1991

Department of the Treasury
Internal Revenue Service

Instructions for Form 8027

Employer's Annual Information Return of Tip Income and Allocated Tips

(Section references are to the Internal Revenue Code unless otherwise noted.)

Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file these forms will vary depending on individual circumstances. The estimated average times are:

A return is not required for cafeterias or fast food restaurants where tipping is not customary.

Note: *If you are required to report for more than one establishment, you must complete and attach to Forms 8027* **Form 8027-T,** Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips.

New Large Food or Beverage Establishment.—You must file Form 8027 for a new large food or beverage

- 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 discussed later) of gross receipts.

Gross Receipts.—Gross receipts include all receipts (other than *nonallocable receipts*) from cash sales, charge receipts, charges to a hotel room (excluding tips charged to the hotel room if your accounting procedures allow these tips to be segregated out), and the retail value of complimentary food or beverages served to customers as explained later. Do not include state or local taxes in gross receipts. Also, do not include in gross receipts charged tips shown on charge receipts unless you reduced your cash sales by the amount of those tips you paid in cash to employees.

Complimentary Items.—Food or beverages served to customers without charge are considered complimentary if: (a) tipping for providing them is customary at the establishment, and (b) they are provided in connection with an activity that is engaged in for profit and whose receipts would not be included in the amount on line 5 of Form 8027. For example, you would not have to include the retail value of complimentary hors d'oeuvres at your bar or a complimentary dessert served to a regular patron of your restaurant because the receipts of the bar or restaurant would be included in the amount on line 5. You would not have to include the value of a fruit basket placed in a hotel room since, generally, tipping for it is not customary. However, you would have to include the retail value of the complimentary drinks served to customers in a gambling casino because tipping is customary, the gambling casino is an activity engaged in for profit, and the gambling receipts of the casino are not included in the amount on line 5.

Allocation of Tips.—You must allocate tips among employees who receive them if the total tips reported to you during any payroll period are less than 8% (or the approved lower rate) of this establishment's gross receipts for that period.

Generally, the amount allocated is the difference between the total tips reported by employees and 8% (or the lower rate) of the **gross receipts,** other than ***nonallocable receipts*** (receipts for carryout sales and receipts with a service charge added of 10% or more).

Lower Rate.—You (or a majority of the employees) may request a lower rate (but not lower than 2%) by applying to the district director for the IRS district in which the establishment is located. The burden of supplying sufficient information to allow the district director to estimate with reasonable accuracy the actual tip rate of this establishment rests with the petitioner. Your petition for a lower rate must clearly demonstrate that a rate less than 8% should apply. It must include the following:

(a) The employer's name, address, and EIN.

(b) The establishment's name, address, and establishment number.

(c) A detailed description of the establishment that would help to determine the tip rate. The description should include the type of restaurant, days and hours of operation, type of service including any self-service, the person (waiter or waitress, cashier, etc.) to whom the customer pays the check, whether the check is paid before or after the meal, and whether alcohol is available.

(d) The past year's information shown on lines 1 through 6 of Form 8027 (if one was filed), as well as: total carryout sales; total charge sales; the percentage of sales for breakfast, lunch, and dinner; average dollar amount of a guest check; service charge, if any, added to the check; and the percentage of sales with a service charge.

(e) The type of clientele.

(f) Copy of a representative menu for each meal.

The petition must contain the following statement and be signed by a responsible person who is authorized to make and sign a return, statement, or other document.

> "Under penalties of perjury, I declare that I have examined this application, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this petition are true, correct, and complete."

You **must** attach to the petition copies of Form 8027 (if any) filed for the prior 3 years to your petition. If you are petitioning for more than one establishment or you want to know your appeal rights you should see Revenue Procedure 86-21, 1986-1 C.B. 560.

A majority of all the directly tipped employees must consent to any petition written by an employee. A "majority of employees" means more than half of all the directly tipped employees employed by the establishment at the time the petition is filed. Employee groups MUST follow the procedures in Regulations section 31.6053-3(h), **Pub. 531,** Reporting Income From Tips, and Revenue Procedure 86-21.

The district director will notify you when and for how long the reduced rate is effective.

Reporting Allocated Tips to Employees.—Give each employee who has been allocated tips a Form W-2 that shows the allocated amount in box 7. The form must be received by the employee by January 31 of the following year. If employment ends before the end of the year and the employee asks for the Form W-2, a tip allocation is not required on the early Form W-2. However, you may include on the early Form W-2 the employee's actual tip allocation or a good faith estimate of the allocation. Signify a good faith estimate by putting the word "estimate" next to the allocated amount in box 7 of the Form W-2.

