

875—217.56(91D) “More than \$30 a month in tips.”

217.56(1) *Tipped employee.* An employee is a “tipped employee” when, in the occupation in which the employee is engaged, the amounts the employee receives as tips customarily and regularly total “more than \$30 a month.” An employee employed in an occupation in which the tips received meet this minimum standard is a “tipped employee” for whom the wage credit provided by 875—subrule 215.3(23) may be taken in computing the compensation due the employee for employment in the occupation, whether the employee is employed in it full-time or part-time. An employee employed full-time or part-time in an occupation in which the employee does not receive more than \$30 a month in tips customarily and regularly is not a “tipped employee” and must receive the full compensation required without any deduction for tips received.

217.56(2) *Month.* The definition of tipped employee does not require that the calendar month be used in determining whether more than \$30 a month is customarily and regularly received as tips. Any appropriate recurring monthly period beginning on the same day of the calendar month may be used.

217.56(3) *Individual tip receipts are controlling.* An employee must customarily and regularly receive more than \$30 a month in tips in order to qualify as a tipped employee. An employee who is part of a group which has a record of receiving more than \$30 a month in tips will not qualify that employee. For example, a food server who is newly hired will not be considered a tipped employee merely because the other food servers in the establishment receive tips in the requisite amount. The method of applying the test in initial and terminal months of employment is addressed in rule 217.58(91D).

217.56(4) *Significance of minimum monthly tip receipts.* More than \$30 a month in tips customarily and regularly received by the employee is a minimum standard that must be met before any wage credit for tips is determined.

217.56(5) *Dual jobs.* In some situations an employee is employed in a dual job, as for example, where a desk clerk in a hotel also serves as a food server. If the employee customarily and regularly receives at least \$30 a month in tips for work as a food server, the employee is a tipped employee only with respect to the employment as a food server. The employee is employed in two occupations, and no tip credit can be taken for hours of employment in the occupation for which the employee does not meet the tip qualification. The situation is distinguishable from that of a food server who spends part of the time cleaning and setting tables, toasting bread, making coffee and occasionally washing dishes or glasses. The related duties in an occupation that is a tipped occupation need not by themselves be directed toward producing tips.

SOURCE: 29 CFR 531.56.