

satisfy the monetary requirements of the Act. Also, if pursuant to an employment agreement the tips received by an employee must be credited or turned over to the employer, such sums may, after receipt by the employer, be used by the employer to satisfy the monetary requirements of the Act. In such instances, there is no applicability of the 50-percent limitation on tip credits provided by section 3(m).

**§ 531.56 “More than \$20 a month in tips.”**

(a) *In general.* An employee who receives tips, within the meaning of the Act, is a “tipped employee” under the definition in section 3(t) when, in the occupation in which he is engaged, the amounts he receives as tips customarily and regularly total “more than \$20 a month.” An employee employed in an occupation in which the tips he receives meet this minimum standard is a “tipped employee” for whom the wage credit provided by section 3(m) may be taken in computing the compensation due him under the Act for employment in such occupation, whether he is employed in it full time or part time. An employee employed full time or part time in an occupation in which he does not receive more than \$20 a month in tips customarily and regularly is not a “tipped employee” within the meaning of the Act and must receive the full compensation required by its provisions in cash or allowable facilities without any deduction for tips received under the provisions of section 3(m).

(b) *Month.* The definition of tipped employee does not require that the calendar month be used in determining whether more than \$20 a month is customarily and regularly received as tips. Any appropriate recurring monthly period beginning on the same day of the calendar month may be used.

(c) *Individual tip receipts are controlling.* An employee must himself customarily and regularly receive more than \$20 a month in tips in order to qualify as a tipped employee. The fact that he is part of a group which has a record of receiving more than \$20 a month in tips will not qualify him. For example, a waitress who is newly hired will not be considered a tipped employee merely because the other wait-

resses in the establishment receive tips in the requisite amount. For the method of applying the test in initial and terminal months of employment, see § 531.58.

(d) *Significance of minimum monthly tip receipts.* More than \$20 a month in tips customarily and regularly received by the employee is a minimum standard that must be met before any wage credit for tips is determined under section 3(m). It does not govern or limit the determination by the employer or the Secretary of Labor of the appropriate amount (up to 50 percent of the minimum wage) of wage credit under section 3(m) that may be taken for tips.

(e) *Dual jobs.* In some situations an employee is employed in a dual job, as for example, where a maintenance man in a hotel also serves as a waiter. In such a situation the employee, if he customarily and regularly receives at least \$20 a month in tips for his work as a waiter, is a tipped employee only with respect to his employment as a waiter. He is employed in two occupations, and no tip credit can be taken for his hours of employment in his occupation of maintenance man. Such a situation is distinguishable from that of a waitress who spends part of her time cleaning and setting tables, toasting bread, making coffee and occasionally washing dishes or glasses. It is likewise distinguishable from the counterman who also prepares his own short orders or who, as part of a group of countermen, takes a turn as a short order cook for the group. Such related duties in an occupation that is a tipped occupation need not by themselves be directed toward producing tips.

**§ 531.57 Receiving the minimum amount “customarily and regularly.”**

The employee must receive more than \$20 a month in tips “customarily and regularly” in the occupation in which he is engaged in order to qualify as a tipped employee under section 3(t). If it is known that he always receives more than the stipulated amount each month, as may be the case with many employees in occupations such as those of waiters, bellhops, taxicab drivers, barbers, or beauty operators, the employee will qualify and the tip credit