If no allocation was shown on the early Form W-2 or if the estimated allocation on the early form differs from the actual amount by more than 5%, give the employee a **Form W-2c,** Statement of Corrected Income and Tax Amounts, during January of the next year.

If you allocate tips among employees by the methods described in the Line-by-Line Instructions for lines 7a through 7c, you are not liable to any employee if any amount is improperly allocated. However, if the allocation shown on the employee's Form W-2 differs from the correct allocation by more than 5%, you must adjust that employee's allocation and must review the allocable amount of all other employees in the same establishment to assure that the error did not distort any other employee's share by more than 5%. Use Form W-2c to report the corrected allocation.

You do not have to send to IRS separate copies of Forms W-2 showing allocated tips. IRS will use the information shown on the Forms W-2 that you file with the Social Security Data Operations Center.

Tip allocations have no effect on withholding income or social security or Medicare taxes from employees' wages. Allocated tips are not subject to withholding and are not to be included in box 10, Wages, tips, and other compensation, of Form W-2. See Pub. 937, Business Reporting, for more information.

Specific Instructions

File a separate Form 8027 for each large food or beverage establishment. Do not attach copies or any unrelated correspondence.

Name and address of establishment and employer identification number (EIN).—Please use the name and address label provided. Cross out any errors and print the correct information on the label. If you do not have one, please type or print the name and address of the establishment. They may be different from your name and address, as in the case of employers who have more than one establishment. The employer identification number should be the same as the number on the Forms W-2 that you give to the employees and the **Form 941,** Employer's Quarterly Federal Tax Return, or **Form 941E,** Quarterly Return of Withheld Federal Income and Medicare Tax, you file reporting wages and taxes for employees working for the establishment.

Kind of establishment.—Check the **one box** on the form that best describes the food or beverage operation at this establishment:

1. an establishment that serves evening meals only (with or without alcoholic beverages).

2. an establishment that serves evening and other meals (with or without alcoholic beverages).

3. an establishment that serves only meals other than evening meals (with or without alcoholic beverages).

4. an establishment that serves food, if at all, only as an incidental part of the business of serving alcoholic beverages.

Employer's name and address.—Enter your name and address.

Establishment number.—Enter a five-digit number to identify the individual establishments that you are reporting under the same EIN. Give each establishment a separate number. For example, each establishment could be numbered consecutively, starting with 00001.

Line-by-Line Instructions

Note: *In these instructions, the term nonallocable receipts means receipts for carryout sales and receipts with a service charge added of 10% or more.*

Line 1—Total charged tips for 1991.—Enter the total amount of tips that are shown on charge receipts for the year.

Line 2—Total charge receipts with charged tips.—Enter the total sales (other than *nonallocable receipts*) from charge receipts that had a charged tip shown. Include credit card charges and other credit arrangements and charges to a hotel room unless your normal accounting practice consistently excludes charges to a hotel room. Do not include any state or local taxes in the amounts reported.

Line 3—Total amount of service charges of less than 10% paid as wages to employees.—Enter the total amount of service charges of less than 10% that have been added to customers' bills and have been distributed to your employees for the year. In general, service charges added to the bill are not tips since the customer does not have a choice. These service charges are treated as wages and are includible on Form W-2. For details, see Revenue Ruling 69-28, 1969-1 C.B. 270.

Line 4a—Total tips reported by indirectly tipped employees.—Enter the total amount of tips reported for the year by indirectly tipped employees, such as cooks and employees who bus tables.

Line 4b—Total tips reported by directly tipped employees.—Enter the total amount of tips reported for the year by directly tipped employees, such as waiters and waitresses.

Line 4c—Total tips reported.—Enter the total of lines 4a and 4b.

Caution: *Do not include tips received by employees in December 1990 but not reported until January 1991. However, include tips received by employees in December 1991 but not reported until January 1992.*

Line 5—Gross receipts from food or beverage operations.—Enter the total gross receipts from the provision of food or beverages for this establishment for the year.

If you do not charge separately for providing food or beverages along with other goods or services (such as a package deal for food and lodging), make a good faith estimate of the gross receipts from the food or beverages. This estimate must reflect the cost to the employer for providing the food or beverage plus a reasonable profit factor.

Line 6—Enter the result of multiplying line 5 by 8% (.08) or a lower rate (if the establishment was granted one by IRS).

If a lower percentage rate was granted, write the rate in the space provided and attach a copy of the IRS district director's determination letter.

