# THE MAIN DISH

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***Your Restaurant Team:***

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## Recent Tax Developments for "Tipped" Employees

**By Brad Dimond, CPA**

There have been a couple of developments as of late regarding tipped employees. A new minimum wage and new guidance on how to treat "tip jar" cash contributions may or may not affect how you do business. Below is an outline of both developments and what the changes mean for your business and employees.

### New Federal Minimum Wage

Effective July 24, 2009, the federal minimum wage rate is $7.25 per hour. Even though the federal minimum wage rate has increased by 70 cents, the minimum cash wage that must be paid to tipped employees remains at $2.13 per hour. For federal tax purposes, an employer is required to make up any difference between the minimum wage rate and the combination of $2.13 per hour plus tips to ensure that each employee makes at least the minimum wage rate of $7.25 per hour.

There are 27 states that currently have a minimum wage rate of $7.25 per hour. Not all of these states, however, follow the federal rule with respect to the minimum cash wage that must be paid to tipped employees. Arizona employers must pay tipped employees a cash wage of at least $4.25 per hour ($3.00 tip credit). The bottom line is that the minimum wage increase does not affect Arizona employers with respect to wages paid to tipped employees.

### Customer contributions to "tip jars"

Recently, the IRS issued guidance in the form of a Chief Counsel Memorandum which provided clarification of restaurant/employers' withholding and reporting responsibilities as regarding "tip jars". How the employer is to treat the amounts collected in the tip jar depends on who controls and allocates the funds customers deposit for tips. If the employer divvies up the contents of the jar at regular intervals and distributes the cash to the tipped employees, then the IRS views that money as compensation which should be included in the employees' W-2s and would also be subject to employment taxes. How the withholding taxes are collected and remitted are up to the employer (e.g., withholding money from amount collected from jar).

If, however, the tipped employees essentially control the amounts in the jar, then the guidance suggests that the amounts might be characterized as "tips" rather than compensation. In other words, if the tipped employees divvy up the contents of the jar and disburse the amounts amongst themselves and the employer never has any control over the jar and its contents, then the amounts collected in the jars are characterized as "tips". "Tips" are amounts which a customer might pay but is under no compulsion to do so, over which the tipped employee has no control over the amount received, and is not negotiated or subject to any employer policy. If the contents of the jar are characterized as a "tip", then the burden is on the employee to report the amount received to the employer so it can be properly added to his or her W-2. If the employer does not receive that information from the employee, the employer would not be liable for the un-withheld taxes unless the IRS makes a demand for the taxes (i.e., determines additional amounts are owed in an audit situation).

There is not necessarily a correct answer in determining who should control the "tip jar"; although the employer should be prepared if the IRS comes calling by having support for the amounts its employees report as tips received if the employer does not control the "tip jar".

**If you have any questions Brad can be reached at (480) 483-1170 or BradD@hhcpa.com.**



# Tappas

*According to new NRA research, healthy kid's meals will be among the hottest trends in the coming years.*

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*According to the NRA every additional million dollars in restaurant sales generates an additional 33 jobs for the economy.*

~

*According to the NRA 68% of adults said their favorite restaurant foods provide flavor and taste sensations which cannot easily be duplicated in their home kitchen.*

## Monthly and Annual Financial Statement Preparation

**By Brian Campbell, CPA**

It is the 25th day of the month, you have $25,000 in your bank account, you have a stack of invoices that you need to pay, payroll is due at the end of the week and you wonder…do I have enough cash from operations to cover these expenses? Don't you wish you had a financial statement that could answer this simple question for you?

Monthly and annual financial statements allow restaurant owners and managers to monitor their restaurant's success in meeting profitability targets. Financial statements may also be used by outside parties, such as vendors, lenders and potential investors. In order for these financial statements to be meaningful, they should be prepared in accordance with the financial accounting practices used by other businesses.

When preparing financial statements you need to ask yourself the following questions:

- Do I need cash basis or accrual basis financial statements?
- If the accrual basis is selected, should the statements be prepared on an income tax basis or in accordance with accounting principles generally accepted in the United States of America (GAAP)?

### Cash Basis vs Accrual Basis

Restaurant operations are typically maintained on a cash basis. As such, financial statements prepared on a cash basis of accounting may be the most efficient type of financial statement. However, accrual basis financial statements tell you more than just the amount of cash you have at the end of the period. If you have bills outstanding or liabilities to pay, you may not have enough cash to cover these items. Accrual basis financial statements require you to recognize certain assets and liabilities and ultimately results in a more accurate picture of the restaurant's operations and profitability for a period.

### Tax Basis vs GAAP Basis

Tax basis financial statements prepared using the accrual method of accounting are needed by most closely-held restaurants in order to prepare tax returns. Tax basis financial statements eliminate the need to have two different sets of books as GAAP basis financial statements require certain transaction to be recorded differently. For instance, depreciation methods for tax purposes are accelerated and for GAAP purposes are straight line. However, outside investors and lenders generally require financial statements to be prepared on a GAAP basis. As such, they may be required in addition to tax basis financial statements in order to prepare tax returns at year end.

Not only is the presentation of monthly and annual financial statements important but these statements need to be prepared on a timely basis to enable restaurant owners and managers to make operating decisions. Generally, monthly financial statements should be prepared within 15 days after month end.

If you do not currently have an experienced accountant or CPA in-house, you should consult with an outside CPA to determine which type of financial statement would be best for your restaurant to ensure you are receiving timely financial information to make informed decisions about your restaurant.

**If you have any questions Brian can be reached at (480) 839-4900 or BrianC@hhcpa.com.**

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