

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9322 HOUSE LABOR & COMMERCE

# ALASKA STATE LEGISLATURE

## House of Representatives

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## Labor and Commerce Committee

### TALKING POINTS HOUSE BILL 237 TIP CREDITS

- The bill does not decrease anyone's wage.
- No employee will earn less than minimum wage (daily reporting mandated by IRS).
- 43 other states utilize tip credits.
- Federal Law allows tip credits and has since the Johnson Administration. The federal cash wage is \$2.13 per hour. The federal law recognizes that tips are part of compensation for tipped employees - with tips often exceeding \$10 an hour -- and that a minimum wage increase is not intended to raise the compensation of employees already making \$10 an hour or more.
- The federal law raised the pay of the highest paid employees in some industries, e.g., restaurant servers making \$9 to \$25 per hour.
- Current disparity in restaurant industry between "back of the house (non tipped employees)" (typically paid over minimum wage) and "front of the house (tipped employees)".
- Bill would increase a restaurant employer's ability to raise pay of "back of house" people.
- Some industries, such as restaurants, operate on very slim profit margins, 5% to 7.9%.
- In order to generate sufficient income to pay employees and make a small profit, a larger restaurant has a 10 to 1 sales to bottom line ratio. Testimony before the House Labor & Commerce Committee revealed that revenues would have to increase \$400,000 to pay the \$40,000 increase mandated by a \$0.40 per hour wage increase.

Talking Points  
House Bill 237  
Tip Credits  
Page Two

- Maintenance of benefits provided by employers to employees are jeopardized by the unilateral 18.9% increase (the last minimum wage increase and the 1997 minimum wage increase) in employee wages.
- HB 237 establishes a floor of \$5.25 and the difference between that and the federal minimum wage would be Alaska's tip credit. As the federal minimum wage goes up, so would the tip credit; however, no employee would ever be paid less than Alaska's minimum wage (federal minimum wage plus 50 cents an hour).
- Bill does not prevent collective bargaining.
- Inability of market to bear more increases in costs to offset raising minimum wage.
- Without this bill, employers will face increased burden of raises in contributions to FICA, unemployment insurance and worker's compensation. It must be remembered that currently employers pay these items and other taxes based on tips as well as cash wages.
- Alaska has over 1,000 businesses effected by this legislation (e.g., Anchorage has over 400 restaurants).
- This bill is supported by CHARR, ARBA, the Anchorage Chamber of Commerce, and small businesses throughout the state.

  
Prepared by: Rep. Norman Rokeberg  
Chairman, House Labor & Commerce  
Committee

ED 1:4/18/97



APR 17 1997

*Alaska Cabaret, Hotel,  
Restaurant & Retailers Association*

5000 Spruce Road, Suite 9 • Anchorage, Alaska 99509  
(907) 276-6123 • Fax: (907) 276-0001  
Toll Free in Alaska (800) 478-2429

April 16, 1997

The Honorable Norman Rokeberg  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg,

The Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR) completely supports the tip credit legislation, HB 237.

All Alaskan restaurant operators with tipped employees will benefit greatly with the passage of HB 237. The recent and future increase in the federal minimum wage creates additional operation cost for Alaskan restaurants. The passage of HB 237 will help ensure lower operation cost and a prosperous future for the Alaskan restaurant industry.

We appreciate your support and consideration of this vital legislation.

Sincerely,

Mary Beth Whitehurst  
Interim Director  
CHARR



Anchorage - Star of the North  
Chamber of Commerce

APR 18 1997

April 18, 1997

Rep. Norm Rokeberg  
Alaska State Legislature  
State Capitol  
Juneau, Alaska  
Fax: 1-907-465-2040

Dear Senator Leman:

This fall the Anchorage Chamber of Commerce Board of Directors passed on to the Alaska State Chamber of Commerce our recommendations for 1997 Legislative Priorities. Among our recommendations was the issue of "tip credit." We feel that the changes to Alaska Statute regarding "tip credit" makes good business sense. These changes will allow the treatment of tips to be the same for both tax and wage purposes.

We hope that you will support these changes through passage of the necessary changes to the Alaska Statutes.

Thank you for your consideration.

Sincerely,

Carol Heyman  
President

HB237

Distributed by:

Rep Austerman

MAY 8 5 1997

May 1 1997

Dear Rep. Austerman & Sen. Mackie:

This legislature is certainly out in left field! The labor bills have the open mouthed attention of everyone! In response to the bill suggesting tips be deducted from the pay of waitresses/waiters - people suggest political contributions be deducted from your pay! I ask what business is it of the state? Are you desperate to prove the party rhetoric that government is out of control?

One legislator was quoted saying you don't have to honor the state employee labor contract. By similar reasoning Hitler had no obligation to protect Jews. And McCarthy was right to seek out communists. - The legislature has the ultimate power - That requires honor, ethics, character.

I don't label you gentlemen with this broad brush response, but you need a mirror of your actions, and you are personally standing with those that have no ethics.

I know you are going to continue to dismember the state until people stand up and say it is enough. Add my voice to the rising swell of those asking for state wide taxation to solve the problems. Alaskans pay the lowest taxes of any state. Pressure to keep taxes and expenditures low is appropriate, but the level of destruction proposed is too far.

Sincerely,

Jim Blackburn

Box 948

Kodiak AK 99615

# LEGAL SERVICES

APR 24 1997

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 24, 1997

**SUBJECT:** Explanation of the employer's minimum wage obligation in proposed AS 23.10.065(d) (HB 237 - minimum wages for tipped employees)

**TO:** Representative Norman Rokeberg, Chair  
House Labor and Commerce Committee  
Attn: Janet Seitz

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

You have asked for an explanation of how AS 23.10.065(d), enacted by sec. 3 of HB 237, works. The subsection states:

(d) An employer must pay a tipped employee a minimum wage of at least \$5.25 an hour and, if the employee does not receive an amount in tips that is sufficient to increase the employee's wage rate to the minimum wage under (a) of this section, the additional amount necessary to raise the employee's wage to the minimum wage under (a) of this section.

Under this subsection, for tipped employees, an employer must pay a minimum wage of at least \$5.25 an hour. If the state minimum wage established under subsection (a) is \$5.25 an hour or less, then that is the employer's only minimum wage obligation. However, if the state minimum wage under subsection (a) is greater than \$5.25 an hour, then the employee is entitled to receive compensation (composed of the employer's \$5.25 an hour plus the employee's tips) equal to the state minimum wage. If the employer's \$5.25 an hour plus the employee's tips will not be enough to make the employee's total compensation (of tips and pay) equal the state minimum wage, then the employer must pay the employee the amount needed so that the employee's compensation does equal the state minimum wage.

An example may help: suppose the state minimum wage under AS 23.10.065(a) is \$7 an hour. For tipped employees, employers must pay \$5.25 an hour as the basic minimum wage. The difference between the state minimum wage and the base minimum wage for tipped employees is therefore \$1.75 an hour. For employees who earn at least \$1.75 an hour in tips, the employer will not have to pay any minimum wage supplement. For employees who earn only \$1.00 an hour in tips, the employer will have to pay a minimum wage supplement of \$.75 an hour so that the employee's total compensation from employer pay and tips equals

Representative Norman Rokeberg

April 24, 1997

Page 2

the minimum wage of \$7.00 an hour (\$5.25 basic tipped employee minimum wage, \$1.00 an hour in tips, plus \$.75 minimum wage supplement from the employer).

Please let me know if you have additional questions on this matter.

TC:jdr

97-296.jdr

Received 4/30/97  
5:27 p.m.



• The Pump House  
• 795 Chena Pump Rd.  
• P.O. Box 80545  
• Fairbanks, Ak. 99708  
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To: Rep. Jeanette James  
Company:  
Fax number: +1 (907) 465-2381  
Business phone:

From: BILL BUBBEL  
Fax number: +1 (907) 479-8432  
Business phone: 907-479-8452  
Home phone:

Date & Time: 4/29/97 5:02:09 PM  
Pages: 2  
Re: HB 237

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Representative James,

I thank you for sponsering HB 237. This has been needed for a long time. Most states give credit to the minimum wage if you have tipped employees. My employees make more than I do averaging \$25.00 per hour in tips alone.

I do see a shortcomming in your bill and that is the accounting and verification of an employees actual tips on a daily basis. As you know, not all tips are reported, nor are they verifiable, therefore I forsee major altercations between employer and employee over the amount of their wage.

Most states overcome this problem by giving a credit for a set amount to offset the minimum wage, for example a credit of \$2.50 per hr if you are tip compensated employee. You might consider this as a fall back position on your bill if you can' get it thru committee or getting to much heat from the public.

I would be willing to assist you in any way. Don't hesitate to call.

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Sincerely,

n. Bill Bubbel  
The Pump House

FEB 25 1997

# Tips on Tips



A Guide to  
Tip Income Reporting  
for Employers in the  
Food and Beverage Industry

# The Program of Tip Reporting



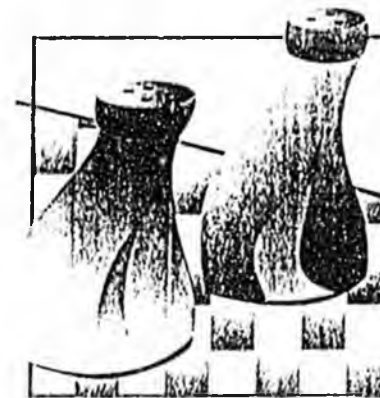
If you are an employer in  
the food and beverage industry,  
this guide is for you.

The Internal Revenue Service (IRS) began its *Tip Rate Determination/Education Program (TRD/EP)* in October 1993 for the food and beverage industry. The objective of the Program has been to improve and ensure compliance by employers and employees with statutory provisions relating to tip income.

What tip reporting options are available?

- Tip Rate Determination Agreement (TRDA)
- Tip Reporting Alternative Commitment (TRAC)
- Continue status quo, i.e., do no more than you are doing now
- Examination of Tip Income Reporting

Under the *Tip Rate Determination/Education Program (TRD/EP)*, the employer may enter into either the TRDA or TRAC arrangement. The IRS will assist applicants in understanding and meeting the requirements for participation. The next pages show how these two arrangements differ.



How does the program benefit the employer?

- No subsequent tip examination as long as a *TRDA* or *TRAC* arrangement is in effect
- Employer credit allowance for FICA taxes paid on tips reported by employees in excess of the minimum wage
- Compliance with the law

How does the program benefit the employee?

- Greater social security benefits
- Increased proof of income when applying for mortgage, car, and other loans
- Increased unemployment benefits
- Increased retirement plan contributions (if applicable)
- Increased workers' compensation
- No subsequent tip examination is imposed as long as terms of the arrangement have been met and all tips have been reported

# TRDA vs. TRAC

## (how they differ)

### TRDA

TRDA requires the IRS to work with the establishment to arrive at a tip rate for the various restaurant occupations.

TRDA requires the employee to enter into a *Tipped Employee Participation Agreement (TEPA)* with the employer.

TRDA requires the employer to get 75% of the employees to sign *TEPAs* and report at or above the determined rate.

### TRAC

TRAC does not require that a tip rate be established but it does require the employer to:

- establish a procedure where a directly-tipped employee is provided (no less than monthly) a written statement of charged tips attributed to the employee.
- implement a procedure for the employee to verify or correct any statement of attributed tips.
- adopt a method where an indirectly-tipped employee reports his or her tips (no less than monthly). This could include a statement prepared by the employer and verified or corrected by the employee.
- establish a procedure where a written statement is prepared and processed (no less than monthly) reflecting all cash tips attributable to sales of the directly-tipped employee.

TRAC does not require an agreement between the employee and the employer.

TRAC affects all (100%) employees.

### TRDA

TRDA provides that if employees fail to report at or above the determined rate, the employer will provide the names of those employees, their social security numbers, job classification, sales, hours worked, and amount of tips reported.

TRDA has no specific education requirement.

TRDA participation assures the employer that prior periods will not be examined during the period that the *TRDA* is in effect.

TRDA results in the mailing of a notice and demand to employer for the employer's portion of FICA taxes on unreported tips determined for the six-month period used to set the tip rate(s).

TRDA prevents employer (only) assessments during the period that the agreement is in effect.

### TRAC

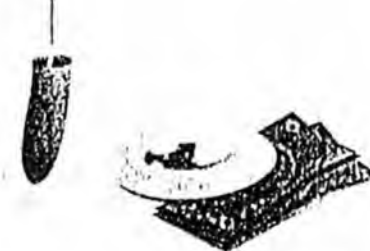
TRAC provides that if the tip rate does not improve collectively, the *TRAC* may be revoked. If revoked, the employer could be subject to a *TRDA* or tip examination.

TRAC includes a commitment by the employer to educate and reeducate quarterly all directly and indirectly-tipped employees and new hires of their statutory requirement to report all tips to their employer.

TRAC includes the same rules.

TRAC has no validation period. Therefore, no notice and demand is appropriate.

TRAC contains a similar provision.



# Example of a TRAC Statement

The following is an example of a statement that an employer can use as required in the TRAC arrangement. This TRAC Statement is given to an employee showing tips attributed to him/her. This example not only fulfills the statement required for charged tips but encompasses indirectly-tipped employee reporting and the reporting of cash tips.

Employer Portion		
Employee Name:	Mark Doe	
Employee Address:	123 Main Street	
City, State, Zip:	Any Town, USA 12345	
Employee SSN:	000-00-0000	
Job Category:	Food Server	
Restaurant Name:	ABC Bar & Grill	
Employer EIN:	00-0000000	
Report Period:	01/01/96-01/31/96	
Gross Sales	\$ 6,000	
Charged Sales w/Tips	\$ 2,000.	
Charged Tips	\$ 280.	
Charged Tip Rate	14%	
Sales Subject to Cash Tips	\$ 4,000.	
Employee Portion		
Cash Tips	\$ 520.	
Cash Tip Rate	13%	
Tips Shared w/Others		
Name:	Job Category:	Amount:
Johnny Noname	Busser	\$ 120.
Total		(120.)
Tips Received from Others		
Name:	Job Category:	Amount:
Susie Care	Cocktail	\$ 100.
Total		100.
Net tips kept and reported:	\$ 780.	
Employee Signature:	Mark Doe	Date: 2/5/96

**Employer fills out top portion.**

Gross Sales: *only* include food & drink amount. *Do not* include tax, tip, or nonfood/drink items.

Charged Sales: include charged sales that show a tip on food & drink amounts *only*. *Do not* include tax, tip, or nonfood/drink items. (A charged sale with no tip is included as a cash sale.)

**Employee fills out bottom portion.**

An indirectly-tipped employee would only receive (from the employer) the "title" portion of statement filled out, unless employer captured "tips shared w/ others" information from the directly-tipped employees TRAC Statement and showed it as "tips received from others."

Employee signs statement and gives a copy to employer, retaining a copy for his/her records. This statement would satisfy employer's requirement under the TRAC arrangement and the employee's requirement under the law.

# How To Get Your Program Underway

## How To Apply

To enter into one of the arrangements, submit an application letter to your area IRS Chief, Examination/Compliance Division, Attn: Tip Coordinator. The Tip Coordinator can provide a letter format as well as extensive information on the two separate arrangements. Check your telephone directory for the IRS office in your area. They can provide the mailing address of the Tip Coordinator.

## Who Should Apply

All employers with establishments where tipping is customary should review their operation. Then, if it is determined that there is or has been an underreporting of tips, the employer should apply for one of the two arrangements under the TRAC/EP.

Employers currently with the TRDA in effect may revoke the arrangement and simultaneously enter into a TRAC.

## When to Apply

An employer may apply for either one of the two arrangements at any time. The effective date of the arrangement is determined by receipt and handling of the employer's application.

TRAC is effective as of the date the IRS District Director signs the arrangement.

TRAC is generally effective as of the first day of the quarter following:

- submission of a TRAC application if the application is submitted prior to June 1, 1996, or
- the date the District Director signs the agreement if the application is

## For More Information

The following is a list of many IRS forms and publications relating to tip income reporting that can be ordered by calling 1-800-829-3676.

Pub 505 - *Tax Withholding and Estimated Tax*

Pub 531 - *Reporting Tip Income*

Pub 1244 - *Employee's Daily Record of Tips and Report to Employer*: This publication includes Form 4070, *Employee's Report of Tips to Employer*, and Form 4070A, *Employee's Daily Record of Tips*.

Form 941 - *Employer's Quarterly Federal Tax Return*

Form 1040ES - *Estimated Tax for Individuals*

Form 4137 - *Social Security and Medicare Tax on Unreported Tip Income*

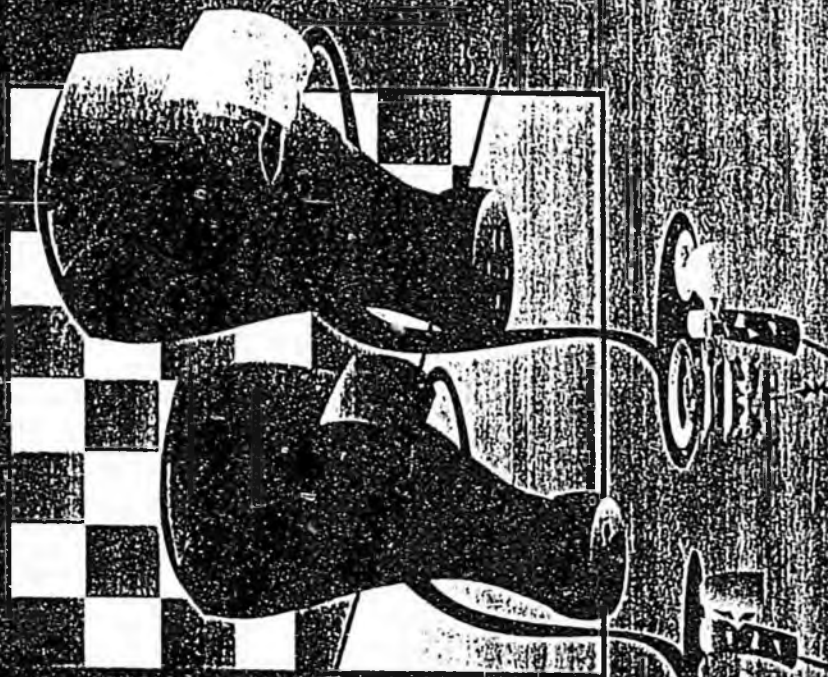
Form 8027 - *Employer's Annual Information of Tip Income and Allocated Tips*

Form W-2 - *Wage and Tax Statement*



FEB 25 1997

# VIDEO on TIPS



## A Guide to Tip Income Reporting

For Employees in the  
Catering, Beverage, and Hospitality



If you wait tables, bus tables, park cars, bartend, serve cocktails, deliver food, or entertain, this guide is for you.

