

Minimum Wage To Increase, Decrease Again In 2008



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For the first time since 1997, both the U.S. Congress and the North Carolina General Assembly raised the minimum wage in 2007. While the federal minimum wage will increase again in 2008 for most employees, North Carolina's minimum wage for tipped employees – thanks to an anomaly in state minimum wage law – will actually decrease in 2008.

Regular Hourly Employees

Effective January 1, 2007, North Carolina raised its minimum wage to \$6.15 per hour, \$1.00 more than the federal wage then in effect. North Carolina employers must pay the higher North Carolina minimum wage so long as it exceeds the federal minimum wage. N.C. Gen. Stat. § 95-25.3(a).

Effective July 24, 2007, the federal minimum wage increased from \$5.15 to \$5.85 per hour. 29 U.S.C. § 206(a)(1). Additional increases will become effective:

- To \$6.55 per hour on July 24, 2008; and
- To \$7.25 per hour on July 24, 2009.

Because the federal minimum wage of \$6.55 will exceed the North Carolina minimum wage on July 24, 2008, North Carolina employers must pay the higher federal wage beginning on that date.

Tipped Employees

Neither the federal nor North Carolina minimum wage amendments addressed the status of employees who receive tips in addition to a minimum cash wage from the employer. Under federal law, an employer must pay a cash wage of \$2.13 per hour to a tipped employee who also earns enough in tips (called a “tip credit”) to equal the minimum wage. 29 U.S.C. § 203(m). But North Carolina's minimum wage increase, coupled with its statutory provision for tipped employees, N.C. Gen. Stat. § 95.25.3(f), increased the minimum cash wage for tipped employees, which is now \$2.43 per hour. That cash wage, however, will decrease over time until it returns to \$2.13 per hour.

Because “[t]ips earned by a tipped employee may be counted as wages only up to the amount permitted in . . . 29 U.S.C. § 203(m),” the amount of cash wages that a North Carolina employer must pay to tipped employees is equal to the difference between the North Carolina minimum wage (\$6.15 or federal, whichever is greater) and an amount that is the difference between the federal minimum wage (now \$5.85) and \$2.13 per hour.

From January 1, 2007 until July 23, 2007, that difference ($\$6.15 - 3.02$) was \$3.13 an hour. From July 24, 2007 until July 23, 2008, that difference ($\$6.15 - 3.72$) is \$2.43 an hour. Then on July 24, 2008, when the federal minimum wage increases to \$6.55 per hour, that difference drops back to \$2.13 ($\$6.55 - 4.42$). From that point on, the North Carolina minimum cash wage for tipped employees will be the same as the federal minimum cash wage of \$2.13 per hour – unless North Carolina again raises its minimum wage above the federal minimum.

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