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Labor Law & Employment Essentials for Hospitality: What You Need to Know in 2025

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Federal and State Minimum Wage Basics



Minimum Wage increase on the horizon?

- Trump has been unclear about raising the federal minimum wage
- Raise in federal minimum wage may be irrelevant for some employers (depending on state or local minimum wages)



Uniforms

- General Rule
- But what is a “uniform”?
- “Basic street clothing” treated differently



Deductions that are allowed from MW

- Taxes
- Court-ordered garnishments
- Group health insurance premium
- Voluntary charitable contributions
- Interest-free wage advances and loans
- Lodging and meals



Tip Credit and Tip Pooling Fundamentals



Tip Credit

- Tip credit: What it is
- Tip credit common mistakes
- What can you do



Tip Pooling Arrangements

- What they are
- Types of Tip Pools
- Who Can Participate



The Basics of Tip Pooling

- Managers and supervisors may not _____.
- Managers and supervisors may _____.



Tip Pooling: How to determine if an employee is a “manager or supervisor” for this purpose?

- The regulations adopt the job duties test of the Executive exemption
- “Management” tasks





How to Set Up a Lawful Tip Pool



Potential Landmines in Tip Pools

- Assistant Managers, Shift Leads, etc.
- Assessment is on a case-by-case basis
- Best practices to avoid a potential tips violation



Alternative to Tip Credit and Tip Pooling

- The Service Charge
- Potential Landmines



The “Big Beautiful Bill” and Wage + Hour Law



The “Big Beautiful Bill” and no tax on tips

- What is it?
- What is the impact on hospitality employers?



The “Big Beautiful Bill” and no Tax on OT

- What is it?
- What is the impact on hospitality employers?





DOL – White Collar Exemptions





The “White-Collar” Exemption Salary Threshold



Worker Classification: FLSA Exemptions

- Executive
- Administrative
- Professional (Learned/Creative)



DOL – Independent Contractor Update

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Biden's Independent Contractor Rule

- Biden DOL Rule effective 3/11/24:
 - » Six-factor test for Independent Contractor status
- Determined by the totality of the circumstances
 - » Look to the economic realities

Trump's Independent Contractor Rule

- Trump DOL Rule adopted January 2021:
 - » Five-factor test for Independent Contractor status
- Emphasis on first two factors as most important

Diversity

Equity

Inclusion

DEI Updates



Executive Order 14173 Impacts DEI

- EO 14173 – “Ending Illegal Discrimination and Restoring Merit-Based Opportunity”
- Addresses diversity, equity, and inclusion (DEI) initiatives
- Directs federal agencies to combat “illegal private-sector DEI preferences, mandates, policies, programs, and activities”
- Defines prohibited conduct as:
 - » Illegal discrimination and preferences; and
 - » Workforce balancing based on race, color, sex, sexual preference, religion, or national origin
- Does not define what constitutes “illegal” DEI
- Federal officials are expected to identify up to nine potential civil compliance investigations of private entities, including non-profits
- Order omits veteran and disability preferences

March 19 EEOC Guidance

On March 19, the EEOC released technical assistance documents to provide clarity for employers. Key takeaways:

- Reminder on the scope of Title VII protections
 - » Prohibits employment discrimination based on protected characteristics
 - » “apply equally to all racial, ethnic, and national origin groups, as well as both sexes.”
- No “reverse” discrimination
 - Title VII protections apply equally to minority and majority groups
 - EEOC does not require higher showing of proof for so-called “reverse” discrimination claims.

Examples of Potentially Unlawful DEI Practices

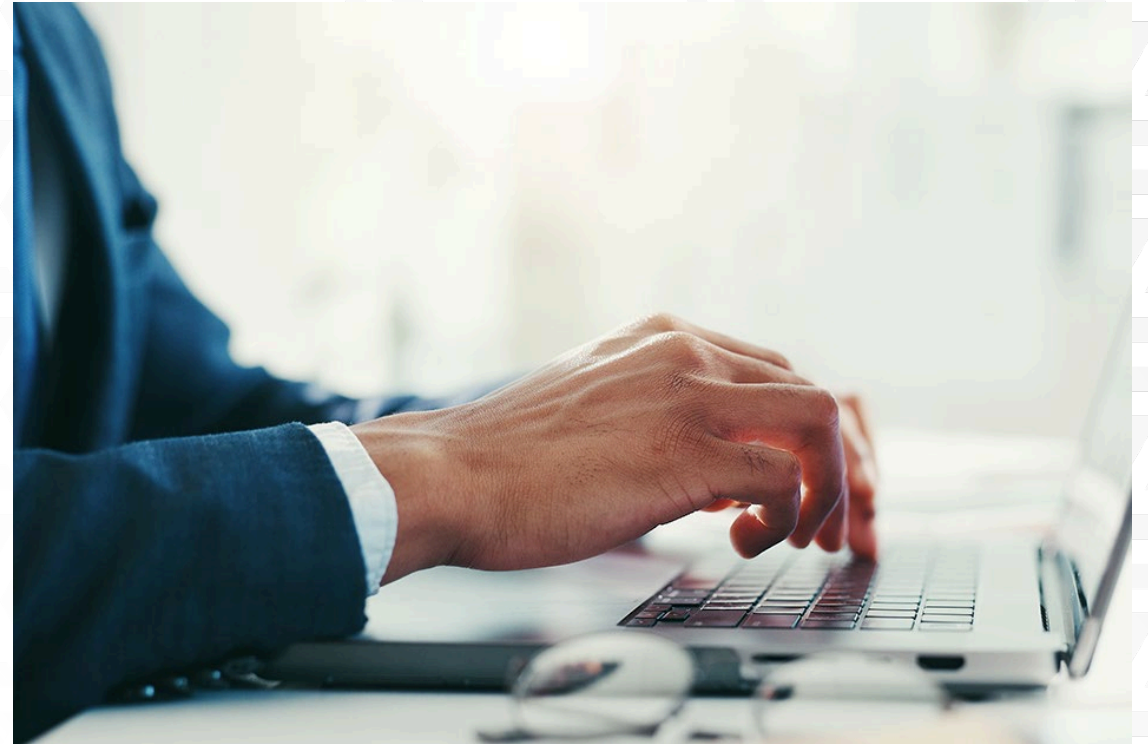
- **Quotas and other “balancing” practices** based on race, sex, or other protected characteristics.
- **Disparate treatment** based (in whole or in part) by a protected characteristic.
- **Limiting, segregating, and classifying employees** based on protected characteristics if it affects their status or deprives them of employment opportunities. (Examples: affinity groups that exclude employees, separating employees for trainings even if content is the same).
- **Harassment during DEI training**
- **Retaliation** for objecting to or opposing employment discrimination related to DEI, participating in employer or EEOC investigations, or filing an EEOC charge.

Practical Takeaways - DEI

- Assess your DEI programs
- Conduct an attorney-client privileged legal review of DEI programs and related training materials with your FP counsel.
- Ensure hiring, promotion, and compensation decisions are transparent and well-documented.
- Train hiring managers and HR personnel on legally compliant practices and the practices that support your business objectives. Communicate diversity initiatives to emphasize workplace culture, professional development, and inclusive merit-based access to opportunities as sustainable business practices.

What Should You Do Tomorrow?

- Audit your files, with assistance of counsel.
- Update policies and practices, if needed.
- Train your management and staff of any changes.



QUESTIONS?



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