As an employee of a food and beverage establishment, the tip income you receive – whether it's cash or included in a charge – is taxable income. As income, these tips are subject to federal income tax, social security and Medicare taxes, and may be subject to state income tax as well.

The Internal Revenue Service (IRS) has prepared this guide to aid the employee who may need answers to tip income reporting questions.

## What tips do I have to report?

Do I have to report *all* my tips to my boss?

If you received \$20.00 or more in tips in any one month, you should report *all* your tips to your employer so that federal income tax, social security and Medicare taxes, and maybe state income tax can be withheld.

Do I have to report *all* my tips on my tax return?

Yes. All tips are income and should be reported on your tax return.

I was told that I had to report only eight percent (8%) of my total sales as tips. Is this true?

No. You must report to your employer all (100%) of your tips except for the tips from any month that do not total at least \$20.00. The 8% allocation rule is a requirement placed on the employer.

*Here's how the 8% rule works:*

The employer has to determine if the employees have reported tips in the aggregate of at least 8% of the establishment's gross sales subject to tipping. To put it another way, the employer adds all the establishment's gross receipts (sales where tipping is involved). Then the employer figures 8% of that number. If all the employees' reported-tips total less than that 8% figure, the employer figures out the difference between what the employees reported and the 8% amount. The employer then allocates that difference among all tipped employees. If an

employee reported less than the allocated amount to the employer, that allocated amount will appear on the individual's Form W-2, *Wage and Tax Statement*, in the box titled *Allocated Tips*.

Sometimes I don't get tips directly from customers, but rather from another employee. Do I need to report those tips?

Yes. Employees who are indirectly-tipped by another employee are required to report "tip outs." (Employees sometimes disburse tips out of their earned tips to another employee.) Remember, all tips are taxable income.

Do I have to report tip-outs that I pay to indirectly-tipped employees?

If you are a directly-tipped employee, you should report to your employer only the amount of tips you retain. Maintain records of tip-outs with your other tip income (cash tips, charged tips, split tips, tip pool).



## What records do I need to keep?

What type of records do I have to keep?

You must keep a running daily log of all your tip income. Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, allows you to record your tip income for one year. The publication includes Form 4070, *Employee's Report of Tips to Employer*, and Form 4070A, *Employee's Daily Record of Tips*. This form has space for you to log your name, the employer's name and address, date tips were received, date of entry, tips received, tips paid out, and name of employee paid. For a copy of this free publication, call the IRS at 1-800-829-3676. Your daily log would be your only record acceptable to the IRS in the event of an IRS examination.

What can happen if I do not keep a record of my tips?

If it is determined in an examination that you underreported your tip income, the IRS will assess the taxes you owe based on the best available records of your employer. Tip income adds up. Underreporting could result in your owing substantial taxes, penalties, and interest.

If I report all my tips to my employer, do I still have to keep records?

Yes. You should keep a daily log of your tips so that in case of an examination, you can substantiate the actual amount of tips received. There are a number of reasons that you might need records:

- Your return could be randomly selected for a federal income tax examination. The examiner would look for underreporting of income. For example: Your Form 1040, *U.S. Individual Income Tax Return*, establishes that you have your own home, two cars, and three exemptions, and your Form W-2 shows that you earned only \$10,000 in income. This scenario may require an examination.
- A tip examiner could review your employer's books and records. The examination could reveal unreported tip income that you may later need to verify.
- An Internal Revenue Service Center may run a match of your income information from your Form 1040, *U.S. Individual Income Tax Return*, with the income information from your Form W-2. If these figures do not match, you could receive a notice about the discrepancy and a possible examination of your return.

## How does this affect my income tax filing?

I forgot to report my tip income to my employer, but I remembered to record it on my federal income tax return. Will that present a problem?

If you do not report your tip income to your employer, but you do report the tip income on your federal income tax return, you may owe a 50% social security and Medicare tax penalty and be subject to a negligence penalty and possibly an estimated tax penalty. When you don't report your tips to your employer, it places your employer at risk of possible assessment of the employer's share of social security and Medicare taxes.

If I report all my tips but my taxes on the tips are greater than my pay from my employer, how do I pay the remaining taxes?

You can either pay the tax when you file your federal income tax return or you can reach into your tip money and give some to your employer to be applied to those underwithheld taxes. The employer will then record these taxes and you will get credit on your Form W-2. If you wait to pay when you file your return, you may be subject to an estimated tax penalty.

What can happen if I don't report my tips to the IRS?

If the IRS determines through an examination that you underreported your tips, you could be subject to additional federal income tax, social security and Medicare taxes, and maybe state income tax. Also, a penalty of 50% of the additional social security and Medicare taxes, and a negligence penalty of 20% of the additional income tax, plus interest may apply.

What's in it for me if I report all my tip income?

There are many good reasons why you want to report all your tip income:

- Increase in social security benefits (the more you pay, the better your benefits)
- Increase in unemployment compensation benefits
- Increase your employee pension, annuity, or 401(k) participation
- Improve credit standing for loans (home, car)
- Compliance with the tax law and avoidance of an examination and possibly increased taxes, penalties, and interest owed



# What is this compliance program I've heard about?

My employer has entered into a compliance agreement with the IRS concerning tips. What is this?

The *Tip Rate Determination/Education Program* created in 1993 is a national program used in all states. The employer has the option to enter into one of two arrangements under this program: the *Tip Rate Determination Agreement (TRDA)* or the *Tip Reporting Alternative Commitment (TRAC)* (created in June 1995). You can ask your employer for more information about this program.

## TRDA

What is my responsibility, as an employee, under the *Tip Rate Determination Agreement*?

You are required to file your federal tax returns. You must sign a *Tipped Employee Participation Agreement* proclaiming that you are participating in the program. The employer, as a participant in the *TRDA*, has agreed with the IRS to a tip rate for the employer's establishment. To stay a participating employee, you must report tips at or above the tip rate determined by the agreement. Further, as part of the *TRDA* arrangement, the employer is required to report your name, social security number, the hours worked or sales made, your job classification, and your reported tips to the IRS if you *do not* report tips at or above the determined tip rate.

## TRAC

What is my responsibility, as an employee, under the *Tip Reporting Alternative Commitment*?

**Directly-tipped employee:**

- Your employer will furnish you a written statement (at least monthly) reflecting your charged tips.
- You are to verify or correct this statement.
- You are to indicate the amount of cash tips received.
- When reporting your cash tips, you should remember that there is a correlation between charged tips and cash tips.

(Your employer may be able to inform you of the establishment's charged sales to cash sales ratio. For example, if the establishment is 50% charge and 50% cash, and you received and reported \$100 in tips on charged receipts, it is reasonable to believe that you should be reporting close to \$100 in cash tips.)

- You may be asked to provide the name and amount of any tip-outs to indirectly-tipped employees.

**Indirectly-tipped employee:**

- You are required to report all your tips to your employer. If the establishment has the directly-tipped employee provide the name and amount of tips shared with you, the establishment could provide you with a statement of tips that you would need to verify or correct.

# Is tip reporting unique to the food & beverage industry?

Does tip income reporting apply only to the food and beverage industry?

No. Anyone who receives tip income is required by law to report it to his or her employer. The *Tip Rate Determination/Education Program (TRDEP)* was first promoted in the gaming industry (casino industry) in Las Vegas, Nevada, and has spread to the food and beverage industry. Other industries that receive tips include beauty parlors, barber shops, taxi companies, and pizza delivery establishments.

Why should I report my tips to my employer?

When you report your tip income to your employer, the employer is required to withhold federal income tax, social security and Medicare taxes, and maybe state income tax. Tip reporting may increase your social security credits resulting in greater social security benefits when you retire.

Tip reporting may also increase other benefits to which you may become entitled, such as unemployment benefits or retirement benefits. Additionally, a greater income may improve financing approval for mortgage, car, and other loans.

Why has tip reporting become such an issue?

To report all tip income has always been the law. The IRS has put greater emphasis on reporting tip income over the past few years because a significant number of taxpayers are not reporting all tip earnings as income.

How can I get more information?

The IRS provides the following publications and forms relating to tip income reporting. To order, call the IRS at 1-800-829-3676. (TDD equipment access, dial 1-800-829-4059.)

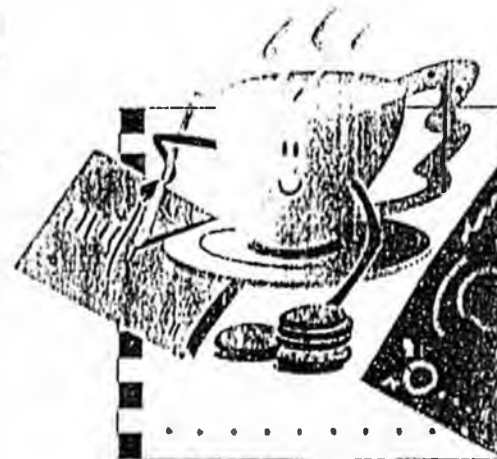
Pub 505 - *Tax Withholding and Estimated Tax*

Pub 531 - *Reporting Tip Income*

Pub 1244 - *Employee's Daily Record of Tips and Report to Employer*. This publication includes Form 4070, *Employee's Report of Tips to Employer*, and Form 4070A, *Employee's Daily Record of Tips*.

Form 1040ES - *Estimated Tax for Individuals*

Form 4137 - *Social Security and Medicare Tax on Unreported Tip Income*



## Tax Time

### An IRA can lower tax bill

For many people who work for companies without a pension plan, setting up an individual retirement arrangement (IRA) can give a double bonus. It can lower their taxes if they make deductible contributions to the IRA and provides for a more secure retirement.

Anyone who has taxable compensation, such as wages, tips, commissions and taxable alimony, and who will be under age 70 and 1/2 at the end of the year can set up an IRA. Money

can be put into an IRA at any time of the year or by the due date of tax returns for that year, not including extensions.

Contributions must be in the form of money, such as cash, check or money order. The most that can be contributed for any year is \$2,000. For married couples that work, the maximum is \$2,000 each. A working spouse can set up a spousal IRA for a spouse who has little or no taxable income. The maximum combined contributions to the working

spouse's IRA and the spousal IRA is \$2,250. Many people can deduct part or all of their contributions. IRA earnings generally are not taxed until they are withdrawn from the account.

Publication 590, *Individual Retirement Arrangements (IRAs)*,

gives more information on IRAs, including how to compute and report deductible and nondeductible contributions, when to start withdrawing money and what actions will result in penalties. Order it by calling 1-800-829-3676. ■

### Workers' Tips Are Taxable

Tips that workers get are taxable income. If tips total \$20 or more a month while working for one employer, workers must report them to the employer. Employers must withhold federal income, Social Security and Medicare taxes on those tips. Then employers

must file Form 941 to report the withholding to the IRS. For a brief overview, call 1-800-829-3676 and ask for Tips on Tips (Publication 1872 for employees or 1875 for employers). Or to get all the details, ask for Publication 15, Circular E, Employer's Tax Guide. ■



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## Publication 531

Cat. No. 15059V

# Reporting Tip Income

For use in preparing  
**1996** Returns



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**FAX**

- From your FAX machine, dial ▶ (703) 487-4160.

See *How To Get More Information* in this publication.

## Important Reminder

**Foreign source income.** If you are a U.S. citizen with income from sources outside the United States (foreign income), you must report all such income on your tax return unless it is exempt by U.S. law. This is true whether you reside inside or outside the United States and whether or not you receive a Form W-2 or 1099 from the foreign payor. This applies to earned income (such as wages and tips) as well as unearned income (such as interest, dividends, capital gains, pensions, rents and royalties).

If you reside outside the United States, you may be able to exclude part or all of your foreign source earned income. For details, see Publication 54, *Tax Guide for U.S. Citizens and Resident Aliens Abroad*.

## Introduction

This publication will help you understand how your tip income is taxed and how to report it on your federal income tax return. Employees of food and beverage establishments who receive tips are the focus of this publication. The recordkeeping rules and other information may also apply to other workers who receive tips, such as hairdressers, cab drivers, and casino dealers.

All tips you receive are taxable income and are subject to federal income tax. You must include in gross income all tips you receive directly from customers, tips from charge customers that are paid to you by your employer, and your share of any tips you receive under a tip-splitting arrangement.

In addition, cash tips of \$20 or more that you receive in a month while working for any one employer are subject to withholding of income tax, social security or railroad retirement tax, and Medicare tax. Report the tips you receive to your employer so that the correct amount of these taxes can be determined.

**Social security or railroad retirement benefits.** Your tips and other pay are used to determine the amount of social security or railroad retirement benefits you or your family may receive if you retire, become disabled, or die. Also, your tip income will be considered in determining your eligibility for Medicare benefits at age 65 or if you become disabled. You can get information about these benefits from Social Security offices or Railroad Retirement Board offices. Noncash tips are not counted as wages for social security or Medicare purposes.

Your future benefits can be figured correctly only if the Social Security Administration (SSA) has your correct information. To make sure that you have received credit for all your earnings, you should request a statement of your earnings from SSA at least every other year. You can get information on how to receive a statement of your earnings by calling 1-800-SSA-1213, or for the hearing impaired with access to TTY/TDD equipment, 1-800-325-0778. When you get the statement from

SSA, you should check it to be sure it includes all of your earnings.

**Tip allocation.** Every large food or beverage establishment must report to the Internal Revenue Service (IRS) any tips allocated to its employees. Generally, tips must be allocated to employees when the total tips reported to an employer by employees are less than 8% of the establishment's food and beverage sales. For more information, see *Tip Allocation*, later.

**Importance of good records.** You and your employer must keep accurate records of your tip income. *Table 1*, shown later in this publication, shows how tips are reported to you by your employer and how to report tips on your return. It may be helpful to refer to this table when you are preparing your return.

## Useful Items

You may want to see:

### Publication

- 505 Tax Withholding and Estimated Tax
- 1244 Employee's Daily Record of Tips and Report to Employer

### Form (and Instructions)

- 4137 Social Security and Medicare Tax on Unreported Tip Income

See *How To Get More Information*, near the end of this publication for information about getting these publications and this form.

## Reporting Tips

You must report all tips as wages on Form 1040, Form 1040A, or Form 1040EZ. This includes the value of tips not paid in cash, such as passes, tickets, goods, or services. If you received tips of \$20 or more in a month and did not report all of them to your employer, you must file Form 1040 and Form 4137. You cannot file Form 1040A or Form 1040EZ. If you are a railroad employee and you did not report tips of \$20 or more, contact your employer.

**Service charges.** A club, hotel, or restaurant may require customers who use its dining or banquet rooms to pay a service charge, which is given to the waiters or waitresses and other employees. Your share of this service charge is not a tip, but it is part of your wages paid by the employer. You should not include your share of the service charge in your report of tips to your employer. Your employer should not include your share of the service charge as tips paid to you, but should include it in your wages.

**Tip splitting.** If you split tips with fellow employees, include only your share of the tips in your report to your employer. An example of tip splitting is a waiter giving part of his tips to busboys. "Tip splitting" may be referred to also as "tip sharing" or "tip pooling."

## Daily Record of Tips

You must keep a *daily record* or *other documentation* to prove the amount of tip income you report on your return.



**Daily record.** Your daily record must show the following.

- 1) Your name and address,
- 2) Your employer's name, and
- 3) The establishment's name.

### Also show for each workday:

- 1) The amount of cash tips you receive directly from customers or from other employees,
- 2) Tips from credit card charge customers when paid to you by your employer,
- 3) The amount of tips you paid out to other employees through tip splitting, etc., and
- 4) The names of the other employees to whom you paid tips.

Make the entries in your daily record on or near the date you receive the tip income. Your records should also show the date each entry is made.

**Other documentation.** If you do not keep a daily record of tips, you must maintain other documentation of the tip income you receive. This other documentation must be as credible and reliable as a daily record. The records must show:

- 1) Tips added to checks by customers and paid over to you, or
- 2) Amounts paid for food or beverages on which you generally would receive a tip.

### Examples of other documentary records are copies of:

- 1) Restaurant bills,
- 2) Credit card charges, or
- 3) Charges under any other arrangement containing amounts added by customers as tips.

**Which form to use.** You can use *Form 4070A, Employee's Daily Record of Tips*, to record your tips.

*Form 4070A* can be found only in Publication 1244, *Employee's Daily Record of Tips and Report to Employer*. You can get Publication 1244 from the IRS or your employer. A filled-in Form 4070A is shown at the end of this publication.

**Your personal records.** You should keep your daily tip record and a copy of the written reports you give your employer with your personal records.

## When To Report Tips to Employer

You must give your employer a written report of your tips for each month by the 10th day of

the next month. This report is required for each month that you receive tips of \$20 or more while working for that employer.

**Saturday, Sunday, holiday rule.** If the 10th day of the month falls on a Saturday, Sunday, or legal holiday, you can give your employer the report on the next day that is not a Saturday, Sunday, or legal holiday.

**Example.** You must report tips of \$20 or more you receive during April 1997 to your employer by Monday, May 12, 1997.

## How To Report Tips to Employer

The following discussions refer only to tips paid by cash, charge, and check.

**Less than \$20 in tips in one month.** If you receive less than \$20 in tips while working for one employer during a month, you do not have to report them to that employer. But you must include the tips in gross income on your income tax return. You do not have to pay social security tax, Medicare tax, or railroad retirement tax on these tips.

**\$20 or more of tips in one month.** If you receive tips of \$20 or more in a month while working for any one employer, you must report the total amount of your tips to that employer.

**Example 1.** You work for Watson's Restaurant during the month and receive \$75 in tips. Because your tips are more than \$20 for the month, you must report the \$75 to your employer.

**Example 2.** You work for Watson's Restaurant during the month and receive \$17 in tips. In that same month you work for Parkview Restaurant and get \$14 in tips. Even though your tips total \$31, you do not have to report tips to either employer because you did not receive \$20 or more in tips from either job. However, you should keep a record of the \$31 because you must report it as income on your tax return.

**Example 3.** You work for Watson's Restaurant and receive \$25 in tips. In that same month you work for Parkview Restaurant and get \$12 in tips. Because your tips for Watson's Restaurant are \$20 or more for the month, you must report the \$25 to that employer. You do not have to report the \$12 in tips you received while working for Parkview Restaurant to either employer. However, you should keep a record of the \$12 because you must report it as income on your tax return with your other tips.

**Termination of employment.** When you stop working for your employer, you should report your tips of \$20 or more to your employer at that time. If you do not report the tips when you stop working, you must give a statement to your employer either before your final payday or by the 10th day following the month you receive the tips, whichever is earlier.

**Example.** You stop working as a waiter in April after receiving \$85 in tips for the month. You will receive your final pay in May. You must report your tips for April to your employer

before the earlier of May 10 or the day before you receive your final pay.

**Date tips are treated as paid.** Tips are treated as paid to you when you make the written report to your employer. However, if you make no report to your employer, tips are treated as paid to you when you receive them.

