



---

**STATE BOARD OF EQUALIZATION**

June 4, 1971

Dear Mr. REDACTED TEXT,

This is in regard to your letter of January 11, 1971, which was accepted as a petition for redetermination of the determination dated January 6, 1971 covering the period October 1, 1967 to June 30, 1970.

You protested the inclusion of tips of 20 cents per hours which the auditor deemed additional compensation necessary to bring wages up to the minimum was of \$1.65 per hour.

You argue that while you pay your waitresses \$1.45 per hour consideration should be given to the fact that you pay all their health and accident insurance premiums, which it total amounts to more than 20 cents per hour. Thus, you contend you pay the minimum wage. We cannot accept your contention.

Regulations promulgated by the Division of Industrial Welfare, Department of Industrial Relations, concerning wages, hours, and working conditions for women and minors working in the public housekeeping industry are found in Title 8 of the California Admin. Code at Section 11380.

Under these regulations, only gratuities (tips) and meals, up to certain specified amounts, may be credited toward the minimum wage. The difference must be paid in cash or its equivalent directly to the employee. So-called "fringe benefits" may not be credited toward the minimum wage. Your payment of health and accident insurance premiums for your employees is a fringe benefit which may not be credit toward the minimum wage.

Additionally, our auditor reports that you have posted in your premises the required sign stating that tips will be used to satisfy minimum wage requirements. This tends to negate your contention that tips are not used to meet minimum wage requirements.

Based on the foregoing, I will recommend to the Board that your petition be denied.

Very truly yours,

Lawrence A. Augusta  
Tax Counsel

LAA:lt