

## Tip Credit Final Rule Delayed

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Amid a flurry of activity with the change in federal administration, the U.S. Department of Labor has decided to delay the effective date of the controversial Tip Credit Regulations Final Rule.

The rule had been slated to go into effect March 1. Now it won't go into effect until at least April 30.

The delay comes after the DOL claims it received 19 comments, 17 of which were in favor of delaying the effective date. Additionally, the department noted that shortly after it published the final rule, attorney generals in nine states - including Pennsylvania - [filed a federal lawsuit seeking to upend the rule](#). This postponement will permit the DOL to review the rule in light of the comments and pending litigation.

The delay is the latest in a number of DOL rules under President Joe Biden that are being delayed while the new administration examines them. Most of the rules being delayed are late-term rules pushed by former President Donald Trump's administration.

The Tip Credit Regulations Final Rule, [issued in late December 2020](#), controversially permitted employers to exert control over an employee's tips if the employer:

- Promptly distributes tips to the employees who received them
- Requires employees to share tips with other eligible employees
- Facilitates tip pooling by collecting and redistributing tips to eligible employees in a tip pool by the next regularly scheduled payday

The final rule also permitted employers to compel tipped employees to share tips with non-tipped employees as long as:

- The employer does not take a tip credit
- The tips are not shared with supervisors, managers or the employer
- The employer compensates all of the employees in the tip pool (both tipped employees and non-tipped employees) federal minimum wage

While we certainly expect more updates with this issue, please [contact me](#) or anyone in the [Barley Snyder Employment Practice Group](#) if you have any questions regarding how the delay of the final rule may affect your business.

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