**Example 1.** During December of last year, you received \$300 in tips. On January 10 of this year, you reported the tips to your employer. Your December tips will be treated as paid to you in January, the time you made the report to your employer. You must report the \$300 on this year's income tax return.

**Example 2.** If during December of last year your tips were only \$18, you would not have to make a report to your employer. In this case, your tips are treated as paid in December of last year, the time you actually received them. You must report the \$18 on this year's income tax return.

**Information you must report.** To report tips to your employer, you can use Form 4070, *Employee's Report of Tips to Employer*. This form, available only in Publication 1244, tells you what information you must report. If you do not use Form 4070, your report should include the following.

- The amount of tips,
- Your employer's name and address,
- Your name, social security number, and address,
- The month (or shorter period) covered,
- Your signature, and
- The date of the report.

A filled-in Form 4070 is shown at the end of this publication.

## Withholding on Tips by Employer

Your employer must withhold income tax, social security or railroad retirement tax, and Medicare tax on the tips you report. Your employer usually deducts the withholding due on tips from your regular wages. However, you do not have to have income tax withheld if you can claim exemption from withholding.

**Exemption from withholding.** Income tax will not be taken out of your pay if you give your employer a filled-in Form W-4, *Employee's Withholding Allowance Certificate*, claiming exemption from withholding. You can claim exemption only if you had no income tax liability last year and expect none this year. Your exemption from withholding is only good for 1 year. To continue your exemption, you must file a new Form W-4 by February 15 next year certifying that you meet the conditions for claiming exemption.

**Employer's recordkeeping.** Your employer may withhold an amount from your wages

based on an estimate of your tips. Your employer also may require your written tip reports more than once a month and deduct the taxes due on your reported tips even though they do not yet total \$20. If this is done, your employer must adjust the amount of taxes withheld from time to time, based on the actual amount of tips you report.

**Form W-2.** The Form W-2, *Wage and Tax Statement*, which you get from your employer, includes your reported tips.

- Box 1 includes your total wages, other compensation, and the tips you reported.
- Box 3 is your social security wages not including tips.
- Box 7 is your social security tips, the tips you reported to your employer.
- Box 5 is your Medicare wages and tips, which for most persons will be the sum of boxes 3 and 7. Your Medicare wages and tips total will be higher if your wages and tips are more than \$62,700.

Any tips that are allocated to you (discussed later) are shown in box 8. Allocated tips are not included in boxes 1, 5, and 7. Any errors you find in these amounts should be brought to your employer's attention as soon as possible, so you can obtain a corrected form.

**Giving your employer money for taxes.** Your regular pay may not be enough for your employer to withhold all the tax due on your regular pay plus reported tips. You can give your employer money to pay this withholding tax up to the close of the calendar year.

If your wages and any money you provide are not enough to pay all of your withholding taxes, the amounts will be applied in the following order. Your employer will first withhold from your wages all taxes due on your regular wages. This includes withholding for state and local income tax. Next, your employer will withhold, from the balance of your wages, taxes due on your reported tips. Social security and Medicare tax on reported tips will be withheld before any income tax will be withheld. Any taxes that remain unpaid should be collected by the employer out of your next paycheck.

You may pay estimated tax instead of giving your employer extra money. Use Form 1040-ES, *Estimated Tax for Individuals*. See Publication 505, *Tax Withholding and Estimated Tax*, for more information.

**Uncollected employee social security and Medicare tax on tips.** Box 13 (code A) on your Form W-2 will show the amount of social security tax on tips that your employer was unable to withhold and for which you did not give your employer extra money to pay the tax.

Box 13 (code B) will show the amount of Medicare tax on tips that your employer was unable to withhold and for which you did not give your employer extra money to pay the tax.

You must file Form 1040 to report the amount of uncollected tax on tips from box 13 (codes A and B), Form W-2, and pay it with your return, even if you do not otherwise have to file a return. Include the amount of uncollected tax in the total on line 51 of Form 1040.

On the dotted line next to line 51, write "UT" and show the amount.

**Limit on social security tax.** The pay you received and the tips you reported to a nonrailroad employer in 1996 were subject to the withholding of social security tax at the rate of 6.2% on the first \$62,700 of compensation. Your pay and tips are also subject to withholding of Medicare tax at the rate of 1.45% on all compensation. No more than \$3,887.40 for social security tax should have been withheld from your pay by any one employer.

**Limit on railroad retirement tax.** If your pay and the tips you reported to your railroad employer in 1996 were subject to the withholding of tier 1 and/or tier 2 railroad retirement tax, see the following discussions.

**Tier 1.** Your employer withheld tier 1 railroad retirement tax at the rate of 6.2% on the first \$62,700 of compensation and Medicare tax at the rate of 1.45% on your total compensation. No more than \$3,887.40 for railroad retirement tax should have been withheld from your pay by any one employer during 1996.

**Tier 2.** Your employer withheld tier 2 railroad retirement tax at the rate of 4.90% on the first \$46,500 of your pay and tips. No more than \$2,278.50 should have been withheld from your pay during 1996.

**Two or more employers.** If you worked for two or more employers in 1996, who together withheld more than \$3,887.40 of social security tax or tier 1 railroad retirement tax, or \$2,278.50 of tier 2 railroad retirement tax, you may claim the extra amount as a credit to reduce your income tax when you file your return. See *Excess Social Security or Railroad Retirement Tax Withholding* in Publication 503 for more information.

**Overwithholding by one employer.** If any one employer withheld too much social security, Medicare, or railroad retirement tax, you may not claim the extra amount as a credit to reduce your income tax. Your employer must adjust this for you.

**No limit for withholding of income tax.** Unlike the social security and railroad retirement taxes, there is no dollar limit on the income tax withheld on wages and tips. The income tax withheld by your employer will either decrease what you owe at the end of the year or increase your refund when you file your return.



**Penalties.** To ensure that all taxpayers pay their fair share of taxes, the law provides penalties for failure to file returns or pay taxes as required. Some other penalties that may be charged include those for:

- 1) Not supplying a correct social security number to an employer or other person required to file a report with IRS about the taxpayer,
- 2) Filing a frivolous income tax return,
- 3) Filing a fraudulent return, or
- 4) Failing to report tips, discussed later.

Some penalties may not be charged if failure to follow the tax laws and regulations was due to reasonable cause and not willful neglect.

**Penalty for false information on Form W-4.** If you make statements or claim withholding allowances on your Form W-4 that decrease the amount of tax withheld and there is no reasonable basis for such statements or allowances at the time you prepare your Form W-4, you may have to pay a penalty of \$500.

There is also a criminal penalty for willfully supplying false or fraudulent information on your Form W-4 or for willfully failing to supply information that would increase the amount withheld. The penalty, upon conviction, is a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both.

## Tips Not Reported to Employer

If you received tips of \$20 or more in any month while working for one employer, but did not report all of them to your employer, you must figure your social security and Medicare tax on the tips not reported. You should use Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, and attach it to Form 1040. See *Social Security and Medicare Tax on Unreported Tip Income (Form 4137)*, later.

**Employees subject to the Railroad Retirement Act.** If you receive tips while working for a railroad employer, you should report all of your tips to your employer. You cannot get railroad retirement credit for your tips unless you report these tips to your employer. A railroad employee cannot file Form 4137 for unreported tips. You should report these tips each pay period. Your tips will be subject to withholding from your regular pay. Any balance of tax due on your tips will be shown in box 13 of Form W-2.

If you do not report your tips throughout the year, contact your employer. Your employer will collect the tax. You must include all of the tips you received, including unreported tips, in your gross income.

### Penalty for failure to report tips.



If you do not report tips to your employer as required, you may be subject to a penalty equal to 50% of the employee social security or railroad retirement tax and Medicare tax, in addition to the tax that you owe.

**Reasonable cause.** You can avoid this penalty if you can show reasonable cause for not reporting these tips to your employer. To do so, attach a statement to your return explaining why you did not report them.

## Tip Allocation

Large food or beverage establishments are required to report certain additional information about tips to the IRS.

To make sure that employees are correctly reporting tips, employers must keep records to verify amounts reported by employees. Certain employers must allocate tips if the percentage of tips reported by employees falls below a required minimum percentage of gross sales. To "allocate tips" means to assign an additional amount as tips to each employee whose reported tips are below the required percentage.

**Who must follow the tip allocation rules.** The rules apply to operations in which:

- 1) Food or beverages are provided for consumption on the premises,
- 2) Tipping is customary, and
- 3) The employer normally employed more than 10 people on a typical business day during the preceding calendar year.

**To whom tip allocation rules do not apply.** Food or beverage operations where tipping is not customary do not come under the rules. Examples of these operations are:

- 1) A cafeteria or "fast food" operation,
- 2) An operation that adds a service charge of 10% or more to 95% or more of its food or beverage sales, or
- 3) Food or beverage operations located outside the United States.

**How the rules work.** The rules apply only if the total amount of tips reported by all tipped employees to your employer is less than 8% (or some lower acceptable percentage) of the establishment's total food or beverage sales (with some adjustments).

If reported tips total less than 8% of total sales, your employer must allocate the difference between 8% of total sales (or some lower acceptable percentage) and the amount of reported tips among all tipped employees. Your employer will exclude carryout sales, state and local taxes, and sales with a service charge of 10% or more when figuring total sales.

**Allocation to individual employees.** Generally, your employer will allocate to all affected employees their share of allocated tips every payroll period. However, your employer may do this less frequently. Your employer **should not withhold** any taxes from the allocated amount.

No allocation will be made to you if you report tips at least equal to your share of 8% of the establishment's total food or beverage sales.

**Allocation formula.** The allocation can be done either under a formula agreed to by both the employer and the employees or, if they

cannot reach an agreement in good faith, under a formula prescribed by IRS regulations.

The allocation formula in the regulations provides that tip allocations are made only to directly-tipped employees. If you receive tips directly from customers, you are a directly-tipped employee, even if the tips are turned over to a tip pool. For example, waiters, waitresses, and bartenders are usually considered directly-tipped employees.

If you do not normally receive tips directly from customers, you are an indirectly-tipped employee. Examples of indirectly-tipped employees are busboys, service bartenders, and cooks. If you receive tips both directly and indirectly through tip splitting or tip pooling, you are treated as a directly-tipped employee.

**Lowering the tip allocation percentage.** If customers of the establishment tip less than 8% on the average, either your employer or a majority of the directly-tipped employees (including those who turn their tips over to a tip pool) may petition to have the allocation percentage reduced from 8%. This petition is made to the district director for the Internal Revenue Service district in which the establishment is located. However, the percentage cannot be reduced below 2%. Also, a user fee must be paid with the petition.

**User fee.** A user fee is required to have the IRS consider a petition to lower the tip allocation percentage. The fee must be paid by check or money order made out to the Internal Revenue Service. The user fee amount for 1996 was \$275. To check if this amount has changed, contact the district director for your area.

**Employees' petition.** The petition to lower the allocation percentage must be in writing and must contain enough information to allow the district director to estimate with reasonable accuracy the establishment's actual tip rate. This information might include the charged tip rate, type of establishment, menu prices, location, hours of operation, amount of self-service required, and whether the customer receives the check from the server or pays the server for the meal.

If the employer possesses any relevant information, the employer must provide it to the district director upon request of the employees or the district director.

An employee petition must be consented to by more than one-half of the directly-tipped employees working for the establishment at the time the petition is filed. If the petition covers more than one establishment, it must be consented to by more than one-half of the total number of directly-tipped employees of the covered establishments. The petition must state the total number of directly-tipped employees of the establishment (or establishments) and the number of directly-tipped employees consenting to the petition.

The petition may cover two or more establishments if the employees have made a good faith determination that the tip rates are essentially the same and if the establishments are:

- 1) Owned by the same employer,

- 2) Essentially the same type of business, and
- 3) In the same Internal Revenue Service region.

A petition that covers two or more establishments must include the names and locations of the establishments and must be sent to the district director for the district in which the greatest number of covered establishments are located. If there is an equal number of covered establishments in two or more districts, the employees can choose which district to petition.

Employees who file a petition must promptly notify their employer of the petition. The employer must then promptly furnish the district director with copies of any **Forms 8027, Employer's Annual Information Return of Tip Income and Allocated Tips**, filed for the establishment for the 3 immediately preceding calendar years.

**Allocated tips on Form W-2.** Your employer will report the amount of tips allocated to you on your Form W-2 (in box 8) separately from your wages and reported tips. Your employer bases withholding only on wages and reported tips. Your employer *should not withhold* income, social security, railroad retirement, or Medicare taxes from the allocated amount. Any incorrectly withheld taxes should be refunded to you by your employer.

If you leave your job before the end of the calendar year and request an early Form W-2, your employer does not have to include a tip allocation on the Form W-2. However, your employer may show the actual allocated amount if it is known, or show an estimated allocation. In January of the next year, your employer must provide Form W-2c, *Statement of Corrected Wage and Tax Amounts*, if the early Form W-2 showed no allocation and your employer later determined that an allocation was required, or if the estimated allocation shown was wrong by more than 5% of the actual allocation.

**Allocated tips you must report as income.** If you do not have adequate records for your actual tips, you must include the allocated tips shown on your Forms W-2 as additional tip income on your tax return. If you have records, do not include allocated tips on your return. Include additional tip income only if those records show you actually received more tips

than the amount you reported to your employer. For recordkeeping requirements, see *Daily Record of Tips*, earlier, under *Reporting Tips*.

Allocated tips have not been included in the amount of wages and reported tips shown in box 1 of your Forms W-2, and no taxes have been withheld from these tips.

**Example.** Judy reported \$4,000 tip income to her employer this year. Box 8 of this year's Form W-2 showed allocated tips of \$1,000. Her daily record of tips made on or near the date she received her tip income totaled \$6,000.

Judy must report an additional \$2,000 of tip income (\$6,000 total tips minus \$4,000 tips reported to employer) on her income tax return this year.

**Social security and Medicare tax.** For allocated tips that you include in gross income on line 7 of Form 1040, use **Form 4137** to figure your social security and Medicare tax on the tips not reported to your employer.

## Social Security and Medicare Tax on Unreported Tip Income (Form 4137)

Report on line 1 of Form 4137 *all* of the tips you received. This includes tips you reported to your employer, unreported tips, and allocated tips that you must report as income. Report on line 2 the amount of tips you reported to your employer and on line 4 the amount of tips you did not report because the total was less than \$20 in a calendar month. These amounts are subtracted from the amount on line 1. The balances on lines 9 and 5 are the unreported tips subject to social security and Medicare tax figured on Form 4137.



*Only include cash, check, and charge tips when completing Form 4137. The value of tips not paid in cash or by check or charge card is not counted as wages for social security and Medicare tax purposes.*

Be sure to complete Schedule U on the bottom of Form 4137. Schedule U is used by the Social Security Administration to credit your social security and Medicare accounts.

Attach Form 4137 to Form 1040. Enter the tax on line 47 of Form 1040. You may not use Form 1040EZ or Form 1040A.



*Do not include on line 47, Form 1040, any amount of uncollected social security tax and Medicare tax due on tips you did report to your employer. This amount, if any, is shown in box 13 on Form W-2. Instead, see Uncollected employee social security and Medicare tax on tips under Withholding on Tips by Employer for the method of paying these taxes.*

## How To Get More Information

You can get help from the IRS in several ways.

**Free publications and forms.** To order free publications and forms, call 1-800-TAX-FORM (1-800-829-3676). You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address. Your local library or post office also may have the items you need.

For a list of free tax publications, order Publication 910, *Guide to Free Tax Services*. It also contains an index of tax topics and related publications and describes other free tax information services available from IRS, including tax education and assistance programs.

If you have access to a personal computer and modem, you also can get many forms and publications electronically. See *Quick and Easy Access to Tax Help and Forms* in your income tax package for details. If space permitted, this information is at the end of this publication.

**Tax questions.** You can call the IRS with your tax questions. Check your income tax package or telephone book for the local number, or you can call 1-800-829-1040.

**TTY/TDD equipment.** If you have access to TTY/TDD equipment, you can call 1-800-829-4059 to ask tax questions or to order forms and publications. See your income tax package for the hours of operation.

Table 1. Understanding Tip Income Reporting

	Will these tips be reported to you on Form W-2?	Does your employer withhold social security and Medicare tax on these tips? <sup>1</sup>	Should you file Form 4137 to figure your social security and Medicare tax on these tips?	Do you have to report these tips as income on your income tax return?
Tips you reported to your employer during the year	Yes (Box 1 of your W-2)	Yes	No	Yes
Allocated tips	Yes (Box 8 of your W-2)	No	Yes <sup>2,3</sup>	You must report ALL tip income
Tips of \$20 or more in a month that you did not report to your employer	No	No	Yes <sup>2,3</sup>	Yes
Tips of less than \$20 in a month that you did not report to your employer	No	No	No	Yes

<sup>1</sup> If you are a railroad employee the question would be, "Does your employer withhold railroad retirement and Medicare tax?"

<sup>2</sup> You may be subject to a penalty equal to 50% of the employee social security or railroad retirement tax and Medicare tax in addition to the tax that you owe.

<sup>3</sup> Railroad employees should not file Form 4137 and should contact their employer who will collect the employment taxes.

