

## Department of Labor Considers Two Rules Regarding Tipped-Workers' Wages

**By Amanda M. Connelly**

The Department of Labor (DOL) has issued two proposed rules that seek to withdraw the Trump Administration rule regarding the lower minimum wage of \$2.13 for tipped workers (the "Tip Rule"). The Trump Administration Tip Rule was completed in December 2020, but the Biden Administration already has pushed back the effective date to May 7, 2021.

In the DOL's first proposal, the Wage and Hour Division is accepting public comment on pushing the effective date of three parts of the Tip Rule again—this time until December 31, 2021. One of the main provisions of the Tip Rule permits employers to pay tipped employees \$2.13 per hour as opposed to the federal minimum wage of \$7.25 per hour if the employees are performing tasks that do not generate gratuity.

The second proposed rule seeks to rescind other provisions of the Tip Rule, such as the changes it has to the DOL's ability to assess penalties against employers that permit unlawful tip-sharing arrangements. The DOL is accepting public comment on the second proposal for 60 days until May 24, 2021.

Jessica Looman, the DOL's Wage and Hour Division Deputy Administrator, released a statement regarding the DOL's proposed changes. Looman stated the proposed changes would ensure that the DOL consider all circumstances in today's rapidly changing workplace, especially because the tipped workers are among those that were hit the hardest in the pandemic.

Roetzel will continue to monitor developments in this area. For more information and insight on this matter, please contact one of the listed Roetzel attorneys.

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