

## 1.1 – Minimum Wage Rates and Tip Credit Amounts

The table that follows shows the minimum hourly wage rates for all of the states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. In states without a minimum wage or in which the minimum wage is lower than the federal minimum wage of \$7.25, the federal rate applies to employees covered by the Fair Labor Standards Act (FLSA). Where the state rate is higher than the federal rate, the state rate applies to all employees covered by the state law.

The table also shows which employees are covered by or exempt from state minimum wage requirements. Although state law exemptions are often similar to or the same as FLSA exemptions, there are some notable exceptions. Particular attention should be paid to whether a state law provides more generous coverage than federal law and, therefore, applies to categories of employees not covered by federal law. *COVID-19-related guidance:* Remember that employees working remotely must be paid according to wage and hour laws applicable to their home location (i.e., work location).

Also shown in the table are the state subminimum wage rates – the lower rates that many states permit employers to pay to minors and certain other groups of individuals, such as apprentices and disabled workers – for a limited period of time. If a state does not permit payment of a subminimum wage to such workers, the employer must pay the greater of the FLSA youth or opportunity wage of \$4.25 an hour (for the first 90 consecutive calendar days of employment) and the state minimum wage.

Table 1.1 also shows the amount of tips received by an employee that can be applied by an employer as a tip credit against the minimum wage in each state, the minimum cash wage amount tipped employees must be paid if the employer applies the tip credit, and any conditions that must be met in order to apply the tip credit. Employers subject to the federal minimum wage are permitted to pay tipped employees \$2.13 per hour in wages, provided the employee's tips are enough to make up the rest of the federal minimum wage. If the employee's tips do not bring the employee's total wages up to the minimum wage, the employer must make up the difference. For employers to take advantage of the tip credit under the FLSA, they must meet the following conditions:

1. The tipped employee must actually receive at least as much in tips as the credit taken by the employer.
2. The employee must be informed about the tip credit provisions of the law before the credit is taken.
3. All tips received by the employee must be kept by the employee, although the employer may require tip pooling among employees who are customarily and regularly tipped (i.e., not chefs, cooks, dishwashers, janitors, salad makers, managers, or supervisors).\*
4. Credit card tips must be given to the employee by the next payday, although the credit card company's percentage charge for the use of the card may be deducted from the tip.
5. The tip credit may not be increased for overtime hours worked that are paid at a premium rate.

\* Managers and supervisors are explicitly prohibited from participating in tip pools or keeping any portion of employees' tips, regardless of whether the employer takes a tip credit.

The federal Consolidated Appropriations Act, 2018 (Pub. L. 115-141), amended the tip pooling requirements under the FLSA. The U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) subsequently incorporated those amendments into the FLSA regulations (86 F.R. 22597, 4-29-21). The amendments allow employers that pay the full minimum wage to require tipped employees to participate in tip pools with employees who are not customarily and regularly tipped (e.g., chefs, cooks, dishwashers, and janitors). The amendments also prohibit managers and supervisors from keeping employee tips for any purpose, regardless of whether the employer takes a tip credit. Managers or supervisors who directly receive tips for the services they directly and solely provide may keep those tips, however. Employers may also require the manager or supervisor to share some portion of the tips with other eligible employees in a valid tip pool arrangement. Tips unlawfully kept by employers and an equal amount in liquidated damages can be recovered by the DOL or employees (under certain circumstances) regardless of whether those violations are repeated or willful. The DOL also has the authority to impose civil penalties of up to \$1,234 when an employer unlawfully keeps employee tips.

An employer may only take a tip credit when tipped employees perform work that is part of the employee's tipped occupation. Work that is part of the tipped occupation includes work that produces tips as well as work that directly supports tip-producing work, provided it is not performed for a substantial amount of time. A "substantial amount of time" is the amount of time spent directly supporting tip-producing work that either (1) exceeds 20% of the hours worked during the employee's workweek or (2) is performed for a continuous period of time exceeding 30 minutes (86 F.R. 60114, 10-29-21). This is sometimes referred to as the 80/20 rule.

Certain state laws prohibit the use of tip credits, including laws in Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington. In addition to state laws that prohibit the use of tip credits, some state laws or regulations provide for a lower tip credit amount than the FLSA. If the state law is more favorable to employees than the FLSA, the state law must be followed by employers operating in that state that are covered by the state law. For tipped employees covered by both the state and federal wage-hour laws, the law guaranteeing the employee the highest net minimum wage (after applying the tip credit) must be followed. The employer must figure the minimum wage required under both federal and state law and then apply the one providing the higher cash payment to the employee.