Sample Filled-in Form 4070 from Publication 1244

Form <b>4070</b> (Rev. July 1996) Department of the Treasury Internal Revenue Service	<b>Employee's Report of Tips to Employer</b>	OMB No. 1545-0065
▶ For Paperwork Reduction Act Notice, see back of form.		
Employee's name and address <i>John W. Allen 117 Maple Ave. Anytown, NY 14202</i>	Social security number <i>987:00:4321</i>	
Employer's name and address (include establishment name, if different) <i>Diamond Restaurant 834 Main Street Anytown, NY 14203</i>	1 Cash tips received <i>1,024.00</i>	
	2 Credit card tips received <i>519.20</i>	
	3 Tips paid out <i>273.60</i>	
	4 Net tips (lines 1 + 2 - 3) <i>1,269.60</i>	
Month or shorter period in which tips were received from <i>October 1</i> , 19 <i>96</i> to <i>October 31</i> , 19 <i>96</i>	Date <i>Nov. 6, 1996</i>	
Signature <i>John W. Allen</i>		

## Sample Filled-in Form 4070A from Publication 1244

Form <b>4070A</b> (Rev. July 1996) Department of the Treasury Internal Revenue Service	<b>Employee's Daily Record of Tips</b> This is a voluntary form provided for your convenience. See instructions for records you must keep.	OMB No. 1545-0065
---	--	-------------------

Employee's name and address <b>John W. Allen</b> <b>1117 Maple Ave.</b> <b>Anytown, NY 14202</b>	Employer's name <b>Diamond Restaurant</b> Establishment name (if different)	Month and year <b>Oct.</b> <b>1996</b>
---	---	--

Date tips rec'd	Date of entry	a. Tips received directly from customers and other employees	b. Credit card tips received	c. Tips paid out to other employees	d. Names of employees to whom you paid tips
1	10/1	- OFF -			
2	10/3	48.80	26.40	15.20	Judy Brown
3	10/3	28.00	21.60	8.00	Carl Jones
4	10/5	42.00	24.00	10.00	Judy Brown
5	10/7	40.80	28.00	12.00	Judy Brown + Brian Smith
<b>Subtotals</b>		<b>159.60</b>	<b>100.00</b>	<b>45.20</b>	

For Paperwork Reduction Act Notice, see instructions on the back of Form 4070. Page 1

Date tips rec'd	Date of entry	a. Tips received directly from customers and other employees	b. Credit card tips received	c. Tips paid out to other employees	d. Names of employees to whom you paid tips
6	10/7	- OFF -			
7	10/8	37.20	22.40	8.00	Carl Jones
8	10/9	50.80	17.20	10.00	Judy Brown + Carl Jones
9	10/9	33.60	16.40	8.00	Judy Brown
10	10/11	30.40	22.00	9.20	Judy Brown
11	10/11	42.00	11.60	8.80	Carl Jones
12	10/14	35.60	16.00	7.60	Judy Brown
13	10/14	- OFF -			
14	10/14	48.40	14.40	12.40	Judy Brown + Brian Smith
15	10/16	45.20	32.00	17.20	Brian Smith
<b>Subtotals</b>		<b>323.20</b>	<b>152.00</b>	<b>81.20</b>	

Page 2

Date tips rec'd	Date of entry	a. Tips received directly from customers and other employees	b. Credit card tips received	c. Tips paid out to other employees	d. Names of employees to whom you paid tips
16	10/16	41.20	13.40	8.80	Judy Brown
17	10/18	39.20	21.20	9.60	Judy Brown
18	10/19	46.80	12.80	8.40	Carl Jones
19	10/21	34.00	19.20	10.00	Judy Brown
20	10/21	- OFF -			
21	10/22	34.80	26.00	12.80	Judy Brown + Brian Smith
22	10/24	42.40	22.80	12.40	Carl Jones
23	10/24	48.80	17.20	13.60	Judy Brown
24	10/25	33.60	19.20	10.80	Brian Smith
25	10/26	37.20	14.80	9.20	Judy Brown
<b>Subtotals</b>		<b>358.00</b>	<b>171.60</b>	<b>95.60</b>	

Page 3

Date tips rec'd	Date of entry	a. Tips received directly from customers and other employees	b. Credit card tips received	c. Tips paid out to other employees	d. Names of employees to whom you paid tips
26	10/27	31.60	11.60	12.40	Judy Brown
27	10/27	- OFF -			
28	10/29	43.20	14.00	12.80	Carl Jones
29	10/30	34.80	22.40	7.20	Carl Jones
30	10/31	46.00	27.20	12.80	Judy Brown + Brian Smith
31	11/2	27.60	20.40	10.40	Judy Brown
<b>Subtotals from pages 1, 2, and 3</b>		<b>159.60</b>	<b>100.00</b>	<b>45.20</b>	
<b>Totals</b>		<b>1,024.00</b>	<b>519.20</b>	<b>273.60</b>	

1. Report total cash tips (col. a) on Form 4070, line 1.
2. Report total credit card tips (col. b) on Form 4070, line 2.
3. Report total tips paid out (col. c) on Form 4070, line 3.

Page 4

Page 7

## How To Get Forms, Publications, and Other Information



You can get information from the IRS in several ways. Choose the method from the table below that is best for you.

Method	Type of Information	How To Get the Information								
• By phone	• Forms and publications	▶ Call <b>1-800-TAX-FORM (1-800-829-3676)</b> during regular business hours. If you have access to TTY/TDD equipment, you can call <b>1-800-829-4059</b> .								
	• Tele-Tax topics	▶ See your income tax package for the phone number and list of Tele-Tax topics.								
	• Personal assistance	▶ Call <b>1-800-829-1041</b> during regular business hours. If you have access to TTY/TDD equipment, you can call <b>1-800-829-4059</b> .								
• By mail	• Forms and publications	▶ Write to the IRS Forms Distribution Center listed for your state. Print or type your name and address clearly and indicate the number of the form or publication, i.e., Form 1040 or Publication 463.  <table border="0"> <tr> <td><i>Address</i></td> <td><i>States (abbreviated)</i></td> </tr> <tr> <td>Western Area Distribution Center Rancho Cordova, CA 95743-0001</td> <td>AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY, Guam, Northern Marianas, American Samoa</td> </tr> <tr> <td>Central Area Distribution Center P.O. Box 8903 Bloomington, IL 61702-8903</td> <td>AL, AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, WI</td> </tr> <tr> <td>Eastern Area Distribution Center P.O. Box 85074 Richmond, VA 23261-5074</td> <td>CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV</td> </tr> </table> <p>If you live in any other location, see your income tax package for the address.</p>	<i>Address</i>	<i>States (abbreviated)</i>	Western Area Distribution Center Rancho Cordova, CA 95743-0001	AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY, Guam, Northern Marianas, American Samoa	Central Area Distribution Center P.O. Box 8903 Bloomington, IL 61702-8903	AL, AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, WI	Eastern Area Distribution Center P.O. Box 85074 Richmond, VA 23261-5074	CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV
		<i>Address</i>	<i>States (abbreviated)</i>							
Western Area Distribution Center Rancho Cordova, CA 95743-0001	AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY, Guam, Northern Marianas, American Samoa									
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Eastern Area Distribution Center P.O. Box 85074 Richmond, VA 23261-5074	CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV									
• By visiting your local post office or library	• Forms and publications	▶ The post office is a good source of the most common forms and schedules. The library stocks a wider variety of forms and some publications that you may photocopy. It may also have a CD-ROM from which you can view or print items. The CD contains forms from 1991 to the present and publications from 1994 to the present.								
• With a computer and modem	• Forms and publications	▶ Use the Internet— <b>World Wide Web — <a href="http://www.irs.ustreas.gov">http://www.irs.ustreas.gov</a></b> <b>Telnet — <a href="telnet://irs.irs.ustreas.gov">irs.irs.ustreas.gov</a></b> <b>FTP — <a href="ftp://ftp.irs.ustreas.gov">ftp.irs.ustreas.gov</a></b> <i>TIP:</i> If you subscribe to an on-line service, ask your provider how to best access IRS information.  ▶ Access the Internal Revenue Information Services bulletin board at <b>703-321-8020</b> (not toll-free). <i>TIP:</i> If you're a new user, you may want to read the on-line help first.								
	• Educational materials									
• By fax	• IRS press releases and fact sheets									
	• Tele-Tax topics									
• By fax	• Forms and other information	▶ Dial <b>703-487-4160</b> (not toll-free) from your fax machine to reach IRS Tax Fax. You can request up to 3 items during each call. This fax program provides 100 of the most popular forms and instructions (not publications), as well as other information, 24 hours a day, seven days a week.								
	• Tele-Tax topics	▶ See your income tax package for a list of Tele-Tax topics.								
	• Answers to frequently asked questions									

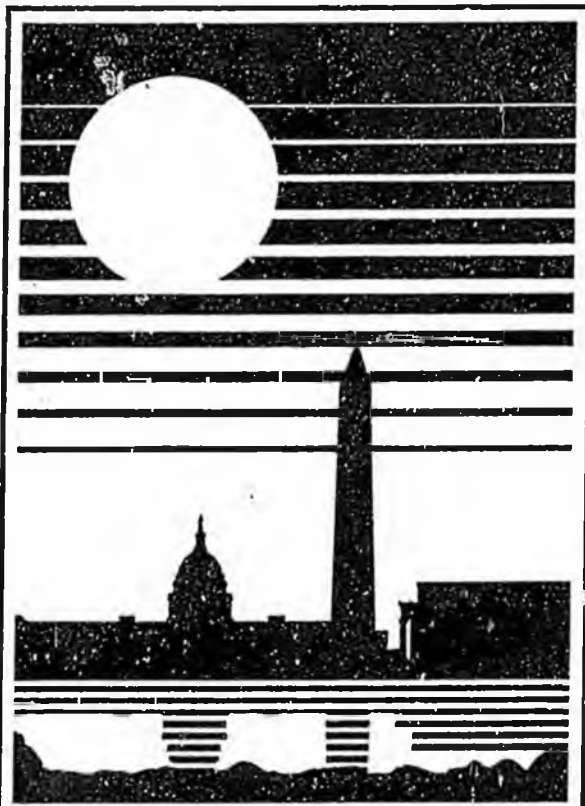


Department of the Treasury  
Internal Revenue Service

**Publication 15**

(Rev. January 1997)  
Cat. No. 10000W

**Circular E,  
Employer's  
Tax Guide**



Get forms and other information faster and easier by:

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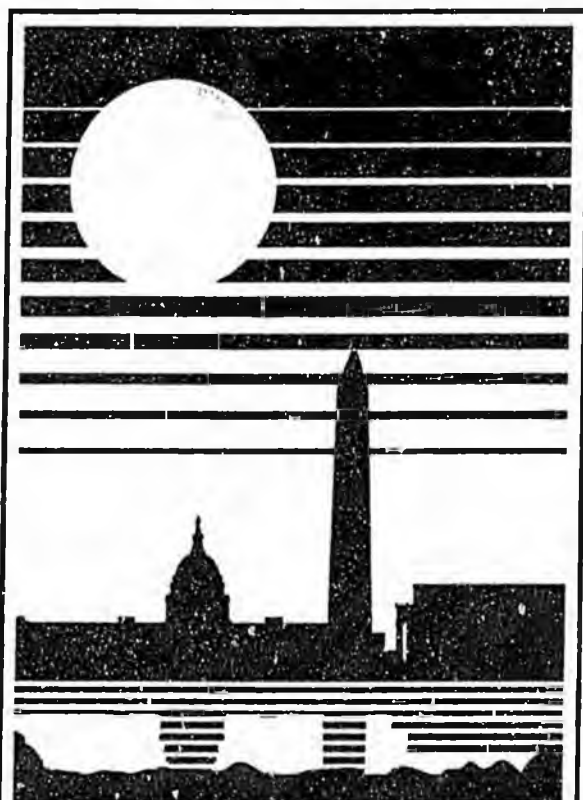
Department of the Treasury  
Internal Revenue Service

## Publication 15-A

(January 1997)  
Cat. No. 21453T

# Employer's Supplemental Tax Guide

(Supplement to  
Circular E,  
Employer's Tax Guide,  
Publication 15)



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### Important Reminder

**Electronic deposit of taxes.**— If your total deposits of social security, Medicare, railroad retirement, and withheld income taxes were more than \$50,000 during calendar year 1995, you must make electronic deposits for *all* depository tax liabilities that occur after June 30, 1997. When determining whether you exceeded the \$50,000 deposit threshold, combine deposits of the following tax returns you filed: Forms 941, 941-PR, 941-SS, 943, 945, and CT-1. If you were required to deposit by electronic funds transfer in prior years, you must continue to do so throughout 1997. The **Electronic Federal Tax Payment System (EFTPS)** must be used to make electronic deposits. If you are required to make deposits by electronic funds transfer and fail to do so, you may be subject to a 10% penalty. Use EFTPS to deposit taxes reported on any of the following tax forms:

- **Form 720**, Quarterly Federal Excise Tax Return
- **Form 940 or 940-EZ**, Employer's Annual Federal Unemployment (FUTA) Tax Return
- **Form 941**, Employer's Quarterly Federal Tax Return (including Forms 941-PR and 941-SS)

# Summary of Alaska Wage & Hour Act

## MINIMUM WAGE STANDARD

NOTE: Alaska minimum wage\* is as follows:

EFFECTIVE DATE	MINIMUM WAGE
4/1/91 - 9/30/96	\$4.75
10/1/96 - 8/31/97	\$5.25
9/1/97	\$5.65

\*Except a person employed as a school bus driver shall receive at least two times the Alaska minimum wage.

Alaska Statute 23.10.050 - 23.10.150 establishes minimum wages and overtime pay standards for employment subject to its provisions. These standards are generally applicable to all employees. However, there are exceptions to the Act. The following are not eligible for minimum wage:

1. Any individual employed in agriculture.
2. Any individual employed in the taking of aquatic life.
3. Any individual employed in the hand picking of shrimp.
4. Any individual employed in domestic service (including babysitters) in or about a private home.
5. Any individual employed by the United States, State or local government (i.e. Political Subdivision).
6. Any individual engaged in the activities of a nonprofit religious, charitable, cemetery, or educational organization where the services are on a voluntary basis.
7. Any individual engaged in the delivery of newspapers to the consumer.
8. Any individual employed solely as a watchman or caretaker on premises, property or plants not in operation for four months or more.
9. Any individual employed in a bona fide executive, professional or administrative capacity as defined by regulations of the Commissioner of Labor, or as an outside salesman or any salesman working on a sales commission basis.
10. Any individual employed in the search for placer, hard rock minerals.
11. Any individual under 18 years old employed on a part-time basis for not more than 20 hours in any week.
12. Employment by a nonprofit educational or child care facility to serve as a parent of children who are in residence at the facility if the employment requires residence at the facility and is compensated on a cash basis exclusive of room and board at an annual rate of less than:
  - a. \$10,000.00 for an unmarried person; or
  - b. \$15,000.00 for a married couple.
13. An independent cab driver who establishes the driving area and hours who contracts on a flat rate basis for the use of the cab, cab permit or dispatch service, and who is compensated solely by the customers.
14. A person who holds a license under AS 08.54 and who is employed by a registered guide or master guide licensed under AS 08.54, for the first 60 work days in which the person is employed by the registered guide or master guide during a calendar year.

No employer shall employ an individual to act in a supervisory capacity for a work week longer than 40 hours for more than 8 hours per day. Should an employer find it necessary to employ an employee in excess of these standards, compensation for overtime shall be paid at the rate of one and one-half times the regular rate of pay. There are exceptions to the requirement of payment of overtime, and these are:

1. An employee of an employer who employs these employees in the regular course of business:
2. Any individual employed in handling, packing, storing, slaughtering, drying, preparing in their raw or natural state or canning of agricultural or horticultural commodities for market or in curing, churning or buttering of dairy products.
3. Any employee of any employer engaged in small business operations where not more than 10 people are employed, as long as an individual is employed not in excess of 11 hours per week during a period of periods of more than 14 workweeks in the aggregate in any calendar year during the normal season.
4. Any employee engaged in agriculture.
5. Any individual employed in connection with the publication of any weekly, semi-weekly or daily newspaper with a circulation of less than 1,000.
6. Any switchboard operator employed in a public telephone exchange or other public utility.
7. Any employee engaged in handling telegraphic, telephone or radio messages or in any agency or contract arrangements with a telegraph or communications company where the message price does not exceed \$500.00 a month.
8. Any individual employed as a seaman.
9. Any individual employed in planting or loading trees, pruning, stacking, bucking, chipping, logging, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, barge, train, or other terminal if the total number of employees in such forestry or lumber operation does not exceed 12.
10. Any individual employed as an outside buyer of poultry, or cream of milk in their raw or natural state.
11. Casual employees as defined by regulations of the Commissioner of Labor.
12. Any employee of a hospital whose employment includes the provision of medical services.
13. Work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement.
14. Work performed by an employee under a voluntary flexible work plan if:
  - a. The employee and the employer have signed a written agreement and the written agreement has been filed with the Department; and
  - b. The Department has issued a certificate approving the plan which states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work plan not included as part of a collective bargaining agreement compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime.
15. An individual employed as a line haul truck driver for trip that exceeds 100 road miles one if the compensation system under which the truck driver is paid includes overtime pay for work in excess of 40 hours per week or for more than eight hours a day and the compensation system requires a rate of pay comparable to the rate of pay required by this section.
16. An individual employed as a community health aid by a local or regional health organization as those terms are defined in AS 18.28.100.

## RECORDKEEPING

An employer shall keep for a period of at least three year all payroll information and records for each employee in his employ, at the place of his employment.

NOTE: The text above is not intended to have the effect of law and is intended solely for explanatory purposes. Inquiries should be made to: Wage & Hour Administration, Alaska Department of Labor, 3301 Eagle Street, Suite 301, P.O. Box 107021, Anchorage, Alaska 99510-7021, (907) 269-4900

W/H-F-08  
(Rev. 9/96)

POST IN PROMINENT PLACE

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Alaska Statute 23.10.050 - 23.10.150 establishes minimum wages and overtime pay standards for employment subject to its provisions. These standards are generally applicable to all employees. However, there are exceptions to the Act. The following are not eligible for minimum wage:

1. Any individual employed in agriculture.
2. Any individual employed in the taking of aquatic life.
3. Any individual employed in the hand picking of shrimp.
4. Any individual employed in domestic service (including babysitters) in or about a private home.
5. Any individual employed by the United States, State or local government (i.e. Political Subdivision).
6. Any individual engaged in the activities of a nonprofit religious, charitable, cemetery, or educational organization where the services are on a voluntary basis.
7. Any individual engaged in the delivery of newspapers to the consumer.
8. Any individual employed solely as a watchman or caretaker on premises, property or plants not in operation for four months or more.
9. Any individual employed in a bona fide executive, professional or administrative capacity as defined by regulations of the Commissioner of Labor, or as an outside salesman or any salesman working on a straight commission basis
10. Any individual employed in the search for placer or hard rock minerals.
11. Any individual under 18 years old employed on a part-time basis for not more than 30 hours in any week.
12. Employment by a nonprofit educational or child care facility to serve as a parent of children while the children are in residence at the facility if the employment requires residence at the facility and is compensated on a cash basis exclusive of room and board at an annual rate of less than:
  - a. \$10,000.00 for an unmarried person; or
  - b. \$15,000.00 for a married couple.
13. An independent cab driver who establishes the driving area and hours, who contracts on a flat rate basis for the use of the cab, cab permit or dispatch service, and who is compensated solely by the customers served.
14. A person who holds a license under AS 08.54 and who is employed by a registered guide or master guide licensed under AS 08.54, for the first 60 work days in which the person is employed by the registered guide or master guide during a calendar year.

