



# The Hospitality Industry

The rules and regulations and how they affect employers and employees



Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Advantage Payroll Hospitality Industry Webinar Outline

## First Half

- Implementation period
- New minimum wage
- Definition of food service workers, service employees, and resort employees
- Overtime pay
- Spread of Hours

## Second Half

- Call in pay
- Uniforms
- Credits for meals and lodging
- Tip pooling and sharing
- Credit Card tips
- Tip Distribution
- Employee Poster

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

# Implementation Period



- The new wage order is **effective Jan 1, 2011**.
- Employers are allowed a period from 1/1/11 to 2/28/11 to implement the changes in the payroll systems.
- The next payday **after 3/1/11 all covered employees must be paid any wages owed** as a result of the new tip wage increase.
- A notice advising of the implementation process must be posted in the workplace in a location frequented by employees.
- Advantage notified clients in December 2010 and made the necessary changes to the system.

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Minimum Wage Rates

## Food Service Workers:

- Minimum Wage = \$5.00
- Max. Tip Credit = \$2.25
- Total at Least = \$7.25

## Service Employees:

- Minimum Wage = \$5.65
- Max. Tip Credit = \$1.60
- Total at Least = \$7.25

## Service Employees in Resort Hotels (if tips are at least \$4.10/hr):

- Minimum Wage= \$4.90
- Max. Tip Credit= \$2.35
- Total at Least= \$7.25

## Chambermaids in Resort Hotels:

- As of 1/1/11 same as service employees in resort hotels

\* Hourly rates of pay required. Salaries, weekly rates, day rates, or piece rates are **NO** longer allowed.

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Overtime Pay rate Calculation

\* Due after 40 hours in a week (44 hours is no longer the rule).

## Food Service Workers

Minimum Wage	7.25
Time & one half	10.875
Less Tip Credit Amt	-2.25
Overtime rate (over 40/wk)	8.65

## Service Employees

Minimum Wage	7.25
Time & one half	10.875
Less Tip Credit Amt	-1.60
Overtime rate (over 40/wk)	9.275

## Service EE's Resort Hotels

Minimum Wage	7.25
Time & one half	10.875
Less Tip Credit Amt	-2.35
Overtime rate (over 40/wk)	8.525

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Spread of Hours Greater Than 10



- The spread of hours is the length of interval between the beginning and the end of an employee's workday.
  - The spread of hours for any day includes working time plus time off for meals plus intervals off duty.
- Examples:**
- 7am -10am, 7pm -10pm = 6 hours worked but a 15 hour spread
- On each day the spread of hours exceeds 10, an employee shall receive one additional hour of pay at the basic minimum hourly rate (7.25).

\* This applies to all employees in restaurants and all-year hotels regardless of a given employees rate of pay.

**Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)**

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Call-in Pay



An employee who by request or permission of the employer reports for duty on any day, whether or not assigned to actual work, shall be paid at the applicable wage rate:

1. At least three hours for one shift **OR** the number of hours in the regularly scheduled shift whichever is less.
2. At least six hours for two shifts totaling six hours or less **OR** the number of hours in the regularly scheduled shift whichever is less.
3. At least eight hours for three shifts totaling eight hours or less **OR** the number of hours in the regularly scheduled shift, whichever is less.

\* A regularly scheduled shift is a fixed, repeating shift that an employee normally works on the same day of each week. If an employee's total hours worked or scheduled to work on a given day of the week change from week to week, then there is no regularly scheduled shift.

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Call-in Pay Continued...



## Applicable wage rate means:

- Payment for time of actual attendance calculated at the employees regular or overtime rate of pay (whichever is applicable) minus any usual tip credit.
- Payment for the balance of the period calculated at the basic minimum hourly rate with no tip credit subtracted. Payment for the balance of the period is not payment for time worked or work performed and need not be included in regular rate for purposes of overtime calculation.

\* Call-in pay shall not be offset by any credits for meals or lodging provided to employee. This applies to all employees, regardless of a given employee's regular rate of pay.

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Uniform Maintenance

Where employer does not maintain the required uniform for any employee the employer shall pay the employee in addition to the employee's agreed rate of pay, uniform maintenance of:

- \$9.00 per wk for work weeks over 30 hours.
- \$7.10 per wk for work weeks of more than 20 but not more than 30 hours.
- \$4.30 per wk for work weeks of 20 hours or less.

Wash & Wear exceptions to uniform maintenance pay:

- Are made of wash and wear materials.
- May be routinely washed and dried with other personal garments.
- Do not require ironing, dry cleaning, daily washing, commercial laundering or special treatment.
- Are furnished to the employee in sufficient number or the employee is reimbursed by employer for purchase of sufficient number of uniforms consistent with the average number of days worked by the employee.

\* Maintenance includes washing, ironing, dry cleaning, alterations, repair or any other maintenance necessary.

**Questions? Call us at 800.440.9033**  
**or visit us online at [www.liadvantage.com](http://www.liadvantage.com)**

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
**PAYROLL SERVICES**

# Uniform Maintenance continued...

Employer will not be required to pay for uniform maintenance when employer:

- Launderers required uniforms free of charge and with reasonable frequency.
- Ensures the availability of an adequate supply of clean, properly- fitting uniforms and informs employees individually in writing of such service.
- Employee chooses not to use employer- provided laundry service.

