



Legal Alert: Reminder - DOL's "Tip Credit" Notice Requirement Takes Effect Today

5/5/2011

Employers who use the FLSA's "tip credit" provision should be aware that the Department of Labor's new notice requirements for the use of the tip credit take effect today, May 5, 2011.

As discussed in our prior [Legal Alert](#), 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. For a more detailed discussion of the final regulation and the tip credit provision, please see our April 13 Legal Alert, available at: <http://www.fordharrison.com/shownews.aspx?show=7126>.

If you have any questions about the issues addressed in this Alert or would like assistance preparing a written notice that complies with the new regulation, please contact the authors of this Alert, [David Prather](mailto:dprather@fordharrison.com), dprather@fordharrison.com, a partner in our Memphis office, or [Dylan King](mailto:dking@fordharrison.com), dking@fordharrison.com, an associate in our Memphis office, or the Ford & Harrison attorney with whom you usually work.