*Employer versus employee coverage.* The FLSA provides for broad coverage of employers and employees to meet its stated goal of eliminating "conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." Businesses with as few as one employee may be covered by the law if the tests for coverage are met. Under the FLSA, there are two types of coverage – enterprise coverage and individual employee coverage.

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*Enterprise coverage.* Under the enterprise coverage test, all the employees of a business are covered and protected by the FLSA if *both* of the following requirements are met:

- At least two employees of the business are employed in jobs closely related and directly essential to interstate commerce or the production of goods for interstate commerce (including employees who handle, sell, or otherwise work on goods or materials that have been moved in or produced for interstate commerce); and
- The business has annual gross sales of at least \$500,000.

Certain businesses (and all their employees) are specifically covered by the FLSA regardless of annual sales volume. They include:

- Hospitals,
- Nursing homes,
- Elementary and secondary schools and colleges (whether public or private), and
- Public (government) agencies.

*Individual employee coverage.* Under the individual employee coverage test, an employee is covered by the FLSA if he or she is engaged in interstate commerce or in the production of goods for interstate commerce. It does not matter if the business is not a covered enterprise, so long as the employee's job is in interstate commerce.

*Local minimum wage rates.* A growing number of cities and counties have established local minimum wage rates. Some states have enacted laws to prohibit municipalities from doing so. Several lawsuits across the nation relate to this issue. Local minimum wage rates prevented from implementation by lawsuit or subsequent state law are omitted from the chart.

Unless otherwise noted, the minimum wage rates, tip credits, and minimum cash wages for tipped employees referred to in the table are per hour worked. Local minimum wage rates in a state can be found directly after the state minimum wage(s). Information has been updated as of January 1, 2023.

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**TABLE 1.1 – MINIMUM WAGE RATES AND TIP CREDIT AMOUNTS**

<b>State</b>	
<b>AL</b>	
<b>Minimum Wage</b>	No provision.
<b>Coverage &amp; Exemptions</b>	No provision.
<b>Subminimum Wage</b>	No provision.
<b>Tip Credit Maximum</b>	No provision.
<b>Source</b>	No provision.
<b>State</b>	
<b>AK</b>	
<b>Minimum Wage</b>	\$10.85 (adjusted annually for inflation on January 1).
<b>Coverage &amp; Exemptions</b>	Rate must be at least \$1.00 higher than federal rate.  Applies to all employees unless specifically exempt.  <i>Exemptions:</i> agricultural labor; fishing and handpicking of shrimp; domestic service and babysitting in private homes; federal, state, or local government employees; volunteers for nonprofit religious, charitable, cemetery, or educational organizations; newspaper deliverers; watchpersons or caretakers of plants or properties in productive use for less than 4 months per year; bona fide executives, administrators, and professionals (only if paid at least 2 times state minimum wage for first 40 consecutive hours of each workweek); outside commissioned salespersons; computer-related professionals; prospectors in search of placers or hard rock minerals; persons under age 18 working less than 30 hours per week; certain live-in child care workers at nonprofit educational or child care facilities paid in cash; certain taxicab drivers; certain licensed guide-outfitters; emergency medical service workers, full-time firefighters, and voluntary ski patrol; University of Alaska practicum students; motor vehicle dealer employees whose primary duty is to: (1) receive, analyze, or reference requests for service, repair, or analysis of motor vehicles; (2) arrange financing for sale of motor vehicles and related products and services added or included as part of sale; or (3) solicit, sell, lease, or exchange motor vehicles.
<b>Subminimum Wage</b>	Student learners, apprentices, and those in work therapy in certain residential drug or alcohol treatment programs lasting more than 120 days: less than state minimum permitted (with certificate issued by Labor Commissioner).
<b>Tip Credit Maximum</b>	No tip credit permitted.  Tip pooling permitted if: (1) comprised solely of tipped employees whose primary duty involves direct customer service; and (2) advance written notice of tip pool arrangement is provided by or on payday before payday on which change becomes effective. Notice cannot be provided retroactively.
<b>Source</b>	Ak. Stat. §§23.10.055(a), 23.10.065, 23.10.070, 23.10.071; 8 Ak. Adm. Code 15:125; Dept. of Labor and Workforce Dev., News, No. 21-28, 10-5-21

