

DC DEPARTMENT OF EMPLOYMENT SERVICES

TIPPED WAGE REPORT

FISCAL YEAR 2019, Q2-Q4 - FISCAL YEAR 2020, Q1-Q2

BACKGROUND AND SUMMARY

The DC Department of Employment Services (DOES) enforces the labor laws of the District of Columbia and analyzes the quarterly data submitted by employers to ensure that tipped employees are paid the current DC minimum wage.

The Minimum Wage Amendment Act of 2013 requires employers of employees who are paid a combination of a service rate that is lower than the full minimum wage rate and tips (for the purposes of this report known as “tipped employees”) to report their tipped employees’ earnings to DOES on a quarterly basis, no later than 30 days after the quarter ends.

The Fair Shot Minimum Wage Amendment Act of 2016 (Fair Shot Act) requires employers to pay their tipped employees not less than the DC tipped minimum wage (or “service rate”). Tips or gratuities make up the difference between the employer-paid service rate and the DC minimum wage rate. The Fair Shot Act also requires the Mayor, through DOES, to submit a quarterly report to the Council of the District of Columbia on the compliance data on tipped wages.

Tipped employees, customarily part of the hospitality industry, are a critical part of the local economy and represent roughly 80,000 jobs in the District of Columbia.

DC TIPPED MINIMUM WAGE REQUIREMENTS

July 1, 2018 - June 30, 2019



TIPPED WAGE - \$3.89
MAXIMUM TIP CREDIT - \$9.36
DC MINIMUM WAGE - \$13.25

July 1, 2019 - June 30, 2020



TIPPED WAGE - \$4.45
MAXIMUM TIP CREDIT - \$9.55
DC MINIMUM WAGE - \$14.00

July 1, 2020 - June 30, 2021



TIPPED WAGE - \$5.00
MAXIMUM TIP CREDIT - \$10.00
DC MINIMUM WAGE - \$15.00

DC TIPPED OVERTIME (OT) WAGE REQUIREMENTS

July 1, 2018 - June 30, 2019



TIPPED WAGE - \$10.52
MAXIMUM TIP CREDIT - \$9.36
DC MINIMUM WAGE - \$19.88

July 1, 2019 - June 30, 2020

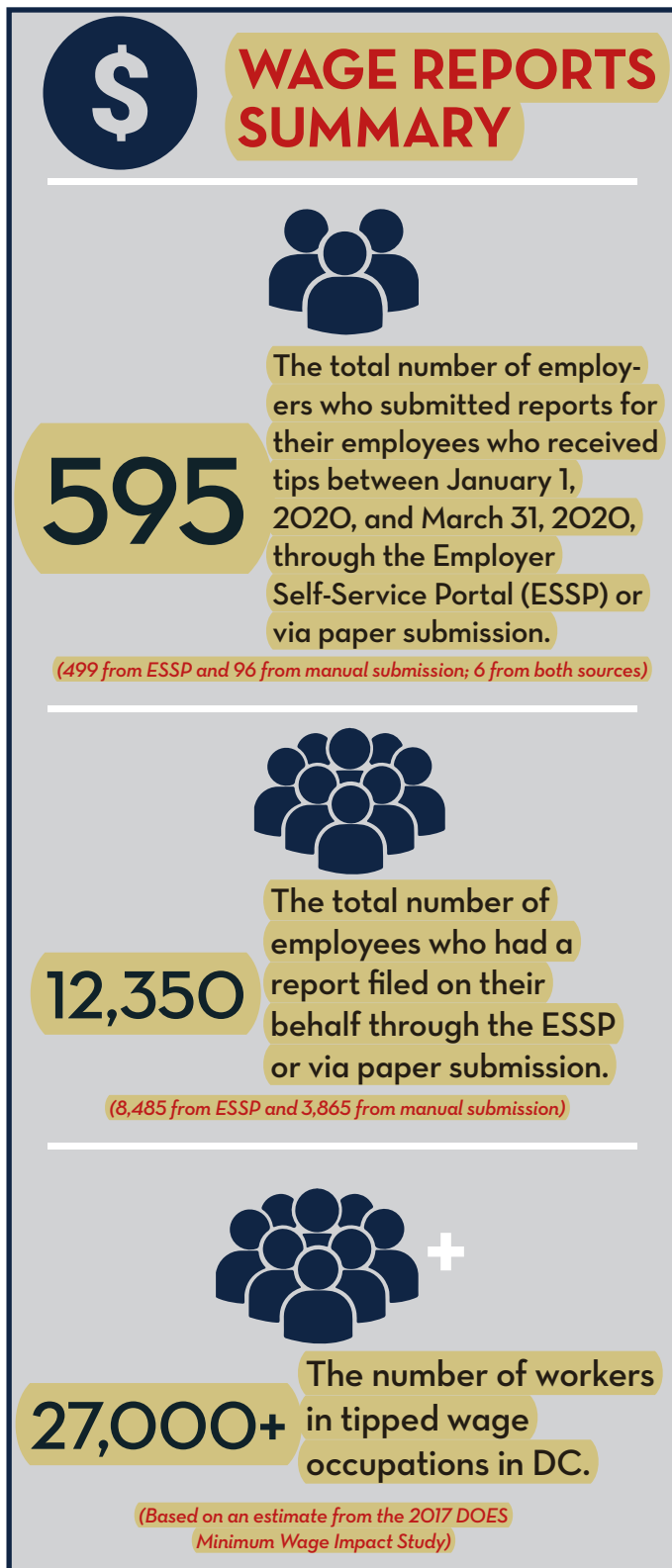


TIPPED WAGE - \$11.45
MAXIMUM TIP CREDIT - \$9.55
DC MINIMUM WAGE - \$21.00

July 1, 2020 - June 30, 2021



TIPPED WAGE - \$12.50
MAXIMUM TIP CREDIT - \$10.00
DC MINIMUM WAGE - \$22.50



ABOUT THIS REPORT

This report covers employer reporting of tipped employee compensation during Quarters 2, 3 and 4 of fiscal year (FY) 2019 (January 1, 2019 - September 30, 2019) and Quarters 1 and 2 of FY 2020 (October 1, 2019 - March 31, 2020). Employer reports may be submitted to DOES in one of two ways:

