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**Minimum Wage for Tipped Employees Who Perform Tip and Non-Tip Producing Work  
During the Same Workday<sup>1</sup>**

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Massachusetts' minimum wage is set by G.L. c. 151, § 1. Pursuant to 454 CMR 27.02 and 27.03, employers of "Tipped Employees" may pay these employees a "Service Rate" as long as the combination of this Service Rate plus the tips actually received and retained by the employee equals or exceeds the minimum wage.<sup>2</sup> This calculation must be done at the completion of each shift worked by the Tipped Employee. *See* G.L. c. 151, § 7.

Tipped Employees who also perform Non-Tipped Work during the same shift or workday must be paid at least minimum wage for those hours worked. Amounts received for Tipped Work do not count towards the minimum wage obligation for Non-Tipped Work.<sup>3</sup> As an example, take an employee who does kitchen prep work for one hour, waits tables for six hours, and cleans for one hour during the same workday. Assuming the employer otherwise meets the requirements of G.L. c. 151, § 7 and 454 CMR 27.03(2), the employer can pay the Service Rate to the employee for the six hours that the employee waits tables, as long as the tips that employee receives, either directly or through a tip pool, equal or exceed the minimum wage. However, the employer would have to pay the employee at least minimum wage for the two hours that the employee performed Non-Tipped Work, even if the employee had made more than minimum wage from the combination of the Service Rate and the tips during the six hours of Tipped Work.

Interested parties who have questions regarding this opinion letter should contact DLS at [DLS.Feedback@mass.gov](mailto:DLS.Feedback@mass.gov).

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<sup>1</sup> This letter serves to memorialize DLS's established position on this topic, as summarized in its "Topical Outline of Massachusetts Minimum Wage Law and Overtime Law" (available [here](#)).

<sup>2</sup> This Service Rate cannot be less than the cash wage set forth in G.L. c. 151, § 7. The employer can also only pay the Service Rate (as opposed to the minimum wage rate) if the employer also meets the other requirements of G.L. c. 151, § 7 and 454 CMR 27.03(2).

<sup>3</sup> For purposes of this Opinion Letter, Tipped Work is work that would be eligible to participate in a tip pool pursuant to G.L. c. 149, § 152A, and Non-Tipped Work is work that would not be eligible to participate in such a tip pool.