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# WILL NEW YORK HOSPITALITY COMPANIES FOREGO THE TIP CREDIT IN 2016?

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Is the "tip credit" still worth it for New York restaurants? By the end of 2016, many restaurants may find that it is not. The current minimum hourly wage permitted for qualified tipped employees is set to increase to \$7.50 on December 31, 2015, from its current \$5.00. Accordingly, the maximum tip credit employers will be able to take against the new general minimum wage of \$9.00 per hour starting December 31, 2015, will reduce dramatically from \$3.75 to \$1.50.

The move by some well-known restaurateurs away from tipping has received significant media attention, as has been the case with the Union Square Hospitality Group. According to an interview with the New York Times, Union Square Hospitality Group's chief executive, Danny Meyer, has stated that his group will move away from the tip credit by the end of 2016 in all of its restaurants, menu prices will include "hospitality," and the blank lines on checks will be eliminated.

A reduced financial incentive is just part of the equation for restaurants, however, as eliminating tip crediting would free many restaurants from the concern of monitoring tip pooling and ensuring weekly pooling exceeds minimum wage requirements. Moreover, not taking the tip credit may reduce risks associated with employees that perform both tipped and non-tipped work. Employees performing any non-tipped work may often claim their non-tipped work exceeds 20% of their work performed during a shift, and they can attempt to hold employers liable for taking a tip credit.

Notably, the days of the tip credit itself may be numbered. Acting New York Commissioner of Labor, Mario J. Musolino, has stated that a review is necessary to determine whether the tip credit should be completely eliminated .

Thus, 2016 will likely be a year of change when it comes to tips. Restaurant employers should start taking a hard look at the pluses and minuses of continuing with the tip credit, counseling with both their legal and accounting professionals to

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ensure they stay ahead of the changes to come.