PAYROLL COMPLIANCE CHECKLIST | JURISDICTION: FEDERAL + TEXAS | VERSION 2026.1

# Tipped Employee Pay + Tip Credit Checklist

*Notice, minimum wage math, tip pooling, side work, and records — the five places tip credit compliance collapses.*

**WHAT THIS HELPS YOU DO**

Use this checklist to run a compliant tip credit: proper advance notice, per-workweek minimum wage math, lawful tip pools, controlled side work, and records that survive an audit.

## WHEN TO USE THIS DOCUMENT

- Before taking a tip credit on any employee's wages
- When setting up or changing a tip pool
- When tipped employees perform prep, cleaning, or other side work
- When slow shifts leave tips thin
- Before an overtime week for any tipped employee

## WHAT THIS DOCUMENT HELPS PREVENT

- Losing the tip credit entirely — owing full minimum wage back for the recovery period
- Tip pools that include managers and invalidate everything
- Notice failures that void the credit regardless of how well you paid
- Overtime calculated on $2.13 instead of the full minimum wage
- Deductions and walkout charges that drop pay below the floor

*Faulkner HR Solutions focuses on the system behind the people problem. This tool is designed to help employers slow down the decision, identify the risk, and create proof before the issue becomes a claim, complaint, turnover event, or credibility problem.*

## BEFORE YOU START: READINESS CHECKLIST

Gather the following before working through this document. Incomplete inputs are one of the most common reasons employer decisions fail under later scrutiny.

| Have it | Input | Notes / location |
|---|---|---|
| ☐ | Employee name and role | |
| ☐ | Date of incident, request, or separation | |

| Have it | Input | Notes / location |
| --- | --- | --- |
| ☐ | Supervisor involved | |
| ☐ | Policy or handbook section that applies | |
| ☐ | Prior documentation on file | |
| ☐ | Pay records, if applicable | |
| ☐ | Relevant emails, texts, notes, or complaints | |
| ☐ | Decision-maker name | |
| ☐ | Deadline, if applicable | |

# TIP CREDIT COMPLIANCE CHECKLIST

In Texas, the federal rules control: $7.25 minimum wage, $2.13 minimum cash wage, $5.12 maximum tip credit. The credit is a privilege with strict conditions — miss one and the credit disappears retroactively.

## Part 1 — Tip Credit Notice (do this first)

The credit is invalid without advance notice of all five elements. Written notice is not required by the FLSA — but only written notice can be proven.

| Done | Notice element (all five, before the credit is taken) | Notes |
|---|---|---|
| ☐ | Cash wage being paid (at least $2.13/hour) | |
| ☐ | Tip credit amount claimed (max $5.12/hour) | |
| ☐ | Credit cannot exceed tips actually received | |
| ☐ | All tips are the employee's, except lawful pooling | |
| ☐ | Credit is not taken unless the employee was told these things | |
| ☐ | Signed notice on file for every tipped employee | |

## Part 2 — Minimum Wage Math (every workweek)

| | |
|---|---|
| **Employee / week sampled** | |
| **Hours worked** | |
| **Cash wages paid (hours × cash rate)** | |
| **Tips actually received** | |
| **Cash + tips ÷ hours = effective hourly rate (must be ≥ $7.25)** | |
| **Shortfall paid by employer? (required when tips don't cover)** | |

## Part 3 — Tip Pool Rules

| Compliant | Pool rule | Notes |
|---|---|---|
| ☐ | NO managers, supervisors, or owners in the pool — ever (the duties, not the title, decide who's a manager) | |
| ☐ | Tip-credit pools: only employees who customarily and regularly receive tips | |
| ☐ | No-tip-credit pools (full minimum wage paid): back-of-house may be included, but never managers | |

| Compliant | Pool rule | Notes |
|---|---|---|
| ☐ | Pool contribution formula written, communicated, and applied consistently | |
| ☐ | Employer does not keep any portion of tips — including from credit card fees beyond actual cost | |
| ☐ | Pool distributions traceable in payroll records | |

