UNDERSTANDING THE BASICS:  
SPREAD OF HOURS

For each workday that a shift or shifts go over 10 hours, the employer must pay an “extra” hour of pay also known as the spread of hours pay. The spread of hours pay is equal to one (1) hour of pay at the minimum wage, regardless of the employee’s regular rate of pay.

THE “SPREAD OF HOUR” RATE = MINIMUM WAGE

$8.00  
DEC 31 2013

$8.75  
DEC 31 2014

$9.00  
DEC 31 2015

WHICH EMPLOYEES ARE COVERED?

ALL EMPLOYEES EXCEPT EXEMPT, SALARIED EMPLOYEES

In the hospitality industry, spread of hours applies to everyone evenly. So regardless of an employee’s pay rate, they receive a spread of hours pay rate equal to the minimum wage.

CAN I APPLY THE TIP CREDIT TO THE SPREAD OF HOURS PAYMENT?

☐ YES  
☐ NO

No credits (e.g. meal, tip) may be taken against the spread of hour payment.

DOES SPREAD OF HOURS PAY IMPACT OVERTIME?

☐ YES  
☐ NO

You do not have to include spread of hours pay in your overtime calculations as the spread of hours payment is not considered work performed by the employee for overtime purposes.

HOW DO YOU CALCULATE THE SPREAD OF HOURS?

The “spread” for the calculation includes all time working and time off for meals and any off-duty time during or between shifts.

An employee will be owed a spread of hours payment if the start of the first shift and end of the second shift is 10 hours or more, even if the employee is not working for 10 hours.

- Spread of Hours Pay Required
  - Total Spread of Hours = 12 Hours
  - 1st Shift = 5 Hours
  - 2nd Shift = 4 Hours

Employee works 8 AM – 1 PM and 4 PM – 8 PM = 9 hours worked over a 12 hour spread.

- Spread of Hours Pay Not Required
  - Total Spread of Hours = 9 Hours
  - 1st Shift = 4 Hours
  - 2nd Shift = 4 Hours

Employee works 9 AM – 1 PM and 2 PM – 6 PM = 8 hours worked over a 9 hour spread.

Helping Restaurateurs Succeed™ For more resources, visit us online at www.nysra.org.

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