## OVERTIME HOURS

No employer shall employ an employee not acting in a supervisory capacity for a workweek longer than 40 hours for more than 8 hours per day. Should an employer find it necessary to employ an employee in excess of these standards, compensation for such overtime shall be paid at the rate of one and one-half times the regular rate of pay. However, there are exceptions to the requirement of payment of overtime, and these are:

1. An employee of an employer who employs three people or less in the regular course of business.
2. Any individual employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state or canning of agricultural or horticultural commodities for market or in making cheese or butter or other dairy products.
3. Any employee of any employer engaged in small mining operations where not more than 12 people are employed, as long as individual is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in any calendar year during the mining season.
4. Any employee engaged in agriculture.
5. Any individual employed in connection with the publication of any weekly, semi-weekly or daily newspaper with a circulation of less than 1,000.
6. Any switchboard operator employed in a public telephone exchange which has fewer than 750 stations.
7. Any employee engaged in handling telegraphic, telephone or radio messages for the public under an agency or contract arrangements with a telegraph or communications company where the message or communications revenue of such agency does not exceed \$500.00 a month.
8. Any individual employed as a seaman.
9. Any individual employed in planting or tending trees, cruising or surveying or bucking or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad or other transportation terminal if the total number of employees in such forestry or lumber operation does not exceed 12.
10. Any individual employed as an outside buyer of poultry, eggs, cream of milk in their raw or natural state.
11. Casual employees as defined by regulations of the Commissioner of Labor.
12. Any employee of a hospital whose employment includes the provision of medical services.
13. Work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement.
14. Work performed by an employee under a voluntary flexible work plan if:
  - a. The employee and the employer have signed a written agreement and the written agreement has been filed with the Department; and
  - b. The Department has issued a certificate approving the plan which states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work plan not included as part of a collective bargaining agreement compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime.
15. An individual employed as a line haul truck driver for trip that exceeds 100 road miles one if the compensation system under which the truck driver is paid includes overtime pay for work in excess of 40 hours per week or for more than eight hours a day and the compensation system requires a rate of pay comparable to the rate of pay required by this section.
16. An individual employed as a community health aid by a local or regional health organization as those terms are defined in AS 18.28.100.

## RECORDKEEPING

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**POST IN PROMINENT PLACE**

W/H-F-08  
(Rev. 9/96)

DRAFT -- TIP CREDIT LEGISLATION

*Simple  
will include  
as Co-Bill*

**Section 1. Tip Credit**

Amend AS 23.10.065(a) as follows:

Except as provided under (b) of this section, an employer shall pay to each employee wages at a rate of not less than 50 cents an hour greater than the prevailing Federal Minimum Wage Law for hours worked in a pay period , whether the work is measured by time, piece, commission, or otherwise. ~~An employer may not apply tips or gratuities bestowed upon employees as a credit toward payment of the minimum hourly wage required by this section. Tip credit as defined by the Fair Labor Standards Act of 1938 as amended does not apply to the minimum wage established by this section.~~ IN DETERMINING THE MINIMUM HOURLY WAGE AN EMPLOYER IS REQUIRED TO PAY A TIPPED EMPLOYEE, THE AMOUNT PAID SUCH EMPLOYEE SHALL BE AN AMOUNT EQUAL TO

- (1) A CASH WAGE PAID SUCH EMPLOYEE BY HIS OR HER EMPLOYER NOT LESS THAN \$5.25 PER HOUR; AND
- (2) AN ADDITIONAL AMOUNT ON ACCOUNT OF THE TIPS RECEIVED BY SUCH EMPLOYEE, WHICH AMOUNT IS EQUAL TO THE DIFFERENCE BETWEEN THE MINIMUM WAGE SPECIFIED IN THE FIRST PARAGRAPH OF THIS SECTION AND THE CASH WAGE SPECIFIED IN PART (1) HEREOF.

**Section 2. Effect Date**

This Act takes effect immediately pursuant to AS 01.10.070(c).

**Section 3. Short Title**

This Act may be cited as the "Tip Credit Act of 1997."

-- casual babysitters and persons employed as companions to the elderly or infirm.

Most farmworkers do not have to be paid overtime but must be paid at least the minimum wage for all hours worked.

Certain full-time students, students in vocational education programs, and workers with disabilities may be paid less than the minimum wage if employers obtain special certificates from the Department of Labor.

### Training Wage

(The training wage provisions expired March 31, 1993.)

### Tipped Employees

A tipped employee is one who regularly receives more than \$30 a month in tips. Tips received by such employees may be counted as wages up to 50 per cent of the minimum wage. The minimum cash wage that employers must pay (from their own pockets) to tipped employees is \$2.125 per hour. If an employee's hourly tip earnings (averaged weekly) added to this hourly wage do not equal the minimum wage, the employer is responsible for paying the balance.

### Enforcement

The Wage and Hour Division of the Department of Labor administers and enforces the FLSA and has the authority to supervise voluntary payment of back wages, but cannot order such payment if the employer refuses to pay. Such matters fall under the jurisdiction of the courts and individuals have a private right under Section 16(b) of the FLSA to file suit to recover back wages as well as court costs and reasonable attorney fees.

For more information...

Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor, Employment Standards Administration.

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This is one of a series of fact sheets highlighting U.S. Department of Labor Programs. It is intended as a general description only and does not carry the force of legal opinion.

*Texas Workforce Commission*  
*Last Modified: April 03, 1995*  
*Return to the [TWC Home Page](#).*



## Federal Minimum Wage and Overtime Pay Standards

UNITED STATES DEPARTMENT OF LABOR Employment Standards Administration Fact Sheet No. ESA 91-7

### FEDERAL MINIMUM WAGE AND OVERTIME PAY STANDARDS

The Fair Labor Standards Act of 1938 (FLSA), as amended, requires that most employees in the U.S. be paid a minimum hourly wage and premium overtime pay after 40 hours in a workweek.

Over 80 million nonsupervisory employees are subject to the minimum wage; 69.7 million are in the private sector and 10.9 million are employed in the public sector.

#### Minimum Wage

On April 1, 1991, the minimum wage increased from \$3.80 an hour to \$4.25 an hour (some states and the District of Columbia have higher minimum wages; those wages prevail over the Federal minimum wage).

#### Overtime Pay

Employees covered by the FLSA generally are entitled to overtime pay for all hours worked over 40 in one workweek. Overtime pay must equal at least one and one-half times an employee's regular rate of pay. There is no limit to the number of hours per day or days per week an adult employee may be required to work.

#### Covered Employees

Covered employees are:

- employees engaged in interstate commerce or in the production of goods for interstate commerce (i.e., goods that travel across state lines), regardless of the employer's annual volume of business;
- employees who work for enterprises that have an annual gross volume of sales made or business done of over \$500,000;
- employees of hospitals, residential facilities that care for those who are physically or mentally ill or disabled, or aged, schools for children who are mentally or physically disabled or gifted, pre-schools, elementary and secondary schools, and institutions of higher education regardless of the annual volume of business;
- employees of public agencies.

#### Exemptions

Certain executive, administrative and professional employees and outside salespeople are exempt from both the minimum wage and overtime pay standards.

Other exemptions: -- employees of certain seasonal amusement or recreational establishments, employees of certain small newspapers, switchboard operators of small telephone companies, seamen employed on foreign vessels, and employees engaged in fishing operations;

# Wage Data for Selected Occupations

## Anchorage and MatSu Census Areas (July 1995)

Hourly wage information is for private employers only. Federal, state, and local government wages are not represented.

The firms selected for the wage rate sample were the ones most likely to employ the occupations included in the survey. Survey responses are voluntary, and while every effort was made to obtain wage information from employers, some chose not to respond.

Each occupation that appears in the wage rate table was reported for at least 15 employees by a minimum of seven businesses or 30 employees by five businesses.

Occupation	Median (\$)	Middle Range (\$)	Mean (\$)	No. of Businesses	No. of Employees
<b>MANAGERS and ADMINISTRATORS</b>					
Automotive Parts Department Managers	18.50	14.96--23.80	20.44	19	34
Fast Food Restaurant Managers	12.02	10.59--16.37	13.83	6	53
Financial Managers	23.59	18.14--30.67	25.28	65	125
Food Service & Lodging Managers	15.00	10.90--19.35	15.35	6	30
Merchandise Managers	24.03	17.50--30.19	25.03	9	20
<b>PROFESSIONAL, PARAPROFESSIONAL, and TECHNICAL</b>					
Accountants & Auditors	17.21	13.94--21.39	17.66	70	151
Architects (Exc. Landscape & Marine)	25.52	23.75--32.29	27.56	5	33
Broadcast Technicians	10.00	8.00--12.97	11.44	6	31
Chemists (Exc. Biochemists)	14.00	12.50--16.00	15.17	6	43
Chiropractors	34.64	19.90--45.04	37.46	10	16
Civil Engineering Technicians & Technologists	20.00	15.56--23.81	21.35	19	58
Civil Engineers	27.97	21.67--33.33	28.23	23	92
Computer Programmers	23.03	19.11--28.39	23.64	10	46
Dental Hygienists	30.00	30.00--30.87	30.14	18	32
Dentists	50.73	48.11--57.74	54.05	9	15
Drafters	18.25	15.22--20.47	18.84	31	74
Electrical & Electronic Engineering Technicians	21.65	15.90--25.96	21.00	12	79
Electrical & Electronic Engineers	25.45	22.22--32.50	27.89	12	40
Floral Designers	9.00	7.50--10.50	9.05	9	31
Geologists/Geophysicists/Oceanographers	18.00	18.00--23.17	21.43	8	54
Inspectors & Compliance Officers	31.23	20.89--33.24	28.09	7	16
Lawyers	29.25	26.56--41.86	33.19	20	95

Loan Officers	19.13	15.02--23.98	20.42	9	92
Mechanical Engineering Technicians & Technologists	21.20	19.43--32.40	25.68	7	21
Mechanical Engineers	28.85	20.00--33.15	27.33	14	41
Medical Laboratory Technicians & Technologists	15.00	13.50--17.37	15.33	8	21
Microcomputer Support Technicians	16.00	12.50--19.23	15.70	10	31
Nurse Practitioners	28.43	25.00--30.00	28.49	16	32
Nurses: Licensed Practical	13.00	12.51--15.01	13.65	23	67
Nurses: Registered	17.40	15.00--20.60	18.86	44	166
Opticians: Dispensing & Measuring	12.62	9.81--16.91	13.74	12	30
Paralegal Personnel	18.50	16.33--20.57	18.57	25	84
Personnel, Training, Labor Relations Specialists	23.19	15.08--32.88	23.94	18	52
Photographers	9.87	7.75--13.59	11.16	8	22
Physician Assistants	32.00	21.41--34.61	29.17	11	15
Physicians & Surgeons	50.02	40.00--86.55	64.69	29	82
Purchase Agents (Exc. Wholesale/Retail/Farm Products)	19.75	15.82--25.04	21.01	27	38
Radiologic Technicians	15.15	12.73--19.00	16.05	11	39
Social Workers	12.00	10.60--14.29	12.98	16	151
Surveyors & Mapping Scientists	22.77	18.25--27.05	23.46	8	24
Systems Analysts, Electronic Data Processing	28.26	22.90--30.04	25.82	9	21
Teachers: Preschool & Kindergarten	9.24	8.54--10.34	9.71	8	42
Underwriters	20.68	16.49--24.52	21.17	8	29
Veterinarian Technicians & Technologists	9.75	8.62--11.13	10.18	11	30
Veterinarians	23.09	19.28--26.69	23.53	11	29
Wholesale & Retail Buyers (Exc. Farm Products)	16.94	14.06--21.03	17.75	18	48
Writers & Editors	19.40	18.16--20.50	18.68	7	101
<b>SALES</b>					
Cashiers	7.30	6.25--11.00	9.26	28	665
Counter & Rental Clerks	7.50	6.25-- 9.80	9.00	24	95
Sales Representatives (Exc. Scientific & Retail Products)	16.35	14.00--19.50	16.65	21	90
Salespersons: Parts	10.00	8.89--12.50	10.86	30	175
Salespersons: Retail	8.50	6.50--12.50	10.13	48	207
Travel Agents	10.38	8.06--12.38	10.48	11	68
<b>CLERICAL and ADMINISTRATIVE SUPPORT</b>					
Billing, Cost & Rate Clerks	13.43	10.81--16.70	13.63	34	76
Bookkeeping, Accounting & Auditing Clerks	11.11	9.39--13.86	11.91	252	737

Computer Operators (Exc. Peripheral Equipment)	15.01	12.12--18.01	15.63	21	51
Customer Service Representatives: Utilities	17.72	16.75--18.10	17.15	5	86
Data Entry Keyers	9.02	6.95--11.12	9.44	14	62
Dispatchers (Exc. Police/Fire/Ambulance)	17.56	12.12--23.25	17.40	23	44
Expeditors	12.00	9.00--16.00	12.55	27	35
File Clerks	8.00	7.00-- 9.03	8.38	37	62
General Office Clerks	10.15	8.25--13.00	10.98	185	483
Hotel Desk Clerks	9.00	6.93-- 9.49	8.38	5	55
Insurance Adjusters/Examiners/Investigators	25.67	22.55--30.09	26.55	8	79
Loan & Credit Clerks	12.63	11.25--16.74	13.66	8	75
Mail Clerks (Exc. Mail Machine/Postal Service)	8.17	7.22--10.81	9.01	9	36
Messengers	8.75	7.87--10.10	9.02	16	22
Order Clerks: Materials/Merchandise/Service	11.53	10.00--14.27	12.21	18	50
Order Fillers: Wholesale/Retail Sales	8.00	8.00-- 8.18	9.15	6	30
Payroll & Timekeeping Clerks	12.77	10.94--13.92	12.54	30	40
Personnel Clerks (Exc. Payroll & Timekeeping)	11.83	10.14--14.62	12.72	23	32
Receptionists & Information Clerks	9.51	8.00--11.11	9.85	140	261
Reservation/Transportation Ticket Agents	10.88	9.50--15.70	12.08	6	229
Secretaries	12.12	10.26--15.00	12.85	118	264
Secretaries: Legal	17.71	15.50--19.68	17.53	26	87
Secretaries: Medical	14.50	11.42--17.25	14.38	16	29
Stock Clerks: Stockroom/Warehouse/Storage Yard	9.50	8.00--12.18	10.30	19	58
Supervisors/Managers: Clerical/Administrative Support	15.01	13.33--20.19	17.42	140	438
Switchboard Operators	9.10	7.50--10.22	9.44	12	43
Teacher Aides	7.96	6.46-- 8.10	7.53	8	37
Tellers	8.35	7.79-- 9.14	8.63	6	340
Traffic, Shipping & Receiving Clerks	10.09	8.88--15.52	13.34	19	72
Typists (Including Word Processing)	11.50	10.50--12.50	12.26	15	29
<b>SERVICE</b>					
Amusement & Recreation Workers	6.50	5.00-- 7.00	6.78	6	87
Bartenders	8.75	7.00-- 9.34	8.41	21	74
Child Care Workers	7.52	7.00-- 8.00	7.58	9	189
Combiner Food Prep/Service Workers: Fast Food	5.25	5.00-- 5.75	5.74	8	271
Cooks: Institutional or Cafeteria	10.00	9.22--11.00	10.41	12	24
Cooks: Restaurant	9.00	7.70--10.36	9.06	16	81
Dental Assistants	14.00	12.40--15.69	13.79	23	58

Dining Room/Cafeteria Attendant/Bartender Helpers	5.50	5.37-- 6.47	5.94	6	45
Dishwashers	6.50	5.50-- 8.25	6.71	18	86
Food Preparation Workers	7.50	5.25-- 9.00	7.64	18	90
Guards & Watch Guards	8.00	6.25-- 9.60	8.59	9	251
Hosts/Hostess: Restaurant/Lounge/Coffee Shop	6.33	5.43-- 7.50	6.47	7	26
Housekeeping Cleaners	8.44	8.25-- 9.04	8.34	9	107
Janitors/Cleaners (Exc. Maid/House Cleaner)	7.00	6.50-- 8.00	7.71	45	298
Medical Assistants	12.00	10.50--13.78	12.28	13	21
Tour Guides	10.39	8.08--10.39	9.76	5	37
Waiters & Waitresses	5.00	4.75-- 5.99	5.43	22	274
<b>AGRICULTURE, FORESTRY, and FISHING</b>					
Animal Caretakers	6.50	5.87-- 8.00	6.84	16	37
Gardeners & Groundskeepers (Exc. Farm)	8.50	6.69--11.78	9.59	10	34
<b>PRODUCTION, CONSTRUCTION, OPERATING, MAINTENANCE, MATERIAL HANDLING</b>					
Aircraft Pilots & Flight Engineers	32.25	15.96--80.41	50.04	6	311
Automotive Body Repairers	16.00	12.00--18.00	15.92	8	52
Bus Drivers	9.75	8.00--11.05	10.17	7	43
Carpenters	16.48	14.00--22.00	18.08	32	219
Concrete & Terrazzo Finishers	24.82	18.00--24.82	22.02	8	52
Driver-Sales Workers	9.07	7.00--12.95	10.25	14	41
Electrical Powerline Installers/Repairers	30.65	25.67--32.40	32.27	6	85
Electricians	26.32	19.00--28.55	24.86	19	219
Excavating & Loading Machine Operators	26.37	23.11--26.55	24.07	10	57
Freight, Stock, & Material Movers: Hand	9.00	7.58--11.85	9.74	18	122
Glaziers	23.02	18.50--23.42	20.53	6	30
Hand Packers & Packagers	10.50	9.00--11.50	10.29	5	39
Heating, Air Conditioner/Refrigeration Mechanics	18.00	15.50--19.75	18.36	15	55
Helpers, Laborers, & Material Movers: Hand	10.00	8.84--13.59	11.70	46	215
Industrial Truck & Tractor Operators	14.67	11.95--28.70	17.70	6	82
Laundry/Drycleaning Machine Operators (Exc. Pressing)	8.44	7.56-- 9.27	8.35	8	21
Line Service Attendants	10.10	8.03--13.93	11.30	5	365
Machinery Maintenance Workers	11.70	8.00--15.00	11.92	8	18
Machinists	20.75	13.50--21.00	17.97	6	31
Maintenance Repairers: General Utility	13.93	10.20--17.00	13.64	16	67
Mechanics: Aircraft	17.80	15.65--20.50	18.02	11	225
Mechanics: Automotive	16.00	10.65--19.38	15.39	32	217

Mechanics: Bus/Truck & Diesel Engine Specialist	16.00	13.67--20.39	16.96	22	94
Operating Engineers	21.22	15.00--26.37	21.13	13	32
Painters & Paperhangers: Construction & Maintenance	16.75	14.00--19.04	16.77	12	64
Plumbers, Pipefitters & Steamfitters	21.50	16.00--27.00	21.94	12	126
Printing Press Machine Operators & Tenders	10.61	8.87--14.00	12.08	7	30
Roofers	18.00	10.00--21.00	16.53	5	75
Service Station Attendants	6.50	6.00-- 7.75	6.98	13	94
Sheet Metal Workers	27.11	27.11--27.11	25.28	6	67
Small Engine Specialists	12.50	12.00--16.50	15.05	9	25
Supervisors: Production, Construction, Operation, Maintenance	22.50	16.81--29.45	24.38	48	149
Truck Drivers: Heavy or Tractor-trailer	15.55	13.65--22.55	16.98	31	291
Truck Drivers: Light (Includes Delivery/Route Workers)	8.50	7.00--11.00	9.25	51	160
Vehicle Washers & Equipment Cleaners	6.00	6.00-- 7.00	6.64	13	119
Welders & Cutters	16.90	12.87--17.00	15.79	11	42

Source: Alaska Department of Labor, Research and Analysis Section

*Median*=The hourly wage at which half of the employees in the occupation earn more and half earn less.