## Part 4 — Side Work and Dual Jobs

| Controlled | Side work check | Notes |
|---|---|---|
| ☐ | Tipped employees' non-tipped side work (rolling silverware, prep, cleaning) is limited and tracked | |
| ☐ | Substantial time on non-tipped duties triggers full minimum wage for that time — current DOL guidance verified | |
| ☐ | Genuinely separate jobs (server + maintenance shift) paid separately, credit only on the tipped job | |
| ☐ | Opening/closing duties reviewed for how much non-tipped time they create | |

## Part 5 — Overtime for Tipped Employees

| | |
|---|---|
| **OT rate basis: full minimum wage ($7.25), NOT the $2.13 cash wage** | |
| **Correct OT cash wage: (7.25 × 1.5) − 5.12 = $5.76/hour minimum (verify current numbers)** | |
| **Sample OT week checked (employee/date)** | |
| **Service charges (auto-gratuities) treated as wages, not tips — included in the regular rate** | |

## Part 6 — Deductions and Records

| Compliant | Check | Notes |
|---|---|---|
| ☐ | No deductions (walkouts, breakage, shortages, uniforms) that drop pay below minimum wage after the credit | |
| ☐ | Credit card processing deducted from tips only at actual cost, if at all | |
| ☐ | Tip records: daily tips received, pool contributions and distributions, by employee | |
| ☐ | Payroll shows cash wage, credit claimed, and tips separately | |
| ☐ | Records retained per FLSA (3 years payroll / 2 years supporting) | |

| Role | Name / signature | Date |
|---|---|---|
| **Completed by** | | |
| **Reviewed by** | | |

## STOP AND REVIEW BEFORE ACTING

If any statement below is true, pause. Get the decision reviewed by HR, counsel, or Faulkner HR Solutions before you act.

- ☐ A shift lead who directs staff shares in the tip pool.
- ☐ No signed tip credit notice exists for anyone.
- ☐ Slow-week shortfalls have never once been paid — statistically impossible if the math were being run.
- ☐ Overtime for servers is computed from $2.13.
- ☐ Walkouts and register shortages come out of tips.
- ☐ Servers spend the first two hours of every shift on prep at $2.13.

## MINIMUM DOCUMENTATION STANDARD

Before this file is closed, the employer should be able to answer every question below and point to where the proof lives.

| Question | Your answer / where the proof is stored |
|---|---|
| What happened? | |
| When did it happen? | |
| Who observed or reported it? | |
| What policy, standard, deadline, or expectation applies? | |
| What decision was made? | |
| Who had authority to make the decision? | |
| What alternatives were considered? | |
| What risk was reviewed? | |
| What follow-up is required? | |
| Where is the proof stored? | |

## COMMON MISTAKES

1. Taking the credit without notice — the most common and most completely voiding error.
2. Letting 'assistant managers' who run shifts into the pool because their title sounds non-managerial.
3. Running the minimum wage math monthly (or never) instead of per workweek.
4. Building the overtime rate on the cash wage instead of the full minimum wage.
5. Treating auto-gratuities and service charges as tips — they're wages and change the regular rate.
6. Keeping no tip records and hoping employees' numbers match yours later.

## WHAT TO DO NEXT

Fix the notice first — it validates everything else. Then verify one real pay period end-to-end with the math in Parts 2 and 5, audit the pool roster against actual duties, and calendar a quarterly re-check. If the credit has been taken without notice, quantify the exposure before deciding how to correct.

> **Before you terminate, deduct, discipline, classify, or respond, get the decision reviewed.**
> Call 210.446.8730 or email thomas@faulknerhrsolutions.info.

> ***Before you process payroll, terminate, classify, deduct, or respond to a claim, get the decision reviewed.***

## Need help applying this to a real workplace decision?

Faulkner HR Solutions helps Texas employers, nonprofits, municipalities, and growing businesses fix the people systems behind recurring workplace problems.

**If this document raised a risk flag, do not guess your way through the next step.**

**Call:** **210.446.8730**
**Email:** thomas@faulknerhrsolutions.info
**Website:** faulknerhrsolutions.info

### DISCLAIMER

This resource is provided for general employer education and planning purposes. It is not legal advice and does not create an attorney-client relationship. Employment laws, agency guidance, and local requirements may change. Employers should review the facts of each situation before acting and consult appropriate HR or legal counsel when needed.