

Florida Minimum Wage Increase Effective September 30, 2022



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On November 3, 2020, Florida voters approved a state constitutional amendment allowing for the gradual increase of Florida's minimum wage each year through 2026 until reaching \$15.00 per hour. On September 30, 2022, the second of those annual step increases will occur. At that time, Florida's minimum wage will increase by \$1.00 from \$10.00 per hour to \$11.00. Thus, while the federal minimum wage for non-federal contractors will likely remain at \$7.25 per hour for an undetermined period, all Florida employers will be required to pay their non-exempt employees no less than the increased hourly state minimum wage between September 30, 2022 and September 29, 2023 (before the next increase takes effect) for all hours worked. This increased wage rate will also affect the calculation of overtime compensation a Florida hourly wage employee is due.

Required Minimum Wage Notice

Florida employers are also required to post a Florida minimum wage notice in a conspicuous location and accessible place in each establishment where employees who are required to be paid at least the minimum wage

work. This Florida poster is in addition to the federal requirement for employers to post a notice of the federal minimum wage. Florida minimum wage posters, which are available in English, Creole, and Spanish, can be found [here](#).

Minimum Wage and Notice Considerations for Tipped Employees

Florida employers of employees who receive tips and meet eligibility requirements for the tip credit under the federal Fair Labor Standards Act (FLSA) may credit, toward satisfaction of the minimum wage, tips up to the amount of the allowable FLSA tip credit in 2003 (\$3.02). However, the employer must pay tipped employees a direct wage that equals the Florida minimum wage minus the 2003 tip credit. Accordingly, the minimum wage for tipped employees in Florida will increase to \$7.98 per hour on September 30, 2022 from the current minimum tipped hourly rate of \$6.98.

A byproduct of Florida's minimum wage increase is that the numerical information required under the U.S. Department of Labor's (DOL) notice to tipped employees must be renewed. DOL regulations require that employers who take a tip credit against their minimum wage obligation must provide tipped employees with notice: (1) of the amount of cash wages the employer is paying the tipped employee; (2) of the amount being claimed by the employer as tip credit; (3) that the tip credit cannot exceed the amount of tips actually received; (4) that the employee retains all tips except where a valid tip pool exists; and (5) that the tip credit will not apply to any tipped employee unless the employee has been informed of the foregoing provisions.

While the DOL's regulations do not require that the "tip credit notice" be in writing, employers would be wise to provide such notice to their tipped employees in writing and retain a signed copy of the notice of evidence of compliance.

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