

Tip Credit Ending in DC?

By Scott Mirsky

The elimination of the tip credit is back on the ballot for DC residents in November. Initiative 82, if passed, would eliminate the tip credit over a five-year period and require DC employers to pay all employees the non-tipped minimum wage by July 1, 2027, as follows:

Date	Cash minimum wage paid to tipped workers
By January 1, 2023	\$6.00/per hour
By July 1, 2023	\$8.00/per hour
By July 1, 2024	\$10.00/per hour
By July 1, 2025	\$12.00/per hour
By July 1, 2026	\$14.00/per hour
By July 1, 2027	Non-tipped minimum wage

Initiative 82 also reiterates that all tips would remain the property of the worker even if the tipped worker is paid the full minimum wage. As expected, many restaurants are concerned that the abolishment of the tip credit would further hurt their bottom line as they are still recovering from the pandemic.

However, on a positive note for restaurants under Initiative 82, when the tipped minimum wage rate reaches the non-tipped minimum wage rate (*i.e.*, on July 1, 2027) employers may be allowed to require tipped workers to share their tips with non-tipped workers (such as cooks and dishwashers). This would allow a restaurant to evenly distribute tips between the front-of-the-house and the back-of-the-house workers, but restaurants are reminded not to allow owners, managers, or supervisors to participate in a tip pool.

Paley Rothman's Employment Law Group will continue to monitor the progress of Initiative 82, as a similar initiative was passed by the DC voters in 2018 but was later repealed by the DC Council. However, it is unclear if the DC Council would step in again if Initiative 82 is passed, as the restaurant landscape has been significantly altered due to the pandemic and the composition of the DC Council has changed.