



Minimum Wage Rates Quick Reference Guide

	Effec. Date	UNTIPPED EMPLOYEES	TIPPED EMPLOYEES	
		Minimum wage rate	Minimum cash wage	Maximum tip credit
FEDERAL	9/1/97	\$5.15	\$2.13	\$3.02
Alabama	—	none	none	none
Alaska	1/1/03	\$7.15	\$7.15	none
Arizona	—	none	none	none
Arkansas	10/1/97	\$5.15	\$2.575	\$2.575
California	1/1/02	\$6.75	\$6.75	none
Colorado	10/1/97	\$5.15	\$2.13	\$3.02
Connecticut	1/1/06	\$7.40	\$5.23	\$2.17
Delaware	1/1/06	\$6.15	\$2.23	\$3.92
Dist. of Col.	1/1/06	\$7.00	\$2.77	\$4.23
Florida	1/1/06	\$6.40	\$3.38	\$3.02
Georgia	7/1/01	\$5.15	no min.	no max.
Hawaii	1/1/06	\$6.75	\$6.50	\$0.25
Idaho	9/1/97	\$5.15	\$3.347	\$1.803
Illinois	1/1/05	\$6.50	\$3.90	\$2.60
Indiana	3/1/99	\$5.15	\$2.13	\$3.02
Iowa	9/1/97	\$5.15	\$3.09	\$2.06
Kansas	9/1/97	\$2.65	\$1.59	\$1.06
Kentucky	7/15/98	\$5.15	\$2.13	\$3.02
Louisiana	—	none	none	none
Maine	10/1/05	\$6.50	\$3.25	\$3.25
Maryland	2/16/06	\$6.15	\$3.08	\$3.07
Massachusetts	1/1/01	\$6.75	\$2.625	\$4.125
Michigan	9/1/97	\$5.15	\$2.65	\$2.50
Minnesota				
-large employer	8/1/05	\$6.15	\$6.15	none
-small employer	8/1/05	\$5.25	\$5.25	none
Mississippi	—	none	none	none
Missouri	9/1/97	\$5.15	\$2.575	\$2.575
Montana				
-large employer	9/1/97	\$5.15	\$5.15	none
-small employer	9/1/97	\$4.00	\$4.00	none
Nebraska	9/1/97	\$5.15	\$2.13	\$3.02
Nevada	9/1/97	\$5.15	\$5.15	none
New Hampshire	9/1/97	\$5.15	\$2.38	\$2.77
New Jersey	10/1/05	\$6.15	\$2.13	\$4.02
New Mexico	7/1/05	\$5.15	\$2.125	\$3.47
New York	1/1/06	\$6.75	\$4.35	\$2.40
North Carolina	9/1/97	\$5.15	\$2.13	\$3.02
North Dakota	9/1/97	\$5.15	\$3.45	\$1.70

**UNTIPPED
EMPLOYEES****TIPPED
EMPLOYEES**

	Effec. Date	Minimum wage rate	Minimum cash wage	Maximum tip credit
Ohio				
-large employer	9/1/97	\$5.15	\$2.13	\$3.02
-med. employer	9/1/97	\$3.35	\$2.01	\$1.34
-small employer	9/1/97	\$2.80	\$2.01	\$0.79
Oklahoma	9/1/97	\$5.15	\$2.575	\$2.575
Oregon	1/1/06	\$7.50	\$7.50	none
Pennsylvania	9/1/97	\$5.15	\$2.83	\$2.32
Puerto Rico	9/1/97	\$5.15	\$5.15	none
Rhode Island	3/1/06	\$7.10	\$2.89	\$4.21
South Carolina	—	none	none	none
South Dakota	9/1/97	\$5.15	\$2.13	\$3.02
Tennessee	—	none	none	none
Texas	9/1/01	\$5.15	\$2.13	\$3.02
Utah	9/1/97	\$5.15	\$2.13	\$3.02
Vermont	1/1/06	\$7.25	\$3.65	\$3.60
Virginia	9/1/97	\$5.15	no min.	no max.
Washington	1/1/06	\$7.63	\$7.63	none
West Virginia	9/1/98	\$5.15	\$4.12	\$1.03
Wisconsin	6/1/05	\$5.70	\$2.33	\$3.37
Wyoming	4/1/01	\$5.15	\$2.13	\$3.02

TIP CREDIT

What does it do? Who can use it?

The notion of “tip credit” applies only to a tipped employee. As defined by Federal law and in most states, any employee who “customarily and regularly” receives more than \$30 per month in tips is a “tipped employee.” If a worker qualifies as a “tipped employee,” the employer may credit toward the required minimum wage rate some of the tips received by the worker and reported to the employer. However, the tip credit per hour is limited to some maximum dollar amount (the “maximum tip credit”). This limit varies by state, but Georgia and Virginia have no tip credit limits.