1. through a DOES-created online system known as the Employer Self-Service Portal (ESSP), or
2. through manual paper forms.

Analyses in this report provide a summary of the data collected, averages by online submission through ESSP and manual submission, and quarterly comparisons.¹

Based on a DOES Minimum Wage Impact Study commissioned in 2017, there were over 27,000 tipped employees in the District of Columbia. However, based on the data included in prior Tipped Wage Reports and in this current report, not all of these tipped employees are being reported. During FY 2018, 16,603 (61.5%) were reported on and 7,190 (26.6%) were reported on during Q1 of FY 2019. In this report, as of Q4 of FY 2019, 6,796 (25%) tipped employees were reported and as of Q2 of FY 2020, 45% of tipped employees were reported.

DOES estimates that less than half of DC tipped employees had reports submitted on their behalf for Q2 FY 2020. The DOES Office of Wage-Hour (OWH) conducts significant outreach to employers to ensure awareness of their reporting obligations as well as when and how the reports are to be submitted. In FY 2019, OWH mailed over 2,000 Failure to Report Tipped Wage Notices to DC employers with North American Industry Classification System (NAICS) Codes for the hospitality and food serving industries that were likely to have tipped employees. As a result, many businesses have started reporting their wages to the tip portal for the first time. Once the COVID-19 pandemic has subsided, OWH will also physically visit the restaurant and hospitality business areas to spread awareness of the duty to report, as well as schedule more training seminars within the community. OWH is also exploring collaboration with other offices and software technology that will allow it to reach new or out-of-touch employers using the tipped wage credit.

¹ The tipped rate wage data in this report is retrieved from reports that are self-reported and inputted either manually or by automation that sometimes encompass user and/or program errors. The numbers presented in this report may be higher or lower when errors are corrected or removed. Data that seems to be inputted in error is audited and/or corrected on a case-by-case basis.