*Middle Range*=The middle 50% of hourly wages. One-quarter of the workers in an occupation earn less than the low end of the range and one-quarter earn more than the high end of the range.

*Mean*=The arithmetic average computed by adding up the hourly wage rate of each employee in that occupation and then dividing by the number of employees.

[\[Research and Analysis Home Page\]](#) [\[Department of Labor Home Page\]](#) [\[State of Alaska Home Page\]](#)



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Last Update: 9/05/96

February 8, 1997

Norman:

Re: tip bill

most waiters/waitresses make more than min. wage - the new increase raises their pay when they were already making over the min. wage.

1. Are you going to do this as a committee bill or as a personal bill? (A)\*
2. As I understand it, tips are to be considered a part of a food server's hourly wage so that a business owner can deduct from the floor (minimum wage) the tips earned by a person so that the person doesn't get the benefit of the tip. In other words, I don't like this concept and don't really understand it but it is your political career not mine!

So let's use Suzy Waitress under the two plans:

Right now, Suzy Waitress earns \$6 an hour. When she is tipped, what happens to that tip and what does a business have to do about it. Back in the dark ages when I was waiting tables, I only had to report to the IRS what I made in tips and no one but me counted mine! As I understand it, the business that employs Suzy Waitress has to make some kind of accounting now for her tips and figure a percentage and then that percentage plus Suzy's basic wages are reported to the IRS.

Not my main

Under your plan, Suzy Waitress would earn a minimum hourly wage, no less than the federal minimum wages adopted for Alaska, but the tips would go where???? Does the tip credit offset the overall hourly wage, for example, so business owner A doesn't pay Suzy Waitress anything because the tip earnings takes care of her wages or what? - (?) unless she didn't receive enough tips during her shift then she receives min. wage

to have less the AK premium I think

See, I really am confused and I have read how some of the other states do it but it just isn't sinking in.

Janet

me too

believe it's just the AK premium

IRS now requires Daily tip reports

\* (A) OWNER SAY (1) this increase hurts their bottom line (2) gross them less revenue to paid non-tip employees

(B) Let wait to see what those guys want!

My idea would hold harmless the tip employees without raising the gross payd. e.g. 2000 hate 2050

# facsimile

## TRANSMITTAL

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**to:** Janet Seitz  
**fax #:** 465-2040  
**re:** California Assembly Bill 2791  
**date:** February 11, 1997  
**pages:** 4, including cover sheet.

Attached are copies of both California Assembly Bill 2791 and a current bill status. The bill was never passed into law. I hope this information is helpful for your purposes. If you need further assistance please do not hesitate to contact me.

From the desk of...

Paul Brandt  
Legislative Analyst  
Division of Legal and Research Services  
130 Seward Street, Suite 218  
Juneau AK 99801-2196

907-465-6607  
Fax: 907-463-3351

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BILL NUMBER: AB 2791 AMENDED 04/29/96  
BILL TEXT

AMENDED IN ASSEMBLY APRIL 29, 1996  
AMENDED IN ASSEMBLY MARCH 25, 1996

INTRODUCED BY Assembly Member Baldwin

FEBRUARY 22, 1996

An act to amend Sections 351 and 1173 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2791, as amended, Baldwin. Minimum wage: deduction of gratuities.

Existing law generally prohibits employers from deducting gratuities paid, given to, or left for employees from wages due the employees. Existing law provides an exception for employment in which no charge is made to the patron for the services rendered to the patron by the employee if the employee is receiving the higher of the federal or state minimum wage and the employee's wage or salary is guaranteed in full irrespective of the amount of tips received by the employee.

This bill would, for purposes of compliance with the state minimum wage and subject to authorization by an order of the Industrial Welfare Commission, permit employers to deduct from the minimum wage otherwise due an employee the same amount of gratuities permitted to be deducted for purposes of compliance with the minimum wage established by the federal Fair Labor Standards Act. (+ However, these deductions could not cause the wages paid to be below the state minimum wage in effect on January 1, 1996. +)

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 351 of the Labor Code is amended to read:

351. (a) Except as provided in subdivisions (c) and (d), no employer or agent shall collect, take, or receive any gratuity or a part thereof, paid, given to or left for an employee by a patron, or deduct any amount from wages due an employee on account of the gratuity, or require an employee to credit the amount, or any part thereof, of the gratuity against and as a part of the wages due the employee from the employer.

(b) Every gratuity so received by an employee is the sole property of the employee or employees to whom it was paid, given, or left for.

(c) Subdivision (a) does not apply to any employment in which no charge is made to a patron for services rendered to the patron by an employee on behalf of his or her employer if both of the following conditions are met:

(1) The employee is receiving a wage or salary not less than the higher of the state or federal minimum wage, regardless of whether the employee is subject to either minimum wage law.

(2) The employee's wage or salary is guaranteed and paid in full irrespective of the amount of tips received by the employee.

(d) For purposes of complying with, and where permitted by, an

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order of the Industrial Welfare Commission establishing the minimum wage, an employer may deduct from wages due an employee the same amount of gratuities received that could be deducted from wages due the employee for purposes of complying with the minimum wage established by Section 6 of the federal Fair Labor Standards Act, as amended (29 U.S.C., Sec. 206). (+ However, deductions pursuant to this subdivision from wages due an employee shall in no case reduce the wage paid the employee below the minimum wage specified by the laws of this state on January 1, 1996. +)

SEC. 2. Section 1173 of the Labor Code is amended to read:

1173. It shall be the continuing duty of the Industrial Welfare Commission, hereinafter referred to in this chapter as the commission, to ascertain the wages paid to all employees in this state, and to ascertain the hours and conditions of labor and employment in the various occupations, trades, and industries in which employees are employed in this state, and to investigate the health, safety, and welfare of such employees.

The commission shall conduct a full review of the adequacy of the minimum wage at least once every two years. The commission may, upon its own motion or upon petition, amend or rescind any order or portion of any order or adopt an order covering any occupation, trade, or industry not covered by an existing order pursuant to the provisions of this chapter. Consistent with the purposes of this chapter the commission may adopt or amend an order permitting employers to credit gratuities received by an employee in reduction of the employer's obligation to pay the minimum wage, in accordance with Section 351.

Before adopting any new rules, regulations, or policies, the commission shall consult with the Occupational Safety and Health Standards Board to determine those areas and subject matters where the respective jurisdiction of the commission and the Occupational Safety and Health Standards Board overlap. In the case of such overlapping jurisdiction, the Occupational Safety and Health Standards Board shall have exclusive jurisdiction, and rules, regulations, or policies of the commission on the same subject have no force or effect.

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## CURRENT BILL STATUS

MEASURE : A.B. No. 2791  
AUTHOR(S) : Baldwin.  
TOPIC : Minimum wage: deduction of gratuities.  
HOUSE LOCATION : ASM  
+LAST AMENDED DATE : 04/29/96

## TYPE OF BILL :

Inactive  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
Non-State-Mandated Local Program  
Fiscal  
Non-Tax Levy

LAST HIST. ACT. DATE: 09/01/96

LAST HIST. ACTION : From committee without further action pursuant to Joint  
Rule 62(a).

31 DAYS IN PRINT : 03/24/96

TITLE : An act to amend Sections 351 and 1173 of the Labor Code,  
relating to employment.

JAN 30 1997

-1-

Minimum Wage and Overtime Premium Pay Standards Applicable to  
Nonsupervisory NONFARM Private Sector Employment  
Under State and Federal Laws  
January 2, 1997

State or other jurisdiction*	Future effective date	Basic mini- mum rate (per hour)	Premium pay after designated hours <u>1/</u>	
			Daily	Weekly
<b>FEDERAL:</b>				
Fair Labor Standards Act (FLSA)	9/1/97	\$4.75 5.15		40
<b>STATE:</b>				
Alabama		...		...
Alaska	9/1/97	5.25 5.65	8 <u>2/</u>	40 <u>2/</u>
Arizona		...		...
Arkansas (Applicable to em- ployers of 4 or more)		4.25		40
California	3/1/97 9/1/97 3/1/98	4.75 5.00 5.15 5.75	8 <u>3/</u> over 12 (double time)	40 <u>3/</u> 7th day <u>3/</u> First 8 (time and half) Over 8 (double time)
Colorado		4.75	12	40
Connecticut	9/1/97	4.77 5.18		40 <u>4/</u>
Delaware	9/1/97	5.00 5.15		...
District of Columbia	9/1/97	5.75 6.15		40
Florida		...		...

See footnotes at end of table

Minimum Wage and Overtime Premium Pay Standards Applicable to  
Nonsupervisory NONFARM Private Sector Employment  
Under State and Federal Laws--Continued  
January 2, 1997

State or other jurisdiction*	Future effective date	Basic mini- mum rate (per hour)	Premium pay after designated hours <u>1/</u>	
			Daily	Weekly
Georgia (Applicable to employers of 6 or more)		\$3.25	...	...
Guam		4.75 5.15		40
	9/1/97			
Hawaii <u>5/</u>		5.25		40
Idaho		4.25		40
Illinois (Applicable to employers of 4 or more)		4.75 5.15		40
	9/1/97			
Indiana (Applicable to employers of 2 or more)		3.35	...	...
Iowa		4.75 5.15		...
	9/1/97			
Kansas		2.65		46
Kentucky		4.25		40 7th day
			<u>6/</u>	
Louisiana		...	...	...
Maine		4.75 5.15		40
	9/1/97			
Maryland		4.75 5.15		40 <u>7/</u>
	9/1/97			
Baltimore City Ordinance (Applicable to employers of 2 or more)		4.25		40
Massachusetts		5.25		40

See footnotes at end of table

Minimum Wage and Overtime Premium Pay Standards Applicable to  
Nonsupervisory NONFARM Private Sector Employment  
Under State and Federal Laws--Continued  
January 2, 1997

State or other jurisdiction*	Future effective date	Basic mini- mum rate (per hour)	Premium pay after designated hours <u>1/</u>	
			Daily	Weekly
Michigan (Applicable to employers of 2 or more)		\$3.35		40
Minnesota				48
Large employer (enterprise with annual receipts of \$362,500 or more)		4.25		
Small employer (enterprise with annual receipts of less than \$362,500)		4.00		
Mississippi		...		...
Missouri <u>8/</u>		4.75		40 <u>8/</u>
	9/1/97	5.15		
Montana		4.75		40
<u>except</u> businesses with gross annual sales of \$110,000 or less	9/1/97	5.15		
		4.00		
Nebraska (Applicable to em- ployers of 4 or more)		4.25		...
Nevada		4.75	8 <u>9/</u>	40 <u>9/</u>
	9/1/97	5.15		
New Hampshire		4.75		40
	9/1/97	5.15		
New Jersey		5.05		40
New Mexico		4.25		40
New York		4.25		40
North Carolina		4.25		40 <u>10/</u>
North Dakota		4.75		40

See footnotes at end of table

Minimum Wage and Overtime Premium Pay Standards Applicable to  
 Nonsupervisory NONFARM Private Sector Employment  
 Under State and Federal Laws--Continued  
 January 2, 1997

State or other jurisdiction*	Future effective date	Basic mini- mum rate (per hour)	Premium pay after designated hours <u>1/</u>	
			Daily	Weekly
Ohio		\$4.25	—	40
<u>except</u> , employers with gross annual sales from \$150,000 to \$500,000		3.35		
and <u>except</u> employers with gross annual sales under \$150,000		2.80		
Oklahoma				...
Employers of 10 or more full-time employees at any one location and employers with annual gross sales over \$100,000 irrespective of number of full-time employees	9/1/97	4.75 5.15		
All other employers		2.00		
Oregon		5.50	<u>11/</u>	40
	1/1/98	6.00		
	1/1/99	6.50		
Pennsylvania		4.75		40
	9/1/97	5.15		
Puerto Rico		1.20 to 4.75 <u>12/</u>	8, and on stat- utory rest day (double time)	40 (double time)
Rhode Island		5.15	<u>13/</u>	40
South Carolina		...		...
South Dakota		4.25		...
Tennessee		...		...

See footnotes at end of table

Minimum Wage and Overtime Premium Pay Standards Applicable to  
 Nonsupervisory NONFARM Private Sector Employees  
 Under State and Federal Laws--Continued  
 January 2, 1997

State or other jurisdiction*	Future effective date	Basic mini- mum rate (per hour)	Premium pay after designated hours <u>1/</u>	
			Daily	Weekly
Texas		\$3.35		...
Utah	9/1/97	4.75 5.15		...
Vermont (Applicable to employers of 2 or more)	9/1/97	5.00 5.15		40 <u>14/</u>
Virginia (Applicable to employers of 4 or more)	9/1/97	4.75 5.15		...
Virgin Islands <u>except</u> businesses with gross annual receipts of less than \$150,000		4.65 <u>15/</u> 4.30	8	40 On 6th and 7th con- secutive days
Washington		4.90		40 <u>16/</u>
West Virginia (Applicable to employers of 6 or more at one location)		4.25		40
Wisconsin		4.75		40
Wyoming		1.60		...

See footnotes on next page

FOOTNOTES

\*In 10 States, the State law excludes from coverage any employment that is subject to the Federal Fair Labor Standards Act (Arkansas, Georgia, Indiana, Kansas, Missouri, Oklahoma, Texas, Utah, Virginia and West Virginia). Four other States (Hawaii, Michigan, Montana, and North Carolina), have a contingent exclusion i.e. Federally-covered employment is excluded except when the State standard is higher than the Federal.

1/ The overtime premium rate is one and one-half times the employee's regular rate, unless otherwise specified.

2/ Alaska: Under a voluntary flexible work hour plan, with a written, signed employee/employer agreement filed with and approved by the Department of Labor, a 10-hour day, 40-hour week may be instituted with premium pay after 10 hours a day instead of after 8 hours.

The premium overtime pay requirement on either a daily or weekly basis is not applicable to employers of fewer than 4 employees.

3/ California: Under very specific rules, a 10 or 12-hour day (varying by wage order) may be instituted without premium pay after 8 hours, but overtime pay at applicable premium rates is required after 40 hours a week and for hours or days in excess of scheduled hours or days. For any such alternative workweek a prior voluntary written agreement is required, ratified by a two-thirds vote of affected employees in a secret ballot election, and signed by the employer.

Premium pay required: after 56 hours a week in ski establishments; after 54 hours a week for organized camp counselors and certain other care-provider occupations; and after 14 hours a day in motion picture industry under specified circumstances.

Premium pay on 7th day not required for employee whose total weekly work-hours do not exceed 30 and whose total hours in any one work day thereof do not exceed 6.

4/ Connecticut: In restaurants and hotel restaurants, for the 7th consecutive day of work, premium pay is required at time and one-half the minimum rate.

5/ Hawaii: An employee earning a guaranteed monthly compensation of \$1,250 or more is exempt from the law.

6/ Kentucky: The 7th day overtime law, which is separate from the minimum wage law, differs in coverage from that in the minimum wage law and requires premium pay to those employees who have worked 40 hours on the six previous days.

7/ Maryland: Premium pay required after 48 hours in bowling alleys and for residential employees of institutions (other than a hospital) primarily engaged in care of sick, aged, or mentally ill.

8/ Missouri: In addition to the exemption for federally-covered employment, the law exempts, among others, employees of a retail or service business with gross annual sales or business done of less than \$500,000.

Premium pay required after 52 hours in seasonal amusement or recreation business.

9/ Nevada: By mutual employer/employee agreement, a scheduled 10-hour day for 4 days a week may be worked without premium pay after 8 hours.

The premium overtime pay requirement on either a daily or weekly basis is not applicable to employees who are compensated at not less than one and one-half times the minimum rate or to employees of enterprises having a gross annual sales volume of less than \$250,000.

10/ North Carolina: Premium pay is required after 45 hours a week in seasonal amusements or recreational establishments.

11/ Oregon: Premium pay required after 10 hours a day in nonfarm canneries, driers, or packing plants and in mills, factories or manufacturing establishments (excluding sawmills, planing mills, shingle mills, and logging camps).

12/ Puerto Rico: Separate minimum rates are in effect for almost 350 nonfarm occupations by industry Mandatory Decrees. A few rates above the listed rate include a \$6.50 minimum rate in effect for cigarette manufacturing employees, and a \$5 rate for occupations related to telephone and other related services of the Commonwealth.

13/ Rhode Island: Time and one-half premium pay for work on Sundays and holidays in retail and certain other businesses is required under two laws that are separate from the minimum wage law. These laws require a license or permit for Sunday/holiday operation that would otherwise be unlawful.

14/ Vermont: The State overtime pay provision has very limited application because it exempts numerous types of establishments, such as retail and service; seasonal amusement/recreational; hotels, motels, restaurants; and transportation employees to whom the Federal (FLSA) overtime provision does not apply.

15/ Virgin Islands: Implementation of an indexed rate, which was to have started January 1, 1991, has been delayed. (The law provides that on January 1, 1991, and each January 1 thereafter, the minimum rate is to equal 50 percent of the average private, nonsupervisory, nonagricultural hourly wage as determined by the Virgin Islands Wage Board for the previous November, rounded to the nearest multiple of 5 cents.)

16/ Washington: Premium pay not applicable to employees who request compensating time off in lieu of premium pay.

Note: Laws in 19 jurisdictions link changes in the State rate to changes in the highest minimum wage under the Federal Fair Labor Standards Act (FLSA). Linkage provisions are of several types:

- 1) Laws in 10 jurisdictions do not contain current dollar minimums. Instead, these 10 statutes adopt the FLSA rate by reference, or mandate or authorize matching the FLSA rate by administrative action, thereby conforming to Federal changes on a continuing basis. These 10 jurisdictions are Guam, Illinois, Maryland, Missouri, Montana (mandates administrative action), Nevada, (mandates administrative action), Oklahoma, Pennsylvania, Utah (authorizes, but does not mandate, administrative action) and Virginia.
- 2) Laws in Delaware, Iowa, Maine, New Hampshire and Vermont have their own rates, but replace the State rate with the FLSA minimum if it is higher than the State minimum.
- 3) In Alaska, Connecticut, and the District of Columbia, the rates rise above the Federal rate by a fixed differential on a continuing basis. In Alaska, the rate is automatically set at 50 cents above the FLSA rate. In Connecticut, the State rate automatically increases to 1/2 of 1 percent above the FLSA rate if the Federal minimum equals or becomes higher than the State minimum. In the District of Columbia, the rate is set at \$1. above the FLSA rate.
- 4) Another type of linkage is in California. The California rate, now \$4.75, matches any higher Federal rate on a continuing basis. In California, the Industrial Welfare Commission sets rates administratively by issuance of industry wage orders. If the Federal rate is scheduled to exceed the state rate, the Commission is directed to adopt, in a public meeting, an order matching the higher rate, without the necessity of convening a wage board.