When Congress amended the Fair Labor Standards Act to increase the Federal minimum wage rate on October 1, 1996, a significant change was made in terminology. Reference to “tip credit” was dropped, and a more easily understood term was substituted: the “minimum cash wage for tipped employees.” Instead of attending to the maximum wage amount an employer could hold back from the tipped employee, the focus became a limit on how small an hourly “cash” wage the employer could pay. At all times, the maximum tip credit and minimum cash wage, when added together, must equal the applicable minimum wage rate.

THE FEDERAL MINIMUM WAGE RATE ...

When does it apply?

The Federal rate will apply only if the employee and/or employer are covered by the Fair Labor Standards Act (FLSA). However, a state rate may also apply, so check the rule below to decide which rate to actually use.

Generally, an employer covered by FLSA is an enterprise with annual sales volume of \$500,000 or more, AND at least two employees who are engaged in:

- a.) interstate commerce,
- b.) the production of goods for interstate commerce, or
- c.) the handling, selling or working on goods or materials that were moved in or produced for interstate commerce.

(However, certain seasonal businesses are enterprises expressly excluded from the overtime provisions of FLSA. Examples: an amusement park or an outdoor recreational facility.)

All employees of a covered employer are protected by FLSA, unless their particular work activities are expressly excluded from FLSA coverage. Therefore, in any specific situation it is necessary to confirm: a.) that the job duties of the employee, and b.) the business of the employer, are actually covered by FLSA.

Employee Categories EXEMPT From FLSA Coverage:

EXECUTIVES: an employee on salary basis of at least \$455 a week, whose primary work is to manage the business enterprise, a department, or sub-unit, including direction of at least two other workers.

ADMINISTRATORS: an employee on salary or fee basis of at least \$455 a week, whose primary duties are work relating to general business operations, and who exercises discretion and independent judgment.

PROFESSIONALS: an employee on salary or fee basis of at least \$455 a week, employed either in the learned professions or in an artistic profession doing primarily professional work.

OUTSIDE SALESPERSON: an employee engaged away from the employer's place of business in making sales or obtaining orders or contracts for service or for use of facilities for which the client or customer will pay.

COMPUTER-RELATED PROFESSIONS: an employee on a salary basis paid at least \$455 per week or \$27.62 per hour if on an hourly fee basis, whose work is to develop computer software, but who works without close supervision.

ALSO EXEMPT ...

- fishery employees (catching, processing, canning and freezing all forms of seafood at sea)

- certain farm workers
- certain newspaper employees (employed by small, local newspapers)
- seamen (if employed on a non-American vessel)
- news carriers
- babysitters and companions
- work performed in foreign countries

When Both Federal and State Minimum Wage Rates Apply, Which Rate Should The Employer Use ?

The choice is made by selecting the minimum wage rate most favorable to the employee.

For example, a Kansas company with annual sales of \$1 million and involvement in interstate commerce, must pay at least the Federal rate of \$5.15 per hour, not the Kansas rate of \$2.65. This company qualifies for coverage under the FLSA and Kansas rates. However, the Federal rate of \$5.15 is more favorable to the employee than the Kansas rate of \$2.65 per hour.

However, if the Kansas company only had annual sales of \$200,000 and no substantial participation in interstate commerce, the FLSA would not apply. By default, the Kansas rate of \$2.65 per hour would be the correct minimum rate.

By way of contrast, suppose a South Carolina company has annual sales of \$2 million and involvement in interstate commerce. This company is subject to both the Federal rate of \$5.15 and whatever minimum wage rules South Carolina provides. However, South Carolina has no minimum wage law — South Carolina sets no minimum wage rate. The Federal rate is considered more favorable to employees than no guarantee of a minimum wage rate. Therefore, the Federal minimum wage rate should be applied.

However, if the South Carolina company had annual sales of only \$250,000 and no involvement in interstate commerce, the result would not be the same. Normally, FLSA would not apply with these assumptions. By default, only South Carolina law applies and it does not guarantee a minimum wage rate. Therefore, the South Carolina company is free to pay any hourly rate which employees will accept.

When tipped employees are involved and the employer is subject to both the FLSA and the law of the state where the work is performed, the minimum cash wage rate most favorable to the tipped employee must be used. For example, a large New York restaurant covered by FLSA and by New York wage and hour law should apply the New York minimum cash wage rate of \$4.35 per hour for its tipped employees — not the Federal minimum cash wage rate of \$2.13 per hour, because clearly the New York minimum cash wage rate of \$4.35 is more favorable than the FLSA rate of \$2.13 per hour.

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