



TIP FINAL RULE

Effective April 30, 2021:

Eligible Employees

- Employers may mandate a nontraditional tip pool that includes both tipped and nontipped (such as cooks and dishwashers) employees, provided that:
 - (a). The pool does not include any employers, managers, or supervisors; and
 - (b). The employer pays the tipped employees the full minimum wage without applying a tip credit.

Tip Distribution

- An employer may exert control over tips in a tip pool only to promptly distribute tips to the covered employees on the regular payday or, in certain cases, as soon as practicable after the regular payday.

Record Keeping

- Any employer that collects tips received by employees to operate a mandatory tip-pooling or tip-sharing arrangement must also:
 - * Use a symbol, letter, or other notation placed on the pay records identifying each employee who receive tips; *and*
 - * Keep a weekly or monthly amount reported by the employee, to the employer, of tips received (this may consist of reports made by the employees to the employer on IRS Form 4070).

Effective November 23, 2021:

Penalties

- Civil money penalties of up to \$1,100 per violation will be assessed against employers who take tips earned by their employees, regardless of whether those violations are repeated or willful. A willful violation occurs when the employer knew or showed reckless disregard for whether its conduct was prohibited by the FLSA.
- Also clarifies that although managers or supervisors may not receive tips from mandatory tip pools, managers and supervisors are not prohibited from contributing tips to eligible employees in such pools.

Effective December 28, 2021:

Dual Jobs

- An employer may only take a tip credit when the tipped employee is performing tip producing work or:
 - * A tipped employee performs work that supports their tip producing work for no more than 30 minutes.
 - * A tipped employee spends no more than 20% of their hours worked, during their work week, performing work that directly supports their tip producing work.

If you have questions, please contact one of our HR Consultants at **1-888-622-6460**.