Tipped Minimum Wage" Nonsense Continues

Insights
6.01.15

A recent post appearing on the U.S. Labor Department's blog begins, "The federal tipped minimum wage has been $2.13/hour since 1991. That's right – it's been the same for nearly a quarter century."

Actually, that's *wrong*.

There is no such thing as a purportedly lower "tipped minimum wage." The federal Fair Labor Standards Act's minimum wage for tipped employees is precisely the same as for all other nonexempt, *non*-tipped workers: $7.25 an hour at present. The $2.13 figure is simply the lowest *cash* wage that may be paid to a tipped employee, so long as the employee also receives enough in tips to bring his or her wages to $7.25 an hour. Otherwise, the employer must pay the worker *additional* cash wages to bring his or her rate up to $7.25.

Consequently, each of the five times the FLSA's minimum wage has increased since 1991, the increase has included tipped employees right along with everybody else. And current proposals to raise the FLSA minimum wage would not change this state of affairs. After the increases, the minimum wage for tipped employees would still be exactly the same as for non-tipped ones.

New Propaganda

The sham phrase "tipped minimum wage" has been around for a while now. But a DOL video accompanying the recent post goes beyond the pale by misrepresenting that $2.13 an hour is the "[c]urrent federal minimum wage for tipped workers." This is flatly untrue; one must assume that DOL officials who know better simply did not see the statement prior to its publication.

The post also refers to a poll supposedly finding that "71% of Americans support increasing the tipped minimum wage." Whether the poll means anything at all is subject to serious doubt in light of the pollster's misleading approach:

> ***"Under federal law, workers who receive tips on the job can be paid less than the regular minimum wage, as little as $2.13 per hour, as long as their tips make up the difference. Do you think the minimum wage for tipped workers should be raised so that all workers have the same minimum wage, or do you think the minimum wage for tipped workers should continue to be much lower?"***

Copyright © 2024 Fisher Phillips LLP. All Rights Reserved.

Given the preposterously loaded nature of this question, the wonder is that less than *100%* of the respondents allegedly supported "increasing the tipped minimum wage." Presumably the other 29% were not fooled by the false premise.

The Bottom Line

According to one study, nearly all tipped-employee categories *already* earn a higher total hourly income than *both* the current FLSA minimum wage *and* the proposed increases. Leaders of the "tipped minimum wage" movement know this and are well-aware that there is in fact a single FLSA minimum wage. Instead, their ultimate aim is to eliminate the tip-credit altogether.

Hospitality employers utilize tipped workers heavily, and must either push back against the misleading PR campaign or risk government policymaking that is based upon incorrect information.

For more information contact the author at JThompson@fisherphillips.com or 404.231.1400. You may also wish to subscribe to the Fisher Phillips wage/hour blog. Along with our other blogs, it can be accessed from our website at www.fisherphillips.com.

Service Focus

Wage and Hour

Industry Focus

Hospitality

Copyright © 2024 Fisher Phillips LLP. All Rights Reserved.