COMPLIANCE DATA AVERAGES

(FY 2020 QUARTER 2 Data Reported to DOES)

228.72 HOURS PER EMPLOYEE



Average number of hours
worked for Q2 of FY 2020



\$12.12 PER HOUR

Average quarterly service
rate reported by employers
for Q2 of FY 2020

\$2,739.44 TOTAL EMPLOYER PAID WAGES



Average amount of employer
reported paid wages per
employee for Q2 of FY 2020

\$2,961.31 TOTAL TIPS



Average amount of tips
reported per employee
for Q2 of FY 2020

\$46.02 PER HOUR



Average total pay rate
(including tips) per
employee for Q2 of
FY 2020

AVERAGE WAGES FOR TIPPED EMPLOYEES

The compliance data collected on both report types includes four data points:

1. total hours worked in a given quarter,
2. employer-paid hourly rate (also known as a service rate),
3. gross wages paid by employer, and
4. total amount of reported tips.

This information assists OWH in determining compliance with the minimum hourly wage requirements.

In Q2 of FY 2020, on average, tipped employees were paid a service rate of \$12.12 per hour from their employer, based on reports submitted. The average hourly employer-paid service rate is reported on a quarterly basis and shows a rate significantly higher than that required by the Fair Shot Act.

On average, employers reported that tipped employees received \$2,739.44 in gross wages in Q2 of FY 2020. This amount must be added to the total tips reported to determine total pay for the quarter.

On average, employers reported that tipped employees received \$2,961.31 in tips in Q2 of FY 2020. These tips must be added to the gross wages paid by the employer to determine total wages for the quarter.

On average, employers reported that tipped employees were paid \$46.02 per hour, including tips. The average total pay rate shows a rate significantly higher than the minimum wage rate for each quarter covered in this report.

EXAMPLES OF POTENTIAL COMPLIANCE ISSUES

The scenarios below are examples of the analysis performed to determine whether an employee was paid the minimum wage over the quarter.

QUARTERLY EARNINGS SCENARIOS

Name	Total Hours (HR) Worked	Employer-Paid Hourly Rate	Gross Wages Paid by Employer	Total Amount of Reported Tips
Employee A	450	\$3.89	\$1,750.50	\$3,500.00

- **Employee A:** 450 HR at \$3.89 Employer-Paid Service Rate (Employer Reports Total Hours and Employer-Paid Service Rate that reveals a **COMPLIANT** Tipped Wage Rate of **\$3.89** up to June 30, 2019)
- **Employee A:** \$3,500.00 in tips + \$1,750.50 paid by Employer = \$5,250.50 in Total Quarterly Pay (Employer Reports Total Tips and Employer-Paid Wages that is used for DOES Analysis in determining Total Quarterly Pay)
- **Employee A:** \$5,250.50 in Total Quarterly Pay / 450 HR = \$11.67/HR (DOES Analysis shows that Total Quarterly Pay and hours reported reveal a **POTENTIALLY NON-COMPLIANT** Minimum Hourly Wage of **\$11.67**)

Name	Total Hours Worked	Employer-Paid Hourly Rate	Gross Wages Paid by Employer	Total Amount of Reported Tips
Employee B	450	\$4.00	\$1,800.00	\$5,000.00

- **Employee B:** 450 HR at \$4.00 Employer-Paid Service Rate (Employer Reports Total Hours and Employer-Paid Service Rate that reveals a **COMPLIANT** Tipped Wage Rate of **\$4.00** up to June 30, 2019)
- **Employee B:** \$5,000.00 in tips + \$1,800.00 paid by Employer = \$6,800.00 in Total Quarterly Pay (Employer Reports Total Tips and Employer-Paid Wages that is used for DOES Analysis in determining Total Quarterly Pay)
- **Employee B:** \$6,800.00 in Total Quarterly Pay / 450 HR = \$15.11/HR (DOES Analysis shows that Total Quarterly Pay and hours reported reveal a **COMPLIANT** Minimum Hourly Wage of **\$15.11**)

Name	Total Hours Worked	Employer-Paid Hourly Rate	Gross Wages Paid by Employer	Total Amount of Reported Tips
Employee C	450	\$3.33	\$1,498.50	\$5,500.00

- **Employee C:** 450 HR at \$3.33 Employer-Paid Service Rate (Employer Reports Total Hours and Employer-Paid Service Rate that reveals a **POTENTIALLY NON-COMPLIANT** Tipped Wage Rate of **\$3.33** starting July 1, 2018)
- **Employee C:** \$5,500.00 in tips + \$1,498.50 paid by Employer = \$6,998.50 in Total Quarterly Pay (Employer Reports Total Tips and Employer-Paid Wages that is used for DOES Analysis in determining Total Quarterly Pay)
- **Employee C:** \$6,998.50 in Total Quarterly Pay / 450 HR = \$15.55/HR (DOES Analysis shows that Total Quarterly Pay and hours reported reveal a **COMPLIANT** Minimum Hourly Wage of **\$15.55**)

