



Electronic Alert

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Oregon Employers: Watch Out for Tip Pooling Rules

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Oregon employers who use a tip pool to collect and distribute tips should review their current practices as soon as possible to ensure compliance in the face of increased enforcement action from the United States Department of Labor.

How are employers at risk?

Although employers are required to follow all federal and state regulations which apply to employee tip pooling—liability most often arises where employers fail to follow regulations on which employees may share in a tip pool. With very limited exceptions for tips received from customers directly for services that a manager or supervisor “directly” and “solely” provides, individuals considered “managers” or “supervisors” under federal regulations may not share in a tip pool.

Why is this important?

Even a small mistake on a single payroll could cause an enormous problem.

In 2021, the United States Department of Labor published their Final Rule, making important amendments to existing laws on tip pooling. The DOL’s Final Rule allows additional enforcement mechanisms and provides the Department with increased authority to assess civil money penalties against employers who unlawfully share in tip pools—irrespective of whether the employers’ actions were repeated or willful. Employers who fail to comply with applicable federal regulations regarding tip pooling also face a significant risk of a federal audit, as well as private litigation and potential tax consequences.

What if I have been including supervisors/managers in my existing tip pool, or have other questions or concerns about my tip pooling practices?

Call an employment lawyer immediately. Better yet, register for Barran Liebman’s upcoming [March 20th webinar](#) where we will discuss tip pooling and other important wage and hour topics.

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