

## Client Alert

### **NEW YORK COMMISSIONER OF LABOR ISSUES NEW HOSPITALITY WAGE ORDER**

March 13, 2015 – On February 24, 2015, Commissioner of Labor Mario J. Musolino issued a new Hospitality Wage Order (“Wage Order”) based on the Report and Recommendations of the 2014 New York Hospitality Wage Board (“Wage Board”). A copy of the Wage Order can be found [here](#). This Wage Order will have a significant impact for employers in the hospitality industry.

As set forth in the Wage Order, the following recommendations of the Wage Board have been approved by the Commissioner:

The Wage Board recommended, and the Commissioner approved, uniform tip amounts and criteria for all tipped workers in the hospitality industry, so that the same rates apply to all food service workers, service employees and service employees in resort hotels. This means any tip credits taken by employers must be uniformly applied to all service workers, as reflected below, unlike the current system where different tip credits can be taken for different types of hospitality workers.

The Wage Board recommended, and the Commissioner approved, an increase in the tipped cash wage amounts from their current rates of \$4.90, \$5.00 and \$5.65, which have not increased since 2011, to \$7.50 per hour, effective December 31, 2015. This means that starting December 31, 2015, employers must pay service workers at least \$7.50 per hour as compared to the current \$5.00 for food service workers, \$5.65 for non-food service workers and \$4.90 for service employees of resort hotels.

The Wage Board also recommended, and the Commissioner approved, that if the legislature enacts a separate minimum wage rate for New York City, then the cash wage for such workers be increased by one dollar, effective on the date that such separate minimum wage rate for New York City takes effect. This means that when New York increases its minimum wage in the future, employers must pay service employees at least \$8.50 per hour.

The Wage Board further recommended, and the Commissioner approved, a review of whether the system of cash wages and tip credits should be eliminated. This means that New York may eliminate tip credits altogether in the near future.

Although the Wage Order does not become effective until December 31, 2015, employers should audit and update their wage policies to ensure that they continue to maintain compliance with all applicable wage and hour laws.

If you require any additional information on these new regulations, or with respect to any other employment-related issue, please contact:

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