FISCAL YEAR DATA: NUMBERS AND SOURCES

COMPARISON BY QUARTER	Q2 FY 2019	Q3 FY 2019	Q4 FY 2019	Q1 FY 2020	Q2 FY 2020
Number of tip reports received	563	550	454	589	595
Number of employees who had a report filed on their behalf*	8,930	10,078	6,796	13,230	12,350
Average total hours worked in the quarter per employee	216.74	242.96	252.83	231.51	228.72
Average employer-paid hourly service rate per employee	\$14.28	\$8.74	\$8.99	\$8.44	\$12.12
Average total employer-paid wages in the quarter per employee	\$2,731.12	\$3,056.08	\$2,871.85	\$3,585.26	\$2,739.44
Average total tips received during the quarter per employee	\$3,816.71	\$4,433.26	\$3,304.70	\$3,718.34	\$2,961.31
Average total pay rate (including gratuities) per employee	\$60.00	\$48.22	\$30.31	\$54.81	\$46.02

QUARTERLY DATA

FY 2019 QUARTER 2 (ending 3/31/2019)	Submitted by ESSP	Submitted Manually	Total
Number of tip reports received	465	98	563
Number of employees who had a report filed on their behalf*	5,637	3,293	8,930
Average total hours worked in the quarter per employee	227.04	166.80	216.74
Average employer-paid hourly service rate per employee	\$12.77	\$21.47	\$14.28
Average total employer-paid wages in the quarter per employee	\$2,786.73	\$2,467.53	\$2,731.12
Average total tips received during the quarter per employee	\$3,892.21	\$3,439.81	\$3,816.71
Average total pay rate (including gratuities) per employee	\$57.98	\$69.34	\$60.00

*Some employees worked at multiple pay rates. Employers submitted a separate report for each rate at which these employees worked.

FY 2019 QUARTER 3 (ending 6/30/2019)	Submitted by ESSP	Submitted Manually	Total
Number of tip reports received	425	125	550
Number of employees who had a report filed on their behalf*	6,004	4,074	10,078
Average total hours worked in the quarter per employee	244.70	237.06	242.96
Average employer-paid hourly service rate per employee	\$8.39	\$9.93	\$8.74
Average total employer-paid wages in the quarter per employee	\$3,227.00	\$2,474.99	\$3,056.08
Average total tips received during the quarter per employee	\$4,262.58	\$5,013.58	\$4,433.26
Average total pay rate (including gratuities) per employee	\$53.88	\$28.98	\$48.22

FY 2019 QUARTER 4 ending 9/30/2019	Submitted by ESSP	Submitted Manually	Total
Number of tip reports received	416	38	454
Number of employees who had a report filed on their behalf*	5,987	809	6,796
Average total hours worked in the quarter per employee	227.27	533.30	252.83
Average employer-paid hourly service rate per employee	\$8.92	\$9.81	\$8.99
Average total employer-paid wages in the quarter per employee	\$2,944.31	\$2,078.38	\$2,871.85
Average total tips received during the quarter per employee	\$3,307.63	\$3,281.38	\$3,304.70
Average total pay rate (including gratuities) per employee	\$29.86	\$35.22	\$30.31

*Some employees worked at multiple pay rates. Employers submitted a separate report for each rate at which these employees worked.

FY 2020 QUARTER 1 (ending 12/31/2019)	Submitted by ESSP	Submitted Manually	Total
Number of tip reports received	427	162	589
Number of employees who had a report filed on their behalf*	6,602	6,628	13,230
Average total hours worked in the quarter per employee	244.05	197.12	231.51
Average employer-paid hourly service rate per employee	\$8.89	\$7.25	\$8.44
Average total employer-paid wages in the quarter per employee	\$3,346.21	\$4,230.39	\$3,585.26
Average total tips received during the quarter per employee	\$3,419.35	\$4,507.66	\$3,718.34
Average total pay rate (including gratuities) per employee	\$40.79	\$91.82	\$54.81

