

## **FLSA-905**

June 2, 1976

This is in reply to your letter of May 18, 1976, concerning the application of the Fair Labor Standards Act to tipped employees.

The Fair Labor Standards Act is the Federal law of most general application concerning wages and hours of work. The enclosed statement explains the application of the Act to tipped employees. A "tipped employee" is any employee engaged in an occupation in which he or she customarily and regularly receives more than \$20 a month in tips. As indicated, tips include amounts designated as "tip" by credit card customers on their charge slips.

Where tips are charged on a credit card and the employer must pay the credit card company a percentage of the bill for use of its credit facilities, we will not question a practice whereby the employer reduces the amount of credit card tips paid over to the employee by an amount no greater than that charged him by the credit card company. For example, where a credit card company charges an employer 5 percent on all charges sales for use of its credit facility, the paying over to the employee of 95 percent of all tips charged will not result in a violation of the Act. However, the 95 percent of tips due the employee must be paid over promptly and may not be held by the employer while he is waiting to be reimbursed by the credit card company.

If after reading the enclosed material you have any further questions, you may wish to contact our Wage and Hour Division Office at Room 215, Romark Building, 3521 West Broward Boulevard, Fort Lauderdale, Florida 33312 (telephone: 305-792-5310, Ext. 251). The people in that office will be glad to assist you in any way possible.

Sincerely,

Warren D. Landis  
Deputy Assistant Administrator  
Wage and Hour Division

Enclosure