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Employment Law Update

December 31, 2007

Arizona employers may recall that under the minimum wage bill that the voters approved in November 2006, Arizona's minimum wage is subject to adjustment every January 1 based on any increases in the cost of living as measured by the federal Consumer Price Index.

Based on increases in the CPI over 2007, **Arizona's minimum wage will go up tomorrow**. The new minimum hourly wage will be **\$6.90 for all work performed on or after January 1, 2008**.

The new minimum hourly wage for **tipped workers** will be **\$3.90**. To take advantage of the lower rate, the employer must be able to show (by its records of charged tips or by the employee's declaration for FICA purposes) that for each week the employee received **total** wages and tips **combined** of at least \$6.90 per hour. This provision for tipped employees is designed to work in a manner similar to the "tip credit" that employers currently can use under the federal Fair Labor Standards Act with tipped employees. The difference, though, is that Arizona employers have to pay tipped workers a minimum hourly rate (\$3.90) that is higher than the FLSA rate (\$2.13), and the combined hourly rate and tip credit must meet the higher Arizona rate (\$6.90), rather than the federal minimum wage (\$5.85).

Employers of workers in Arizona must ensure that they adjust their payroll practices and calculations to capture this minimum wage increase for all hours that employees work after December 31.

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For more information about any of these topics, feel free to contact any of the members of Gallagher & Kennedy's Employment & Labor Law Group:

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