FY 2020 QUARTER 2 (ending 3/31/2020)	Submitted by ESSP	Submitted Manually	Total
Number of tip reports received	499	96	595
Number of employees who had a report filed on their behalf*	8,485	3,865	12,350
Average total hours worked in the quarter per employee	236.72	187.15	228.72
Average employer-paid hourly service rate per employee	\$8.27	\$32.11	\$12.12
Average total employer-paid wages in the quarter per employee	\$2,057.22	\$6,286.98	\$2,739.44
Average total tips received during the quarter per employee	\$3,005.86	\$2,729.68	\$2,961.31
Average total pay rate (including gratuities) per employee	\$49.31	\$28.92	\$46.02

*Some employees worked at multiple pay rates. Employers submitted a separate report for each rate at which these employees worked.

APPENDIX

Tipped Wage Legislative Requirements

The Minimum Wage Amendment Act of 2013 requires that employers who pay a tipped minimum wage (or service rate) to their employees receiving gratuities in accordance with DC Code § 32-1003(f) certify with a quarterly wage report that the employee was paid the required minimum wage in the District of Columbia.

In addition, this legislation tasks the Mayor, through DOES, with:

1. Creating an internet-based portal for online reporting of quarterly wage reports;
2. Providing training to educate employers regarding applicable regulatory provisions, agency procedures, and use of internet-based portals;
3. Performing random reporting audits to ensure compliance; and
4. Submitting a quarterly report of compliance data collected to the Secretary of the Council.

The Fair Shot Minimum Wage Amendment Act of 2016 requires annual increases to the service rate that employers must pay their employees who receive gratuities that make up the difference between the hourly service rate paid and the DC minimum hourly wage.

Compliance Data Presentation

This report includes data from Quarters 2-4 of FY 2019 and Quarters 1-2 of FY 2020. The quarterly schedule is as follows:

- First Quarter: October 1 - December 31
- Second Quarter: January 1 - March 31
- Third Quarter: April 1 - June 30
- Fourth Quarter: July 1 - September 30

DOES analyzes the quarterly data collected to make selections for random reporting audits and to ensure compliance. Specifically, DOES seeks to ensure that:

1. The employer-paid service rate either meets or exceeds the required tipped minimum wage rate, and
2. The total pay (employer wages plus gratuities) meets or exceeds the required hourly minimum wage.

Data Limitations

The data included in this report reflects employer reports received for all quarters up to March 31, 2020. Employers are required to submit their reports within 30 days of the close of the quarter. However, DOES continues to receive reports from employers as a result of: (1) supplemental data provided in response to a DOES audit letter, and (2) technical issues that prevented employers from submitting reports in a timely fashion.

DOES has mandated that all employers self-identify as tipped minimum wage employers in conjunction with their Unemployment Insurance Tax Quarterly submission. However, there may be employers who have not been notified of the reporting requirements by their third-party reporters. Therefore, DOES has issued more than 2,000 compliance notices to DC employers who have not submitted Quarterly Tip Reports and/or have not self-identified as having employees who receive gratuities but are in industries in which employees customarily receive gratuities.

APPENDIX (CONTINUED)

In addition to audits performed by DOES on employers who have not submitted required reports, the agency also followed up with employers who reported data that were not aligned with expected wage data for tipped employees. DOES inquiries have revealed the average amount paid by employers is often higher than the required tipped minimum wage and minimum hourly wage due to the following explanations:

- Employees working multiple positions that pay above the minimum wage at a non-tipped rate or performing less tipped rate work which, in turn, increases their regular rate of pay;
- Employees receiving a “Meal Credit” of \$2.12 per meal in accordance with the DC Municipal Regulations that could not be accounted for in the quarterly reporting;
- Tipped employees being “back-of-the-house workers” – such as food runners, bussers, and bar backs – positions which are traditionally paid either a higher service rate or an hourly rate that exceeds the current minimum wage and share tips in a tip pool with other tipped employees; and
- Tipped employees’ pay and work schedules fluctuate throughout the quarter. Therefore, actual pay rates received needed to be reviewed on a weekly basis rather than quarterly.

DOES continues to provide training and guidance through webinars, reporting instructions and materials, and ongoing customer support to employers to ensure accurate reporting of compensation data for tipped employees. In October 2020, DOES modified a database to better house audit data and activity. DOES also has plans to modify the ESSP to enhance data quality and accurately capture the varied wage scenarios that apply to tipped employees.