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Washington DC Electorate Votes To Eliminate Tip Credit

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On June 19, 2018, in a referendum known as Initiative 77, residents of the District of Columbia voted to eliminate the tip credit under city law. As a result, the tip credit in Washington, DC will be gradually phased out over the next seven years, and by July 2025, employers will no longer be able to take a tip credit toward their minimum wage obligations to employees who customarily and regularly receive gratuities.

Currently, businesses in Washington DC, including restaurants, may take a tip credit against their minimum wage obligations to employees who customarily and regularly receive gratuities. The current minimum wage in Washington DC is \$12.50 per hour. However, businesses can pay such employees a cash wage of \$3.33 per hour and take a tip credit of \$9.17, provided the cash wage and the tips earned by the employee equal or exceed the minimum wage for all hours worked. If employees do not earn enough tips so that they earn the minimum wage for all hours worked, the employer must pay the difference to the employee. Passage of Initiative 77 gradually eliminates this practice.

Beginning July 1, 2018, the tip credit employers can take towards their minimum wage obligations to employees who customarily and regularly receive gratuities will gradually diminish until it is completely eliminated in July 2025. At that time, employers in Washington DC will be prohibited from taking a tip credit towards their minimum wage obligations to tipped employees and instead will be required to pay all employees the minimum wage, which by that time will be \$15.00 per hour, without any offset for tips.

Based upon the currently scheduled minimum wage increases and the diminishing tip credit established in Initiative 77, employers will have to pay tipped employees over the next several years as follows:

Date	Minimum Wage	Cash Wage Owed	Tip Credit
July 1, 2018	\$13.25	\$4.50	\$8.75
July 1, 2019	\$14.00	\$6.00	\$8.00
July 1, 2020	\$15.00	\$7.50	\$7.50
July 1, 2021	\$15.00	\$9.00	\$6.00
July 1, 2022	\$15.00	\$10.50	\$4.50
July 1, 2023	\$15.00	\$12.00	\$3.00
July 1, 2024	\$15.00	\$13.50	\$1.50
July 1, 2025	\$15.00	\$15.00	\$0.00

Although voters in Washington DC passed Initiative 77, there are two avenues that may still prevent its implementation. First, Initiative 77 is subject to a 30-day Congressional review, which could result in a rejection of the will of the electorate. Further, the DC City Council could pass an ordinance overturning Initiative 77. In fact, a majority of the members of the Council and the Mayor have publically stated that they oppose Initiative 77. However, at this time, it is unclear whether either avenue will be used to overturn Initiative 77.

While not guaranteed to go into effect, employers should begin to prepare for the implementation of Initiative 77 in only a few days. Employers should review their payroll practices to ensure that they take the proper tip credit and engage in careful budgeting to ensure that the reduced tip credit has as minimal an effect on the bottom line as possible.

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