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Recent DOL Opinion Letter on Tip Pooling

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I recently received a U.S. Department of Labor opinion letter addressing a client inquiry about whether an oyster shucker working in the “front of the house” may participate in a tip pool under the Fair Labor Standards Act. While this topic might seem limited to the position, the DOL’s analysis can be used as a roadmap for hospitality sector employers analyzing what positions may properly be included in a tip pool. Click [here](#) to read the full DOL letter.

"...these front-of-house oyster shuckers directly service the customers by sharing and detailing oyster offerings to customers, making suggestions to customers regarding the oyster offerings, and fielding questions about the different options. This is similar to how sommeliers—an occupation that the Department has determined to be a customarily and regularly tipped occupation—explain the wine list to customers and provide expertise on wine pairings [citation omitted]. The front-of-house oyster shuckers also prepare the oysters in plain view of the restaurant's customers similar to a front-of-house itamae-sushi chef or teppanyaki chef—additional occupations that the Department has determined to customarily and regularly receive tips [citation omitted]. Like sushi chefs, these front-of-house oyster shuckers are similar to counter persons who serve customers, and whom WHD has long regarded as employees who customarily and regularly receive tips."