Prepared by:  
Division of External Affairs  
Wage and Hour Division, Employment Standards Administration  
U.S. Department of Labor  
December 12, 1996

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Minimum Hourly Cash Wage for **TIPPED EMPLOYEES** Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
<b>FEDERAL: Fair Labor Standards Act (FLSA)</b>					
	9/1/97	\$4.75 5.15	\$2.62 3.02	\$2.13 2.13	More than \$30
<b>STATE LAW DOES NOT ALLOW TIP CREDIT</b>		<u>Minimum rate same for tipped and non-tipped employees</u>			
<b>Alaska</b>	9/1/97			5.25 5.65	
<b>California</b>	3/1/97 9/1/97 3/i/98			4.75 5.00 5.15 5.75	
<b>Guam</b>	9/1/97			4.75 5.15	
<b>Minnesota:</b>					
Large employer <u>2/</u>				4.25	
Small employer <u>2/</u>				4.00	
<b>Montana:</b>					
Business with gross annual sales over \$110,000	9/1/97			4.75 5.15	
Business with gross annual sales of \$110,000 or less				4.00	
See footnotes at end of table					

WAGE & HOUR

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Minimum Hourly Cash Wage for **TIPPED EMPLOYEES** Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
Nevada	9/1/97			\$4.75 5.15	
Oregon	1/1/98 1/1/99			5.50 6.00 6.50	
Puerto Rico: Restaurant, bar and soda fountain industry				3.70 <u>3/</u>	
Washington				4.90	
<u>Minimum rate lower for tipped employees than for non-tipped</u>					
New Mexico <u>4/</u>				2.125	More than \$30
<u>STATE LAW ALLOWS TIP CREDIT</u>					
Arkansas		4.25	50%	2.125	Not specified
Colorado		4.75	\$2.62	2.13	More than \$30
See footnotes at end of table					

Minimum Hourly Cash Wage for **TIPPED EMPLOYEES** Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
<b>Connecticut</b>	9/1/97	\$4.77 5.18			
Beauty shop	9/1/97		None	\$4.77 5.18	At least \$10 weekly for full-time employees or \$2.00 daily for part-time in hotels and restaurants. Not specified for other industries.
Hotel, restaurant	9/1/97		23%	3.6729 3.9886	
Any other industry	9/1/97		\$.35	4.42	
	9/1/97			4.83	
<b>Delaware</b>	9/1/97	5.00 5.15	2.77 2.92	2.23 2.23	More than \$30
<b>District of Columbia</b>	9/1/97	5.75 6.15	55%	2.59 2.77	Not specified
<b>Hawaii</b> (Tip credit permissible only for employees who average 70 cents an hour or more in tips)		5.25	.20	5.05	More than \$20
<b>Idaho</b>		4.25	25%	3.1875	More than \$30

See footnotes at end of table

Minimum Hourly Cash Wage for TIPPED EMPLOYEES Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
Illinois	9/1/97	\$4.75	\$1.90	\$2.85	\$20
		5.15	2.06	3.09	
Indiana		3.35	40%	2.01	Not specified
Iowa	9/1/97	4.75	40%	2.85	More than \$30
		5.15		3.09	
Kansas		2.65	40%	1.59	More than \$20
Kentucky		4.25	50%	2.125	More than \$30
Maine	9/1/97	4.75	50%	2.38	More than \$20
		5.15		2.58	
Maryland	9/1/97	4.75	50%	2.38	More than \$30
		5.15		2.58	
Massachusetts		5.25	50%	2.625	More than \$30
Michigan		3.35	25% <u>5/</u>	2.5125	Not specified

See footnotes at end of table

Minimum Hourly Cash Wage for **TIPPED EMPLOYEES** Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
Missouri	9/1/97	\$4.75 5.15	Up to 50%	-	Not specified
Nebraska		4.25	\$2.12	\$2.13	Not specified
New Hampshire	9/1/97	4.75 5.15	50%	2.38 2.58	More than \$20
New Jersey		5.05	5/ 40%	3.03	Not specified
Chambermaid, nonseasonal hotel:					
without food and/or lodging			11%	4.49	
with food and/or lodging			16%	4.24	
Chambermaid, seasonal hotel:					
without food and/or lodging			20%	4.04	
with food and/or lodging			25%	3.79	
New York		4.25			Not specified
Building service			None	4.25	
Hotel, restaurant					
Employees averaging \$.95 to \$1.35 per hour in tips			\$ .95	3.30	

See footnotes at end of table

Minimum Hourly Cash Wage for **TIPPED EMPLOYEES** Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
Employees averaging \$1.35 per hour or more in tips			\$1.35	\$2.90	
Resort only hotel					
Service employees whose weekly average tips exceed \$2.40 per hour			1.70	2.55	
Chambermaids averaging \$.65 to \$2.40 per hour in tips			.65	3.60	
Chambermaids averaging more than \$2.40 per hour in tips			1.35	2.90	
Miscellaneous Industries					
Employees averaging \$.65 to \$1.05 per hour in tips			.65	3.60	
Employees averaging \$1.05 per hour or more in tips			1.05	3.20	
North Carolina <u>6/</u>		4.25	50%	2.125	More than \$20
North Dakota		4.75	33%	3.18	More than \$30
Ohio <u>7/</u>		4.25	50%	2.125	More than \$30
See footnotes at end of table					

WAGE &amp; HOUR

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Minimum Hourly Cash Wage for **TIPPED EMPLOYEES** Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
Oklahoma <u>8/</u>	9/1/97	\$4.75 5.15	50% <u>5/</u>	\$2.38 2.58	Not specified
Pennsylvania	9/1/97	4.75 5.15	45%	2.61 2.83	More than \$30
Rhode Island		5.15	2.26	2.89	Not specified
South Dakota		4.25	50% <u>5/</u>	2.13	More than \$35
Texas		3.35	50%	1.68	More than \$20
Utah	9/1/97	4.75 5.15	50%	2.38 2.58	More than \$30
Vermont	9/1/97	5.00 5.15	47% 48%	2.65 2.68	More than \$30
Customer service, chambermaids, and counter service employees in hotels resort hotels, motels restaurants, and tourist places					
All other employees			None	5.00	

See footnotes at end of table

WAGE & HOUR

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Minimum Hourly Cash Wage for **TIPPED EMPLOYEES** Under State Minimum Wage Laws  
January 2, 1997

Jurisdiction	Future Effective date	Basic combined cash & tip minimum wage rate	Maximum tip credit against minimum wage	Minimum cash wage <u>1/</u>	Definition of tipped employee by minimum tips received (monthly unless otherwise specified)
Virginia	9/1/97	\$4.75 5.15	Actual amount received		Not specified
Virgin Islands					
Tourist Service and Restaurant industries		4.65	50%	\$2.33	Not specified
All other industries		4.65	None	4.65	
West Virginia		4.25	20%	3.40	Not specified
Wisconsin <u>9/</u>		4.75	2.42	2.33	Not specified
Wyoming		1.60	50%	1.10	More than \$20

See footnotes on next page

## Footnotes

The following seven states, not included in table, do not have State minimum wage laws: Alabama, Arizona, Florida, Louisiana, Mississippi, South Carolina, and Tennessee. Also not included is Georgia, which exempts tipped employees from its law.

Some states set subminimum rates for minors and/or students or exempt them from coverage, or have a training wage for new hires. Such differential provisions are not displayed in this table.

1/ Other additional deductions are permitted, for example for meals and lodging, except as noted in footnote 6/.

2/ Minnesota. A large employer is an enterprise with annual receipts of \$362,500 or more; a small employer, less than \$362,500.

3/ Puerto Rico. Rates are established by industry wage orders and vary by industry, occupation or other factors. A tip credit allowance is not permitted in, 1) the restaurant, bar and soda fountain industry which has a \$3.70 minimum for all employees, and 2) the guest house industry, with a minimum of \$2.75. However, in the hotel industry, a lower rate is established for tipped occupations than for non-tipped. For hotel waiters and bellboys, the minimum wage is \$2.50 or \$2.25, depending on whether annual gross income is \$362,500 or more or less than this amount, and \$3.35 or \$2.90 for other employees.

4/ New Mexico. The minimum rate for non-tipped employees is \$4.25 per hour.

5/ In Michigan, New Jersey, Oklahoma, and South Dakota, the listed maximum credit is the total amount allowable for tips, food and lodging combined, not for tips alone as in other states.

In New Jersey, in specific situations where the employer can prove to the satisfaction of the labor department that the tips actually received exceed the creditable amount, a higher tip credit may be taken.

6/ North Carolina. Tip credit is not permitted unless the employer obtains from each employee, monthly or for each pay period, a signed certification of the amount of tips received.

7/ Ohio. The minimum cash wage for tipped employees of employers with gross annual sales of \$500,000 or less is \$2.01 per hour. For non-tipped employees of such employers, the minimum rates are \$3.35 for employers with sales from \$150,000 to \$500,000 and \$2.80 with sales under \$150,000.

8/ Oklahoma. For employers with fewer than 10 full-time employees at any one location who have gross annual sales of \$100,000 or less, the basic minimum rate is \$2.00 per hour, with a 50% maximum tip credit.

9/ Wisconsin. \$2.13 per hour may be paid to employees who are not yet 20 years old and who have been in employment status with a particular employer for 90 or fewer consecutive calendar days from the date of initial employment.

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Prepared by:  
Division of External Affairs  
Wage an Hour Division  
Employment Standards Administration  
U.S. Department of Labor

ADN  
3/1/97

### **Think about the tip you leave**

I'm writing this for a lot of wait staff and bartenders.

Most of us love our jobs and enjoy waiting on the public, whether male or female, young or old, but I don't think the majority of the public realizes something important. Most of us get paid by the hour and every sale we make is kept track of by computer, written receipts or other means. The IRS then takes a percentage (8 percent) out of every penny we generate and this is taken out of our already small paychecks.

A lot of us have to give a percentage of our sales to our bartender, a percentage to our busser, a percentage to our expeditor and even to a hostess.

In my situation, if you spent \$15 for two of you and left a \$1 tip, I lost out on waiting on you. I can remember times when customers would sit at my table and I would give them excellent service, even though I knew they were poor tippers because I had waited on them every week. If a waiter or waitress does a bad job I can understand them receiving a likewise tip, but some of us are supporting ourselves and families, so we work hard at what we do.

Another thing to consider is that we receive no benefits.

So next time you go to leave the table, please think twice when leaving us a tip.

— J.A. Hershberger  
Anchorage

**ALASKA ADMINISTRATIVE  
CODE**

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**Title 8  
Labor**

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**OCTOBER 1996 SUPPLEMENT  
INCLUDING REGISTERS 138 AND 139**

**MICHIE**  
*Law Publishers*  
CHARLOTTESVILLE, VIRGINIA  
1996

40468-17

# TITLE 8. LABOR.

## Part

1. Industrial Welfare (8 AAC 05 — 8 AAC 27)
3. Workers' Compensation (8 AAC 45 — 8 AAC 55)
4. Occupational Safety and Health Division (8 AAC 60 — 8 AAC 80)
5. Employment Security Division (8 AAC 85 — 8 AAC 87)

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**Publisher's note:** Emergency regulations, if any, are placed in an appendix following the permanent regulations in each pamphlet of the Alaska Administrative Code.

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## PART 1. INDUSTRIAL WELFARE.

### Chapter

15. Alaska Wages and Hours (8 AAC 15.010 — 8 AAC 15.910)

## CHAPTER 15. ALASKA WAGES AND HOURS.

### Article

6. General Provisions (8 AAC 15.900 — 8 AAC 15.910)

## ARTICLE 6. GENERAL PROVISIONS.

### Section

907. Employee tips

**8 AAC 15.907. EMPLOYEE TIPS.** (a) The purpose of this section is to prevent the circumvention or evasion of AS 23.10.050 — 23.10.150 (Alaska Wage and Hour Act) by an employer handling, or taking possession or control of, an employee's tips.

(b) Except as provided in this section, an employer may not handle or take possession or control of an employee's tips. However, nothing in this section precludes a tip pooling arrangement to the extent allowed under 29 U.S.C. 201 — 219 (Fair Labor Standards Act of 1938, as amended).

(c) An employer may handle tips only for the purpose of

(1) delivering the cash amount of the tip to the employee when a customer provides for a tip on a credit card charge slip; or

(2) redistributing the tips to employees under a tip pooling arrangement.

(d) If an employer must pay a credit card company a fee based on a percentage of a customer's bill, an employer may reduce the amount of a credit card tip by a percentage not greater than the percentage charged by the credit card company for its fee.

(e) For the purposes of this section,

(1) "tip pooling arrangement" means an agreement under which a portion of an employee's tips is collected for distribution among certain other employees;

(2) "tips" means an amount of cash, or an amount designated as a "tip" by a credit card customer on a credit card charge slip, that is determined, and freely given, by a customer in recognition of an employee's service to that customer; "tips" does not include a compulsory charge for service that is part of the employer's gross receipts, such as a service charge of 15 percent of a customer's bill. (Eff. 4/7/96, Register 138)

Authority: AS 23.05.060 AS 23.10.085 AS 23.10.095  
AS 23.10.065

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Database: Business Index ASAP  
Subject: tipping  
Library: Capital City Libraries

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Source: Atlanta Business Chronicle, March 3, 1995 v17 n41 p6B(1).

Title: Restaurants, IRS bargaining over how to tax tips. (Industry  
Focus: Insurance/Employee Benefits)

Author: Susan K. Curtis

Subjects: Tipping - Taxation  
Restaurant industry - Tax policy

Gov Agency: United States. Internal Revenue Service - Tax policy

SIC code: 5812

Organizations: National Restaurant Association - Tax policy

RN: A16738565

-- End --

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Subject: tipping  
Library: Capital City Libraries

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Source: Michigan CPA, Fall 1995 v47 n2 p24(1).

Title: New tip reporting regulations for food service employees.  
Author: Thomas Buttross, Ira S. Greenberg and George Schmelzle

Abstract: The IRS has implemented a new tip reporting policy by issuing Market Segment Understanding with the Food Service Industry - Tip Reporting Alternative Commitment (TRAC). TRAC provides alternative methods to those described in Form 8027, a program designed to get information on tip income from the food and beverage sector. The TRAC requires the IRS to form partnerships with qualified food and beverage service operators. The commitment to specific terms then secures the determination of their tax share on employee's tip income.

Subjects: Food service - Laws, regulations, etc.  
Tipping - Laws, regulations, etc.  
Gov Agency: United States. Internal Revenue Service - Laws, regulations,  
etc.  
SIC code: 9311; 5812

Electronic Collection: A18936919  
RN: A18936919

Underreporting of tip income by food service industry employees has long been a concern of the Internal Revenue Service. Current estimates suggest noncompliance with regard to the reporting of tip income to be as high as 75%. The IRS further estimates that only 20% to 25% of all food and beverage establishments that are required to file Form 8027 to report tip income do so. The purpose of Form 8027 is to make annual reports to the IRS on receipts from food and beverage operations and tips reported by employees.

Only large food and beverage establishments are required to file Form 8027. A large establishment is defined as one to which all of the following apply:

- \* Food or beverage is provided for consumption on the premises.
- \* Tipping is a customary practice.
- \* More than 10 employees were normally employed on a typical business day during the preceding calendar year.

The ten employee requirement is based upon the total of all employees, not just the number of directly tipped employees and any person who owns 50% or more of the stock of a corporation that runs the establishment is not an employee for this purpose.

A return is not required for establishments that only operated for less than one month a year or for cafeterias and fast food restaurants.

Form 8027 is due for all eligible establishments on February 28th of each year. The following information is required to be reported for the calendar year:

- \* Total charged tips,
- \* Total charged receipts on which there were charged tips,
- \* Total amount of service charges of less than 10% paid as wages to employees,
- \* Total tips reported by employees,
- \* Gross receipts from food or beverage operations, and
- \* Total allocated tips to employees if total amount of reported tips is less than 8% (or the approved lower rate) of gross receipts.

The objective of the program represented by Form 8027 is to obtain agreements with employers and employees regarding the rate of tip income. The IRS recently released Market Segment Understanding with the Food Service Industry - Tip Reporting Alternative Commitment (TRAC).

Under the TRAC programs on alternative to the procedures used in Form 8027, the IRS will enter into a pro forma agreement with all eligible food and beverage service employers. Employers agree to the following:

- 1) Establish methods by which employee compliance is accurate;
- 2) Create quarterly educational programs for new employees and to update existing employees regarding tip reporting; and
- 3) Comply with all federal tax requirements regarding records and reporting of tip income.

In return, the employer is assured that notice and demand for the employer's share of FICA taxes on employees' tip income can only be determined based upon either Form 4137 (Social Security and Medicare Tax on Unreported Tip

Income) filed by the employees with their 1040 or Form 885-T (Adjustment of Social Security Tax on Tip Income Not Reported to Employer) prepared as the result of an employee tip examination.

-- End --

Database: Business Index ASAP  
Subject: tipping  
Library: Capital City Libraries

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Source: Restaurant Hospitality, Nov 1995 v79 n11 p42(1).

Title: Tip reporting tips.  
Author: Carolyn Thomas

Abstract: Restaurateurs have until May 31, 1996 to decide whether or not to sign IRS' Tip Rate Determination Agreement (TRDA) or its alternative, the Tip Reporting Alternative Contract (TRAC). The less-restrictive TRAC was developed after opposition to TRDA has arisen. Those who are in the process of opening a restaurant or those whose tip reporting is adequate may not sign.

Subjects: Restaurateurs - Laws, regulations, etc.  
Tipping - Laws, regulations, etc.  
Gov Agency: United States. Internal Revenue Service - Laws, regulations,  
etc.  
SIC code: 5812

Business Collection: 90X2311  
Electronic Collection: A17869017  
RN: A17869017

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Key Words: tip credit  
Library: Capital City Libraries

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Source: Nation's Restaurant News, March 13, 1995 v29 n11 p7(1).

Title: Grandma's heads south to the Carolinas; Minnesota-born chain eyes greener economic, demographic pastures for growth.  
(restaurant chain)

Author: Carolyn Walkup

Abstract: Restaurant and specialty food retailer Grandma's plans to expand its operations to the Carolinas. The Duluth-based company cites factors such as lower real-estate costs and a tip-tax credit as reasons for its plan to open nine restaurants in the region. The first Grandma's Saloon & Grill restaurant opened in Feb 1995 in Greenville, SC. The next two restaurant openings are planned for Aug 1995, and they will be located in Asheville, SC, and Myrtle Beach, SC.

