8.50	\$4.37	\$3.63
Massachusetts	\$9.00	\$6.00	\$3.00
Michigan	\$8.15	\$5.05	\$3.10
Minnesota	\$8.00	None	None
Mississippi	\$7.25	\$5.12	\$2.13
Missouri	\$7.65	\$3.83	\$3.82
Montana	\$8.05	None	None
Nebraska	\$8.00	\$5.87	\$2.13
Nevada	\$8.25	None	None

Table 2 (continued)

State	Minimum Wage	Tip Credit	Tipped Minimum Wage
New Hampshire	\$7.25	\$3.99	\$3.26
New Jersey	\$8.38	\$6.25	\$2.13
New Mexico	\$7.50	\$5.37	\$2.13
New York	\$8.75	\$3.75 (food service) \$3.10 (other service) \$3.85 (certain resort hotels)	\$5.00 \$5.65 \$4.90
North Carolina	\$7.25	\$5.12	\$2.13
North Dakota	\$7.25	\$2.39	\$4.86
Ohio	\$8.10	\$4.05	\$4.05
Oklahoma	\$7.25	\$3.63	\$3.62
Oregon	\$9.25	None	None
Pennsylvania	\$7.25	\$4.42	\$2.83
Rhode Island	\$9.00	\$6.11	\$2.89
South Carolina	\$7.25	\$5.12	\$2.13
South Dakota	\$8.50	\$4.25	\$4.25
Tennessee	\$7.25	\$5.12	\$2.13
Texas	\$7.25	\$5.12	\$2.13
Utah	\$7.25	\$5.12	\$2.13
Vermont	\$9.15	\$4.58	\$4.57
Virginia	\$7.25	\$5.12	\$2.13
Washington	\$9.47	None	None
Wisconsin	\$7.25	\$4.92	\$2.33
West Virginia	\$8.00	\$5.60	\$2.40
Wyoming	\$7.25	\$5.12	\$2.13

Source: U.S. Department of Labor (<http://www.dol.gov/whd/state/tipped.htm#foot2>)

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