

## **TIP CREDIT WAGE STATEMENT FAQs**

**NOTE: The tip credit wage statement requirement becomes effective on October 1, 2020 - See COMAR .09.12.41.20**

### **Question 1: What is a tip credit wage statement?**

*Answer: A tip credit wage statement is a written or electronic statement that a restaurant employer is required to provide to an employee that shows the effective hourly tip rate which is derived from employer paid cash wages plus all reported tips for tip credit hours worked each workweek of the pay period. This calculation is obtained by taking the sum of total cash wages + total reported tips for that workweek and dividing by the number of hours worked. For example, if a tip credit employee worked 20 hours in week one and received \$80 in cash wages and \$500 in tips and worked 22 hours in week two and received \$88 in cash wages and \$400 in tips, the tip credit wage statement should show an effective hourly tip rate for Week 1 of \$29/hr ( $\$580 \text{ total compensation} / 20 \text{ hours} = \$29/\text{hour}$ ) and an effective hourly tip rate for Week 2 of \$22.18/hr ( $\$488 \text{ total compensation} / 22 \text{ hours} = \$22.18/\text{hour}$ ).*

### **Question 2: Do all employers with tipped employees have to provide a tip credit wage statement?**

*Answer: No. The law only requires that restaurant employers furnish tip credit employees with a tip credit wage statement. Maryland regulations define a “restaurant” as an establishment primarily engaged in the selling and serving of prepared food and beverages for consumption on the premises with characteristic employee services and dining facilities which contains physical and functional equipment and facilities required for the consumption of a meal. See COMAR .09.12.41.07D.*

### **Question 3: Can the tip credit wage statement be separate from the employee’s pay stub?**

*Answer: Yes. The tip credit wage statement may be separate from the employee’s pay stub or included as part of the pay stub as long as it provides the required information.*

### **Question 4: Does the tip credit wage statement need to be provided at the same time as the pay stub?**

*Answer: No. The tip credit wage statement does not need to be provided at the same time as the pay stub but it must be provided no later than two weeks following the end of the pay period.*

**Question 5: Can the tip credit wage statement be provided electronically?**

*Answer: Yes. The tip credit wage statement can be electronic or written.*

**Question 6: Why do the regulations exclude tips in excess of the tip credit from the definition of “regular hourly rate”?**

*Answer: The purpose of excluding tips in excess of the tip credit from the definition of "regular hourly rate" in the regulations is to make clear that an employer is not required to include tips in excess of the tip credit when calculating the overtime rate of pay for tipped employees.*

**Question 7: How is overtime calculated?**

*Answer: The method for calculating overtime for tip credit employees remains the same. For hours worked in excess of forty, employees must be paid an hourly rate equal to 1.5 times the applicable minimum wage less the tip credit. This is consistent with the federal Fair Labor Standards Act.*