



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR EMPLOYMENT TAX TERRITORY MANAGERS,
EMPLOYMENT TAX POLICY, AND NATIONAL TIP
REPORTING COMPLIANCE PROGRAM MANAGER

FROM: Anita M. Babb *Anita M. Babb*
Acting Chief, Employment Tax Program

SUBJECT: Changes to 45B Credit Rules

This is to alert you on interim guidance on recently enacted legislation affecting certain business tax credits. Please ensure that this information is distributed to all affected employees within your organization.

The Small Business and Work Opportunity Tax Act of 2007 brought some good news for employers in the food and beverage industry who claim the *Credit for Portion of Employer Social Security Paid with Respect to Employee Cash Tips*, or 45B Credit.

Provision 8213 of the Act establishes that employers can use the federal minimum wage in place on 01/01/07 for computing the credit, even if the federal minimum wage increases, as it did in 2007 from \$5.15/hour to \$5.85/hour. This is significant because the credit is equal to the social security and Medicare taxes paid by the employer on the tips reported to the employer by employees offset by the social security and Medicare taxes paid for tips equaling the federal minimum wage. Therefore, the lower the minimum wage used to offset the 45B credit, the higher the credit.

Additionally, provision 8214 of the Act allows employers to use the 45B Credit to offset the alternative minimum tax (AMT). Previously, the credit was not an allowable offset for AMT.

The next revision of the Employment Tax IRM, 4.23.7, will include this new provision and all future Tip Training material will reflect the new law, by July 2008.

If you have any questions, please contact Senior Program Analyst, Idolina Volz.

CC:
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