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State	AZ
<b>Minimum Wage</b>	<p>\$13.85 (adjusted annually for inflation on January 1).</p> <p>Flagstaff \$16.80 (adjusted annually for inflation on January 1).</p> <p>Tucson \$13.50 (eff. 1-1-24, \$14.25; eff. 1-1-25, \$15.00).</p>
<b>Coverage &amp; Exemptions</b>	<p><i>Exemptions:</i> individuals employed by parent or sibling; babysitters in private homes on casual basis; federal or state government employers; small businesses (less than \$500,000 in gross annual revenue and FLSA exempt).</p> <p>Flagstaff: applies to employees expected to work at least 25 hours or more per year within city. Minimum wage is greater of \$15.50 or \$2.00 above state minimum wage.</p> <p>Tucson: applies to employees working for an employer at least 5 hours per week within geographic limits of city. Includes full-time, part-time, and temporary employees, including individuals engaged through an employment staffing agency. Does not include individuals performing only babysitting services at an employer's home on casual basis.</p>
<b>Subminimum Wage</b>	<p>Wage board may recommend rates for learners, apprentices, and handicapped workers at less than minimum wage rate applicable to minors.</p> <p>Rate for minors under age 18 may be set by Labor Commission (varies by locality) if substantial number of minors in an occupation are receiving oppressive and unreasonable wages.</p>
<b>Tip Credit Maximum</b>	<p>\$3.00 for employees customarily and regularly receiving tips, provided tips plus wages equal or exceed state minimum wage.</p> <p>Minimum cash wage for tipped employees is \$10.85.</p> <p>Flagstaff \$2.00 (eff. 1-1-24, \$1.50; eff. 1-1-25, \$1.00).</p> <p>Minimum cash wage for tipped employees is \$14.80.</p> <p>Tucson \$3.00.</p> <p>Minimum cash wage is \$10.50 (eff. 1-1-24, \$11.25; eff. 1-1-25, \$12.00).</p>
<b>Source</b>	<p>A.R.S. §§23-313, 23-315, 23-317, 23-362, 23-363</p> <p>Flagstaff Municipal Code ch. 15-01</p> <p>Tucson City Code §§17-80 – 17-88</p>

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State	AR
<b>Minimum Wage</b>	\$11.00.
<b>Coverage &amp; Exemptions</b>	<p>Applies to employers with 4 or more employees.</p> <p><i>Exemptions:</i> employees not covered by FLSA; bona fide executives, administrators, and professionals; outside commissioned salespeople; students who are working for school, college, or university where enrolled and are regularly attending classes; federal, state, or local government employees (except public schools and school districts); volunteers or non-employees for educational, charitable, religious, or nonprofit organizations; bona fide independent contractors; agricultural employees working for immediate family or for employers who did not use more than 500 man-days of agricultural labor in any quarter of preceding calendar year (as defined by FLSA); certain hand harvest and piece rate laborers; employees on range that primarily produces livestock; forestry and logging employees if no more than 8 employees; employees for nonprofit recreational or educational camp that operates for not more than 7 months per year; certain employees of nonprofit child welfare agency who serve as house-parents; employees of certain regional newspapers with circulation of less than 4,000; certain domestic service employees; employees who deliver newspapers to retail subscribers; home workers who either harvest materials for or make wreaths; and employees of certain organized camps or religious or nonprofit educational conference centers.</p> <p>Certain employers can take credit against minimum wage of up to 30 cents an hour for reasonable cost of board, lodging, apparel, or other items and services customarily and regularly furnished to employee. Credit can equal fair and reasonable cost of board, lodging, apparel, or other items and services (i.e., not be limited to 30 cents per hour). Reasonable cost is based on value as determined by federal law (29 U.S.C. §203(m) and 29 CFR §531).</p> <p>Arkansas Supreme Court determined time spent donning and doffing mandatory protective gear should be considered compensable work time under state minimum wage law and regulations [<i>Gerber Products Co. v. Hewitt</i>, No. CV-15-966 (Ark., 5-26-16)].</p>
<b>Subminimum Wage</b>	<p>Learners, apprentices, and certain handicapped workers with special license: less than state minimum permitted.</p> <p>Full-time students attending an accredited school and working not more than 20 hours per week (40 hours when school is not in session): at least 85% of minimum wage.</p>
<b>Tip Credit Maximum</b>	<p>\$8.37 provided employee actually receives tips, and minimum cash wage paid, excluding tips, is no less than \$2.63.</p>
<b>Source</b>	A.C. §§11-2-102(1)(B), 11-4-203, 11-4-210, 11-4-212, 11-4-214, 11-4-215