

West Virginia Division of Labor Allowable Credits Against the Minimum Wage

West Virginia Division of Labor Wage & Hour Section

Minimum Wage Fact Sheet 2 - West Virginia Code Chapter 21, Article 5C, Section 4

(July 2016)

WEST VIRGINIA MINIMUM WAGE CREDITS

Chapter 21, Article 5C, Section 4 of the West Virginia Code allows covered employers to take certain credits against the state minimum wage requirement of \$8.75 per hour to offset the cost of providing employee meals and living quarters, as well as the amount of additional wages their wait staff and other service employees receive in the form of customer tips. Employers have the option of taking advantage of the credits whenever applicable or paying their employees the full minimum wage amount. Employers are not required to take advantage of the credits.

In order to take advantage of any of the credits that are permissible against the state minimum wage, a determination of state jurisdiction must first be established. *See Minimum Wage Fact Sheet 1.*

PERMISSIBLE CREDITS

Tip Credit for Service Employees

Employers are permitted a 70% credit against the minimum wage requirement for their employees that regularly receive tips. Employers that take advantage of this credit may pay their tipped employees a minimum cash wage of \$2.62 per hour. However, if during any given workweek a tipped employee does not receive an hourly rate, plus tips, to equal the required minimum wage amount of \$8.75 per hour, the employer must increase that individual's hourly wage by whatever amount is necessary to meet the full minimum wage requirement.

§42CSR 8-12.1 *See Minimum Wage Fact Sheet 3.*

Meal Credit

Whenever an employer makes a meal available to employees, for those employees that complete an eight hour workday and eat an available meal, the employer may deduct \$4.00 per day as a meal credit from the employee's wages without the benefit of a wage assignment.

§42CSR 8-12.2.a

West Virginia Division of Labor Allowable Credits Against the Minimum Wage

When an employee completes a workday of less than eight (8) hours but eats an available meal, the employer may deduct fifty cents (\$.50) per hour as a meal credit from the employee's wages without the benefit of a wage assignment. §42CSR 8-12.2.b

At no time may an employer take a meal credit when the employee does not eat a meal.
§42CSR 8-12.2.c

Living Quarters Credit

When living quarters are a compulsory condition of employment, an employer may take 33% of the minimum wage requirement as a credit for room and board, as long as the living quarters include heat, light, facilities, hot and cold potable water, and a space for cooking, cleaning, and bathing. Employers that take advantage of the credit will be required to pay the employee a minimum cash wage of \$5.86. §42CSR 8-12.3

NON PERMISSIBLE CREDITS

Uniforms

When an employer requires an employee to wear a uniform, the employer **may not take a credit** against the minimum wage for the cost of the uniforms or their laundering. §42CSR 8-12.4