

**(f) Dual jobs**

- (1) When an individual is employed in a tipped occupation and a non-tipped occupation—for example, as a server and janitor (*i.e.*, dual jobs)—the tip credit is available only for the hours the employee spends working in the tipped occupation, provided the employee customarily and regularly receives more than \$30.00 a month in tips. *See* 29 CFR 531.56(e).
- (2) 29 CFR 531.56(e) permits the employer to take a tip credit for any time the employee spends in duties related to the tipped occupation, even though such duties are not themselves directed toward producing tips.
- (3) WHD staff will consult [the Occupational Information Network \(O\\*NET\)](#), an online source of occupational information, and 29 CFR 531.56(e) to determine whether duties are related or unrelated to the tip-producing occupation. Duties will be considered related to the tipped occupation when listed as “core” or “supplemental” under the “Tasks” section of the “Details” tab for the appropriate tip-producing occupation in O\*NET.
  - a. An employer may take a tip credit for any amount of time that an employee spends on related, non-tipped duties performed contemporaneously with the tipped duties—or for a reasonable time immediately before or after performing the tipped duties—regardless whether those duties involve direct customer service. *See* WHD Opinion Letter WH-502 (March 28, 1980), which concludes that a server’s time spent performing related duties (*e.g.*, vacuuming) after restaurant closing is subject to a tip credit. For example, the core tasks currently listed in O\*NET for waiters and waitresses (*see* [the O\\*NET Summary Report for waiters and waitresses](#)) include: cleaning tables or counters after patrons have finished dining; preparing tables for meals, which encompasses setting up items such as linens, silverware, and glassware; and stocking service areas with supplies such as coffee, food, tableware, and linens. In addition, O\*NET lists garnishing and decorating dishes in preparation for serving as a supplemental task for waiters and waitresses. An employer may take a tip credit for any amount of time a

waiter or waitress who is a tipped employee spends performing these related duties.

- b. The WHD recognizes that there will be unique or newly emerging occupations that qualify as tipped occupations under the FLSA for which there is no O\*NET description. *See, e.g., WHD Opinion Letter FLSA2008-18 (December 19, 2008)* regarding itamae-sushi chefs and teppanyaki chefs. For such tipped occupations, the duties usually and customarily performed by employees in that specific occupation shall be considered related duties as long as they are consistent with the related duties performed in similar O\*NET occupations. For example, in the case of unique occupations such as teppanyaki chefs, the related duties would be those that are included in the tasks set out in O\*NET for counter attendants in the restaurant industry.
- (4) An employer may not take a tip credit for the time an employee spends performing any tasks not contained in 29 CFR 531.56(e), or in the O\*NET task list for the employee's tipped occupation, or—for a new occupation without an O\*NET description—in the O\*NET task list for a similar occupation. Some of the time spent by a tipped employee performing tasks that are not related to a tipped occupation, however, may be subject to the *de minimis* rule in 29 CFR 785.47.

*See WHD Opinion Letter FLSA2018-27 (November 8, 2018).*

[12/15/2016, 02/15/2019]