



KD Alert - End of An Era: Say Goodbye to the Tip Wage for Workers in Miscellaneous Industries

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For years, tipped employees covered by the New York State Miscellaneous Industry Wage Order, such as nail salon workers, hairdressers, aestheticians, car wash workers, valet parking attendants, dog groomers, and tow truck drivers, earned below New York's minimum wage threshold so long as those employees earned enough tips to satisfy the difference between their earnings and the minimum wage. However, effective December 31, 2020, New York employers will no longer be able to pay employees covered by the Miscellaneous Industry Wage Order below the minimum wage threshold (i.e. the tip wage). The elimination of the tip wage for miscellaneous industries will be phased in over a one-year period of time. This new mandate does not apply to tipped employees in the hospitality industry.

Below is an illustration of the minimum wage threshold of each jurisdiction in New York, along with the dates on which the mandate will take effect and the applicable wages that must be provided to miscellaneous employees:

Minimum Wage for Miscellaneous Employees

<u>Effective Date</u>	<u>New York City</u>			<u>Long Island & Westchester</u>			<u>Remainder of</u>
	<u>Minimum Wage</u>	<u>Low Tips</u>	<u>High Tips</u>	<u>Minimum Wage</u>	<u>Low Tips</u>	<u>High Tips</u>	<u>Minimum Wa</u>
12/31/2019	\$15.00	\$12.75	\$11.35	\$13.00	\$11.05	\$9.08	\$11.80
6/30/2020	\$15.00	\$13.85	\$13.50	\$13.00	\$12.00	\$11.40	\$11.80
12/31/2020	\$15.00	\$15.00	\$15.00	\$14.00	\$14.00	\$14.00	\$12.50

Employers in New York City should pay the employees the wage listed in the "low tip" column if tips are at least \$2.25 per hour, but less than \$3.65 per hour, and employers should pay the wage listed in the "high tip" column if tips are at least \$3.65 per hour.

Employers in Long Island and Westchester should pay the employees the wage listed in the "low tip" column if tips are at least \$1.95 per hour, but less than \$3.20 per hour, and employers should pay the wage listed in the "high tip" column if tips are at least \$3.20 per hour. Employers in the remainder of New York state should pay the employees the wage listed in the "low tip" column if tips are at least \$1.75 per hour, but less than \$2.90 per hour, and employers should pay employees the wage listed in the "high tip" column if tips are \$2.90 per hour.

In light of these changes, employers should review their procedure for tracking and recording employee's tips, analyze their payroll practices to ensure that they are appropriately providing minimum wage pay to their employees and prepare to make the necessary revisions to payroll practices by June 30, 2020. Employers are reminded to provide employees whose rates of pay are affected by this upcoming change with a new Wage Acknowledgment Notice. The attorneys at Kaufman, Dolowich & Voluck are available to provide guidance and compliance with this new mandate.

