

LEGAL UPDATE

DOL Delays Portions of the 2020 Employee Tip Final Rule to Dec. 31, 2021

On Dec. 30, 2020, the U.S. Department of Labor (DOL) published a final rule to amend employee tip regulations under the Fair Labor Standards Act (FLSA).

On Apr. 29, 2021, the DOL published another final rule delaying the effective date of three provisions of the 2020 employee tip rule (the Rule) to Dec. 31, 2021.

Delayed Provisions

The three provisions affected by this delay relate to the assessment of civil money penalties against employers that violate federal wage and hour laws, as well as regulations that dictate the application of tip credits to employees who perform both tipped and non-tipped work.

The DOL explained that this delay will provide the agency additional time to conduct another rulemaking to potentially revise that portion of the Rule addressing the application of tip credit provisions to tipped employees who perform both tipped and non-tipped duties.

Effective Apr. 30, 2021

On Feb. 26, 2021, a “delay rule” extended the effective date of the 2020 employee tip rule until April 30, 2021. As previously scheduled, the remainder of the Rule will become effective Apr. 30, 2021, including those portions that address the keeping of tips and tip pooling, recordkeeping and other minor changes.

Request for Comment

The DOL is soliciting public comment on how to improve the Rule’s recordkeeping requirements and the provision that bans managers and supervisors from keeping employees’ tips.

Important Dates

Dec. 30, 2020

The DOL published its final rule on employee tips. The effective date was initially set for March 1, 2021.

April 30, 2021

The effective date of the final rule was extended to April 30, 2021.

Dec. 31, 2021

New effective date for three provisions of the final rule that relate to money penalties. (All remaining portions of the rule will go into effect on April 30, 2021.)

The delay will provide the DOL additional time to potentially revise portions of the Rule.



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