\*Uniform maintenance shall not be offset by any credits for meals or lodging provided to employee.

**Questions? Call us at 800.440.9033**  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Uniform Maintenance continued...

## Cost of Purchasing Required Uniforms

- When an employee purchases a required uniform, he or she will be reimbursed by the employer the total cost of the uniform no later than the next payday. Employer may not avoid such costs by requiring employees to obtain uniforms before starting the job.
- Where the employer furnishes the employees free of charge or reimburses the employees for purchasing enough uniforms for an average workweek and an employee chooses to purchase additional uniforms in excess of the number needed, the employer will not be required to reimburse the employee the cost of purchasing additional uniforms.

\* This section shall apply to all employees, regardless of a given employee's regular rate of pay.

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Credits for Meals & Lodging

Meals and/or lodging provided by an employer to an employee may be considered part of the wages paid to the employee but shall be valued at no more than the amounts given below:

## Meal credits in restaurants and all-year hotels

- Meals furnished by an employer to an employee may be considered part of the wages but shall be valued at no more than \$2.50 per meal for all workers.
- A credit for more than one meal shall not be permitted for any employee working less than 5 hours on any day.
- A credit for more than two meals shall not be permitted for any other employee on any day, except that a credit for one meal per shift may be permitted for an employee working on a split shift.

## Lodging credits

Lodging to an employee may be considered part of wages but shall be valued at no more than:

\$1.50 per day for food service workers.

\$1.75 per day for all other workers.

**OR**

\$9.60 per week for food service.

\$11.30 per week for all other workers.

\$13.75 per day worked by a food service worker **in a resort hotel.**

\$16.25 per day worked by all other workers **in a resort hotel.**

.35 cents per hour for employee in **all-year hotel.**

\$2.75 per meal on workdays for a food service worker in **all year hotel if non-residential worker.**

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Tip Sharing and Tip Pooling

- Only food service workers may receive distributions from the tip pool.
- Directly tipped employees are those who receive tips from patrons or customers without any intermediary between the employee and the customer.
- Indirectly tipped employees are those who, without receiving direct tips, are eligible to receive shared tips or to receive distributions from a tip pool.
- Eligibility of employees to receive shared tips or to receive distributions from a tip pool is based upon duties and not titles. Eligible employees must perform or assist in performing a personal service to patrons at a level that is a principal and regular part of their duties and is not merely occasional or incidental.

**Note:** The employer may set the percentage to be shared in tip sharing or redistributed in tip pooling.

\* Employers may not require directly tipped employees to contribute a greater percentage of their tips to indirectly tipped employees through tip sharing or pooling than is customary and reasonable.

\* Nothing in this section shall be interpreted as requiring an employer to compensate participants in tip sharing for tips wrongfully withheld from the tip sharing or the tip pool by any participant.

**Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)**

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Tip Sharing & Tip Pooling continued...

## Records of tip sharing or tip pooling

Employers who operate a tip sharing or tip pooling system must establish, maintain, and preserve records for at least six years records which include:

- ✓ Daily log of tips collected by each employee on each shift whether by cash or credit card
- ✓ List of occupations that the employer deems eligible to receives tips through the system
- ✓ Share of tips that each occupation is scheduled to receive from the tip sharing or pooling and
- ✓ Amount of tips that each employee receives from the tip share or pool by date

## Examples of Eligible Occupations:

- ✓ Wait staff
- ✓ Counter personnel who serve food or beverages
- ✓ Bus Persons
- ✓ Bartenders
- ✓ Service bartenders
- ✓ Barbacks
- ✓ Food Runners
- ✓ Captains who provide direct food service to customers
- ✓ Hosts who greet and seat guests

\* Such records must be regularly made available for participants to review.

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Credit Card Tips



When tips are charged on credit cards, an employer is not required to pay the employee's pro-rated share of the service charge taken by the credit card company for processing the tip. The employer must return to the employee the full amount of the tip charged on the credit card, minus the pro-rated portion of the tip taken by the credit card company.

## Example:

The bill totals \$100 exactly. The customer leaves, on their credit card, the \$100 payment as well as a \$20 tip. Both the tip and the bill must be processed through a credit card company which charges a 5% fee on all transactions. The total charge levied by the credit card company on the \$120 charge is \$6. On that \$6, \$5 is for the bill ( $100 \times 5\%$ ). The employer must provide the employee \$19 which, represents the \$20 tip minus \$1 fee ( $20 \times 5\%$ ).

**Questions? Call us at 800.440.9033**  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# Tip Distribution

- Employers are required to distribute in full to service employees any house-imposed charges on guest bills that are suppose to be gratuities.
- A charge for an administrative banquet, special function or package deal shall be clearly identified as such, and customers shall be notified that the charge is not a gratuity or tip.
- The employer has the burden of demonstrating by clear and convincing evidence, that the notification was sufficient to ensure that a reasonable customer would understand that such charge was not supposed to be a gratuity.

Questions? Call us at 800.440.9033  
or visit us online at [www.liadvantage.com](http://www.liadvantage.com)

Your independently owned  
**ADVANTAGE**<sup>®</sup>  
PAYROLL SERVICES

# THANK YOU!



Questions? Call us at 800.440.9033  
or visit us online at  
[www.liadvantage.com](http://www.liadvantage.com)