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## Industrial Commission of Arizona Raises Minimum Wage to \$7.65 for 2012

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The Industrial Commission of Arizona (ICA) recently announced that Arizona's minimum wage will increase from its current rate of \$7.35 to \$7.65 for the calendar year 2012. This 30-cent bump is based on the Consumer Price Index for All Urban Consumers (CPI-U), which increased 3.8% from August 2010 to August 2011. Arizona's minimum wage now will be 40 cents higher than the current federal minimum wage of \$7.25. The latter does not increase automatically and must be increased through congressional action.

In 2006, Arizona voters passed the Raise the Minimum Wage for Working Arizonans Act, also known as Proposition 202. Under the Act, when the CPI-U increases, minimum wage goes up every January 1 in accordance with that increase in the cost of living. ICA is authorized to enforce the Act, including implementing any minimum wage increases.

According to ICA guidance, all employers covered under the Act must pay every employee at least the Arizona minimum wage. Unlike the federal Fair Labor Standards Act (FLSA), Arizona does not permit sub-minimum wages for different classes of workers, such as certain trainees or students. The Act provides a narrow exception for small businesses that are not subject to the FLSA and that have less than \$500,000 in gross annual revenue.

The Act also includes a separate provision for employees who customarily and regularly receive tips or gratuities from patrons. For employees falling in this category, the employer may pay up to \$3.00 less per hour than the minimum wage if the employer can establish that the employee received not less than the minimum wage in combined wages and tips. For 2012, this will mean that employers must pay tipped employees not less than \$4.65 per hour. To meet this requirement, employers must maintain a record of the tips considered and the amount per hour that the employer takes as a tip credit must be reported to the employee, in writing, each work week. If an employee's tips are insufficient to meet the minimum wage, the employer must make up the difference.

Arizona employers should remember to update their Arizona Minimum Wage Poster for 2012. The poster can be found on the ICA's website at <http://www.ica.state.az.us/>.

If you have any questions regarding the minimum wage in Arizona, contact the Ogletree Deakins attorney with whom you normally work or the Client Services Department at 866-287-2576 or via email at [clientservices@ogletreedeakins.com](mailto:clientservices@ogletreedeakins.com).

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