Subjects: Restaurant industry - Planning  
Companies: Grandma's - Planning  
SIC code: 5812

Business Collection: 85T4348  
Electronic Collection: A16662671  
RN: A16662671

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DULUTH, Minn. -- Grandma's, a Duluth-based restaurant and specialty food retailer for 19 years, is hoping for a warm reception to the first of a cluster of restaurants slated to open in the Carolinas.

The 10-unit group of all company-owned dinner houses chose to debut its first out-of-state restaurant, Grandma's Saloon & Grill, in Greenville, S.C., in February because of favorable economics and demographics, according to Don Bleau, president.

Company research revealed that the Carolinas offered lower real-estate costs compared with other such potential target states as Florida and California. Moreover, the Carolinas also have a tiptax credit; Minnesota operators, on the other hand, must pay tipped employees minimum wage.

As a result, operating costs in the nine planned Carolina stores are expected to be lower than those of their Minnesota counterparts.

The next openings are scheduled for August in Asheville, N.C., and September in Myrtle Beach, S.C., Bleau said.

Grandma's also plans to expand in its core market, where it now operates five Grandma's Saloon & Delis, 250-seat casual dinner houses with prominent specialty retail food sections, decorated with extensive antique and memorabilia collections. The name of that division is in the process of being changed to Grandma's Saloon & Grill to reflect more accurately the breadth of the current menu, said Brian Daugherty, vice president of

The company also operates one each of Mickey's Grill, a casual steak house; Grandma's Sports Garden, a sports bar with a full indoor basketball court; Little Angie's Cantina, a Mexican concept; and Virginia Grill. Those concepts are being fine-tuned now, Bleau said.

Grandma's Saloon & Grill is the only concept chosen for national expansion at this time. "It's family-oriented, fun and friendly," said Bleau, who joined the company six months ago from Dayton-Hudson department stores' foodservice division, where he was merchandising manager, strategic planning and development.

The restaurants are perceived as offering good value for large portions of made-from-scratch foods, Bleau said, adding that checks average \$11. Grandma's also places a high priority on staff training, in hopes of attaining outstanding customer service. Each store employs an extra manager who is visible to customers and oversees service details.

Signature dishes include onion rings; sesame chicken salad; bicycle burger -- two beef patties topped with grilled onions, sauteed mushrooms, mozzarella, cheddar and American cheeses; steak cheese French; and Minnesota wild-rice recipes, such as wild chicken tetrazzini -- sauteed breast of chicken on a bed of long-grain wild rice, topped with Mornay sauce and melted mozzarella.

Marathon spaghetti became popular with competitive runners entering Grandma's Marathon in Duluth each June, and that pasta topped with meat and tomato sauce remains a good seller at \$5.99 for an oversized portion.

The menu also features a steaks and ribs section as well as "Grandma's Home Cook'n" daily specials, ranging from chicken fried steak on Thursdays for \$7.99 to prime rib on Fridays and Saturdays for \$14.99.

The retail store sells regional specialty foods, including bulk chocolates in the style of old candy stores. Nonedible merchandise includes T-shirts and other clothing imprinted with Grandma's logo.

No reproductions are allowed in decorating the restaurants, Bleau said. Among the most noteworthy decor elements in various restaurants are a Model T Ford, a 40-foot ice sailboat, an eight-man racing scull suspended from the ceiling and Tiffany lamps. The memorabilia collections stem from the founders' former antiques business.

Reproductions of historic local photographs are exceptions to the authenticity rule. The Greenville store displays photos of the first airplane to land in town and an old soda pop bottling plant building, among others.

When a sufficient number of restaurants are open in the Carolinas, Grandma's plans to introduce television advertising there. It has budgeted for TV advertising in Minnesota, scheduled to begin airing next year, Daugherty said. That represents a shift away from concentrating on print and outdoor media. "Our competitors are in that arena," he said. "We want to go toe-to-toe with them."

Grandma's founders and owners, Michael Paulucci and Andy Borg, who is chairman, opened their first Grandma's Saloon & Deli in 1976. The original concept centered around deli sandwiches and the bar.

Database: Business Index ASAP  
Subject: tipping  
Library: Capital City Libraries

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Source: Restaurant Business, July 1, 1994 v93 n10 p23(2).

Title: Go ahead, make our day; who's afraid of the IRS? Not operators anymore. (restaurant operators upset over the Internal Revenue Service's tip-rate determination program) (includes related article on tip-rate determination)

Author: John McLaughlin

Abstract: The restaurant industry is upset over the Internal Revenue Service's attempt at getting more tax monies from restaurant operators by encouraging them to voluntarily sign its tip-rate determination agreement. In return, the IRS will agree not to audit participating restaurants except for the last six months of 1993. Restaurant operators believe that if they do not sign the agreement they will be audited as a punishment.

Subjects: Restaurant industry - Taxation  
Tipping - Taxation

Gov Agency: United States. Internal Revenue Service - Tax policy  
SIC code: 5812

Business Collection: 79T2975  
Electronic Collection: A15484534  
RN: A15484534

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THE INDUSTRY KEPT ITS COOL FOR over a year. Who, after all, wanted to make an enemy of the Internal Revenue Service? You'd have to be crazy

But tolerance can only last so long, especially when you're being strong-armed to do someone else's work in a set-up that's neither ethical nor legal. And that's exactly how restaurant-industry officials view the feared tax agency's tip-rate determination agreement, a program that uses

The program is supposedly voluntary, and the IRS argues that it can only help restaurants by shielding them from audits leading to hundreds of thousands of dollars in unpaid taxes.

But operators don't see it that way. They say the IRS finds "volunteers" by putting a gun to their heads: agree to participate, or we'll audit you all the way back to 1988.

Now, at long last, the industry is fighting back at all levels.

After months of not taking sides, the National Restaurant Association joined the fray, declaring its opposition to the tax-compliance agreement in the spring. NRA then budgeted \$100,000 to counter the measure with a lawsuit against--who else?--the IRS.

But no legal action has as yet occurred. "We are waiting for the perfect test case," says NRA tax lobbyist Katy McGregor.

State associations, meanwhile, are already on the front lines. Many of the groups say their members have already received "letters of invitation" from the IRS urging them to participate in the tip-compliance plan. The letters explain that participants will undergo a voluntary audit of FICA tax-reporting procedures to determine how much their servers are likely making in tips.

According to state restaurant association officials, the IRS has verbally indicated that those audits will only cover the last six months of 1993. But, they add, the agency hasn't put that guarantee in writing.

Non-participants, the IRS reportedly suggests, could be audited as far back as Jan. 1, 1988.

Typically, say state association officials, the IRS solicits their help in putting the proposal before operators, or even asks their assistance in signing on participants.

"I smile [and] say, "I can't tell an individual operator to do something," says Steward McLaurin, executive director of the Alabama Restaurant and Foodservice Association.

Others aren't as tactful. In a story that quickly passed from executive to executive, Marcia Harris, head of Maryland's group, reportedly told IRS personnel, "The Restaurant Association of Maryland rolls over for no one--not even the IRS."

"They don't seem to be playing fair, and we're not about to help them," says John Livengood of the Indiana group.

The International Society of Restaurant Association Executives has suggested that restaurateurs ask their congressmen and senators to press the IRS for some relief.

Already, says the NRA's McGregor, Sen. Bob Packwood and Rep. Bill Brewster "are trying to set up meetings with the IRS to get them to back off."

McGregor did not appear too optimistic about their chances, however.

"They [the IRS] think they are absolutely doing the right thing and interpreting the law the right way," she explains.

"The IRS sees the foodservice industry as a bad industry. It is very disturbing."

State officials worry that the IRS's resolve may be hardened by the early

In Arizona, for example, where the compliance-agreement system was tested, the agency is now collecting taxes on an additional \$1.8 million in server tips--money that otherwise was going unreported. And it's collected another \$281,000 in employer FICA taxes on unreported tips that were discovered through audits, according to the Arizona Restaurant Association.

"They'll proceed with or without our support," says Rob Gifford, executive director of the Michigan Restaurant Association.

"We're not happy"

#### The Tip-Rate Determination Agreement

##### How it works

The IRS presents operators with a "letter of invitation" to join the program, which includes a voluntary audit of FICA-tax reporting procedures on tips. According to state restaurant association officials, the IRS has verbally guaranteed that volunteers will only be audited for the last six months of 1993, while non-volunteers could be probed for as far back as Jan. 1, 1988. Indications of under-reported tips could lead to assessments for back FICA taxes.

Volunteers enter into an agreement stipulating what percentage of sales should be reported by servers as tip income. The restaurants then have to convince at least 75% of their servers to report at that rate.

If staffers refuse to participate, the operator has to forward their name and Social Security number to the IRS. Association officials say they've been told point-blank that those individuals will be audited, breeding ill will with the staffers.

If the reported total falls below the tip-rate determination, the employer allocates the difference to the servers, and pays FICA taxes accordingly.

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----- BUSINESS INDEX ABNF  
Subject: tipping  
Library: Capital City Libraries

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Source: Cornell Hotel & Restaurant Administration Quarterly, Feb 1995  
v36 n1 p40(7).

Title: The high cost of violating tip-reporting laws.  
Author: Raymond S. Schmidgall and John Tarras

Abstract: The Tax Equity and Fiscal Responsibility Act of 1982 specifies

that employee tip income and aggregate charged tips be included in annual returns filed by food service establishments employing more than 10 people. However, in a survey of hospitality students who were employed in tipped food-service positions in 1993, a majority of respondents reported that their employers did not tell them to report all their tips. Employers who violate the tip-reporting law could be charged with violation of the Federal Insurance Contributions Act.

Subjects: Tipping - Laws, regulations, etc.  
Food service employees - Taxation  
Tax Equity and Fiscal Responsibility Act of 1982  
Federal Insurance Contributions Act  
Statutes: Tax Equity and Fiscal Responsibility Act of 1982  
Federal Insurance Contributions Act  
SIC code: 5812

Business Collection: 84V2187  
Electronic Collection: A16630290  
RN: A16630290

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The potential impact on food-service employees who do not properly report their tips is significant in terms of penalties and interest imposed by the IRS. Likewise, employers may be subject to additional taxes and interest for their failure to pay the proper amount of taxes. Despite the potential for costly penalties, the following study found that a large percentage of food-service employees either do not understand or do not adhere to IRS tip-reporting requirements.

For decades the Internal Revenue Service has perceived compliance by tipped employees as a growing problem.(1) After studying the matter, Congress finally acted by passing a tip-reporting requirement as part of the Tax Equity and Fiscal Responsibility Act of 1982.

Under this law, food-service establishments that normally employ more than ten people are required to file annual returns showing gross food and beverage sales, employee tip income, aggregate charge receipts, aggregate charged tips, and aggregate mandatory service charges under 10 percent.

In addition, such establishments must allocate 8 percent of gross qualified food and beverage receipts to employees. However, this allocation is not required if employees voluntarily report aggregate tips equal to at least 8 percent of the qualified receipts.

This requirement appears to be the source of misunderstanding in the food-service industry. It does not mean that employees need only report 8 percent of their tip income. In fact, according to IRS regulations, employees must maintain a daily record of all tips received and report them to their employer.(2) The regulations also provide that the IRS may determine during an audit that employees have received a larger amount of tip income than is reflected in any employer allocation.(3)

The tip-reporting law came about as a result of a Congressional study showing that only a small portion of tips was being properly reported.(4) The IRS hoped changes in the new reporting law and the fear of potential audits would result in employees' more accurately reporting their tip income. Unfortunately, many food-service personnel did not fully understand the intent of Congress. As stated by Congress:

The 8-percent figure reflects the conferees' judgment that the tip rate in establishments subject to this reporting requirement will rarely be below the 8-percent level. Thus, an employee who reports less than his allocated amount of tips must be able to substantiate his reporting position with adequate books and records (as he must under present law).(5)

In fact, a compliance survey of restaurants and hotels previously conducted by the authors found that a substantial number of properties were only reporting employee tips at the 8-percent level.(6) The findings suggested employees were merely reporting a fixed percentage of tips to avoid allocation and were not adhering to the basic requirement that all tip income be reported.

In addition, the IRS is continuing its pressure on tipped employees and their employers by launching a program called the Tip Rate Determination Agreement. Food-service operations that agree to participate will have their tips estimated by the IRS based on sample reviews. Under the program, if at least 75 percent of employees at the establishment agree to report tips at or above the estimated tip rate, the IRS will agree not to audit the food establishment. Although its effect on the hospitality industry is yet to be determined, the program demonstrates that the IRS views compliance among tipped employees as a serious problem.

Against this background we decided to do our latest survey to determine the extent of underreporting of tip income from student workers in selected hospitality programs. By surveying students at several academic institutions, we were able to minimize our research costs while still obtaining a representative sample of food-service workers across the United States.

Over the past several years Congress has passed laws that affected the labor costs of the hospitality industry by increasing the minimum wage and by requiring employers to pay taxes on all declared tips, even though the tips legally belong to the tipped employees.

From a cost perspective it may seem advantageous to both hospitality operations and their employees if tipped employees do not declare all of their earned tips, but is it really? Several of our own students here at Michigan State told us that they have worked in tipped positions where they were not encouraged to report 100 percent of their tips, leading us to wonder whether this is a widespread practice or unique to employers of Michigan State University students. We decided to survey hospitality students at several colleges to explore the underreporting of tips. We asked survey participants the following questions regarding their past employment in food-service operations:

- (1) Did you periodically (such as daily or weekly) complete a form reporting your tips?
- (2) Did your employer instruct you on the percentage of tips to report?
- (3) What amount or percentage of sales were reported as tips?

#### Survey Respondents

Exhibit 1 reflects the demographics of the 156 usable responses to our survey. Students surveyed were from seven hospitality programs throughout the United States. Over 63 percent were seniors, while 26.9 percent were juniors, and the remainder (9.6 percent) were freshmen, sophomores, graduate students, or did not indicate their class standing.

Fifty percent worked for independent firms, while 30.1 percent worked either directly for a franchisor or for a franchisee firm. The remaining 19.9 percent either did not know or did not indicate whether their employers were independent companies or affiliated with a chain. About 56 percent of the students were women. The students ranged in age from 18 to 38, but 107 respondents (68.6 percent) fell into the 20-to-22 age group.

#### Exhibit 1

#### Characteristics of survey respondents

College attended

n

Percentage

Central Michigan University	16	10.5
Michigan State University-East Lansing	34	22.3
Penn State University-University Park	24	15.8
Purdue University	17	11.2
Rochester Institute of Technology	16	10.5
University of Central Florida	29	19.1
University of Massachusetts-Amherst	19	9.9
Not indicated	1	.7

Total	156	100.0
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Class standing	n	Percentage
Freshman/Sophomore	5	3.2
Junior	42	26.9
Senior	99	63.5
Other	6	3.8
Not indicated	4	2.6

Total	156	100.0
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Restaurant affiliation	n	Percentage
Franchisor	26	16.7
Franchisee	21	13.4
Independent	78	50.0
Other	27	17.3

Not indicated	4	2.6
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Total	156	100.0
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#### Research Results

Ninety-three (59.6 percent) of the students indicated that they completed a tip-reporting form periodically, while 54 (34.6 percent) said that they did not. The remaining students responded in various ways including, "We told our boss how much we made and he reported it for us" and "I reported tips sometimes if a form was attached to my time slip."

Just over 52 percent of the students said that they were instructed on the amount of cash or credit tips to report, while 48 percent revealed they received no instruction regarding the amount of tips to report. Comments by students included "No one explained how much I should put in or how often to fill it out," "The employer said [to report] 8 percent [of sales]," and "The employer said we should report all of our tips." These comments suggest that some of those tipped employees who did receive instruction on tip reporting were incorrectly advised.

Our question regarding tips reported by tipped employees was worded as follows: "What amount or percentage of sales was reported as tips?" The three choices were (1) all tips received, (2) tips equal to 8 percent of sales (based on our prior knowledge that this amount is used by many restaurants), and (3) "other." Only 22 students (14.1 percent) indicated that they reported all tips received. Fifty-four of the students (34.6 percent) revealed they reported tips equal to 8 percent of their sales, while 67 (42.9 percent) indicated they reported "other." The "other" choice on our questionnaire requested the students to explain what they meant.

Those explanations varied considerably. Ten respondents reported an amount per hour worked. At the low end one respondent indicated he reported \$1 to \$2 per hour, while at the high end a respondent indicated she claimed \$3.10 per hour. Thirteen tipped employees indicated they reported no tips. Comments related to this response included "If you are only working for minimum wage, I don't think you should have to claim tips," "Right now I'm working for a company, and we don't report anything. Is this illegal?," and

"I worked in a hotel as a front-desk clerk, food-service server, bellman, and room attendant. I received tips in every department, but was not instructed to report any [tips] - maybe the manager did it." Sixteen tipped employees indicated they reported tips beyond 8 percent of their sales, with the highest reporting 17 percent of her sales. The most common percentages reported were between 8 percent and 10 percent of sales, but those figures varied widely, as the following comments demonstrate:

- \* "I reported tips on all charge sales plus some cash tips."
- \* "I reported 25 percent of the total tips received."
- \* "I reported whatever I wanted to claim."
- \* "I reported 12 percent of banquet sales but no cash tips."
- \* "I reported all tips on charged sales but no cash tips."
- \* "I reported the lowest amount that sounded reasonable."

It appears that all six tipped employees above violated the tip-reporting law. The law specifically states that all tips received must be reported to the employer by the employee. "All tips" includes tips on both cash and credit-card sales.

We encouraged respondents to indicate any other concerns they had regarding tip reporting. The responses of several reflected the belief that not all tips actually need be reported.

- \* "People are eligible to be audited at any time. We are told [by the employer] to claim 10 percent [of sales], but I know I can claim 8 percent and probably be safe."
- \* "I know 100 percent of the tips should be reported but no one ever does."
- \* "Only honest people report their tips, which sometimes makes me wonder why I should bother."
- \* "I really don't think tips should be reported. Customers are saying thanks! You don't report all the money you get for your birthday or graduation."
- \* "When people pay with a credit card [I report the tips]. I prefer a cash tip. That way there is no record of the tip I received. The fewer records, the less the government knows."

Another common concern expressed by several students was the fear of the IRS and the possibility of an audit:

- \* "I feel the formulas the IRS uses might not be accurate. I just think the formula used by the IRS should be available to servers so we can check to make sure we are covered."
- \* "I usually declared 15 to 20 percent, just to be safe."
- \* "How serious is the IRS on checking up on the exact percentage of the amount of tips declared?"
- \* "The IRS assumes that everyone tips all the time and that it's always 15-20 percent, which is so untrue. A lot of people stiff their server. We were told the IRS could make us pay more because they think we make so much. I think they should accept 8 percent or more and just leave it alone. Besides, how can they prove or disprove the amount of tips you actually made?"

The students' concerns about the IRS are real. One of the problems the IRS