

875—217.7(91D) Request for review of tip credit.

217.7(1) Any employee (personally or through a representative) may request the commissioner to determine whether the actual amount of tips received is less than the amount determined by the employer as a wage credit. If the commissioner is satisfied the actual amount of tips is the lesser of these amounts, the amount paid the employee by the employer shall be deemed to have been increased by such lesser amount.

217.7(2) Requests for review and determination may be made in writing to the commissioner. Requests should be accompanied by a statement of tips received each week or each month over a representative period as reported by the employee to the employer for purposes of Internal Revenue Service reports. A request should also be accompanied by a statement showing the tip credit taken by the employer and any other information deemed pertinent by the petitioner. In any instance in which it appears that the tip credit claimed by the employer exceeds the amount of tips actually received by the tipped employee, the employer shall be apprised of the facts made available to the commissioner and be afforded the opportunity to submit any evidence the employer may care to present in support of the claim for tip credit before a determination is made.

SOURCE: 29 CFR 531.7.