

# LEGAL UPDATE

## DOL Delays Effective Date for 2020 Employee Tip Rule

On Feb. 26, 2021, the U.S. Department of Labor (DOL) delayed the effective date of its 2020 employee tip rule to **April 30, 2021**. This rule was originally scheduled to go into effect on March 1, 2021.

The DOL is adopting this delay to allow sufficient time for the agency to review the final rule as required by a memorandum President Joe Biden issued on Jan. 20, 2021. The memorandum ordered a freeze on regulatory changes that had been adopted near the end of the previous administration.

### The 2020 Employee Tip Rule

The rule prevents employers from keeping their employees' tips and specifically prohibits managers and supervisors from keeping any portion of employee tips, including any from a tip pool.

In addition, the rule limits an employer's ability to implement mandatory tip pools that include non-tipped employees and incorporates a new recordkeeping requirement for employers that do not take a tip credit but collect employees' tips to operate a mandatory tip pool.

Finally, the new rule also incorporates new civil monetary penalties, codifies recent DOL guidance on how to compensate a tipped employee who performs non-tipped duties at work and harmonizes FLSA requirements with an executive order that establishes a minimum wage for certain contractors.

### Impact on Employers

The 2020 employee tip rule remains valid and is still scheduled to become effective, though at a later date. Employers should continue their preparations to comply with the rule. In addition, employers should continue to monitor DOL communications for possible updates on this and other labor and employment rules.

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### Important Dates

#### Dec. 30, 2020

The DOL published its final rule on employee tips. The effective date was set for March 1, 2021.

#### Feb. 26, 2021

The DOL announced that the effective date of its final rule on employee tips is being delayed.

#### April 30, 2021

New effective date for final rule.

***The DOL is delaying this rule as a result of the regulatory freeze ordered by President Joe Biden in January 2021.***



**JP Griffin Group**