Note: *If you have allocated tips using other than the calendar year, put an X on line 6 and enter the amount of allocated tips (if any) from your records on line 7. This may occur if you allocated tips based on the time period for which wages were paid or allocated on a quarterly basis.*

Line 7—Allocation of tips.—If 8% (or the approved lower rate granted) of gross receipts (line 6) is more than the amount of tips reported by your employees (line 4c), you must allocate the difference to those employees. Enter the difference on line 7. There are three methods by which you may allocate tips. Check the box on line 7a, b, or c to show the method used.

Line 7a—Hours-worked method.—Establishments that employ fewer than the equivalent of 25 full-time employees during a payroll period may use the hours-worked method to allocate tips. You will be considered to have employed fewer than the equivalent of 25 full-time employees during a payroll period if the average number of employee hours worked per business day during a payroll period is less than 200 hours. To allocate tips by this method, follow the steps for the gross receipts method on page 4. For the fraction in step (c) of the gross receipts method, substitute one in which the numerator (top number) is the number of hours worked by each employee who is tipped directly, and the denominator (bottom number) is the total number of hours worked by all employees who are directly tipped for the payroll period. See Regulations sections 31.6053-3(j)(19) and 31.6053-3(f)(1)(iv) for details.

Line 7b—Gross receipts method.—If no good faith agreement (as explained in line 7c on this page) **applies to the payroll period,** you must allocate the difference between total tips reported and 8% of gross receipts using the following steps:

(a) Multiply the establishment's gross receipts (other than *nonallocable receipts*) for the payroll period by 8% (.08) or the lower rate.

(b) Subtract from the amount figured in step **(a)** the total amount of tips reported by employees who were tipped indirectly for the payroll period. This difference is the directly tipped employees' total share of 8% (or the lower rate) of the gross receipts of the establishment. Indirectly tipped employees do not receive tips directly from customers. Examples are employees who bus tables, service bartenders, and cooks. Directly tipped employees, such as waiters, waitresses, and bartenders, receive tips directly from customers. Employees who receive tips directly from customers and indirectly through tip splitting or pooling, such as maitre d's, are treated as directly tipped employees.

(c) For each employee who is tipped directly, multiply the result in step **(b)** by the following fraction: the numerator (top number) is the amount of the establishment's gross receipts attributable to the employee, and the denominator (bottom number) is the gross receipts attributable to all directly tipped employees. The result is each directly tipped employee's share of 8% (or the lower rate) of the gross receipts for the payroll period.

(d) From each directly tipped employee's share of 8% or the lower rate of the gross receipts figured in step **(c)**, subtract the tips the employee reported for the payroll period. The result is each directly tipped employee's shortfall (if any) for the period.

(e) From the amount figured in step **(a)** (8% or the lower rate of the gross receipts), subtract the total tips reported by both directly and indirectly tipped employees. The result is the amount that has to be allocated among the directly tipped employees who had a shortfall for the payroll period as figured in step **(d)**.

(f) For each directly tipped employee who had a shortfall for the period as figured in step **(d)**, multiply the amount in step **(e)** by the following fraction: the numerator is the employee's shortfall (figured in step **(d)**), and the denominator is the total shortfall of all directly tipped employees. The result is the amount of allocated tips for each directly tipped employee.

Example: A large food or beverage establishment has gross receipts for a payroll period of $100,000 and has tips reported for the payroll period of $6,200. Directly tipped employees reported $5,700, while indirectly tipped employees reported $500.

Directly tipped employees	Gross receipts for payroll period	Tips reported
A.	$18,000	$1,080
B.	16,000	880
C.	23,000	1,810
D.	17,000	800
E.	12,000	450
F.	14,000	680
	$100,000	$5,700

The allocation, figured using steps (a) through (f), would be as follows:

(a) $100,000 (gross receipts) × .08 = $8,000

(b) $8,000 – $500 (tips reported by indirectly tipped employees) = $7,500

(c)

Directly tipped employees	Directly tipped employee's share of 8% of the gross		Gross receipts ratio		Employee's share of 8% of gross
A.	$7,500	×	18,000/100,000	=	$1,350
B.	7,500	×	16,000/100,000	=	1,200
C.	7,500	×	23,000/100,000	=	1,725
D.	7,500	×	17,000/100,000	=	1,275
E.	7,500	×	12,000/100,000	=	900
F.	7,500	×	14,000/100,000	=	1,050
					$7,500

(d)

Directly tipped employees	Employee's share of 8% of the gross		Tips reported		Employee shortfall
A.	$1,350	–	$1,080	=	$270
B.	1,200	–	880	=	320
C.	1,725	–	1,810	=	—
D.	1,275	–	800	=	475
E.	900	–	450	=	450
F.	1,050	–	680	=	370
			Total shortfall		$1,885

(e) $8,000 – $6,200 (total tips reported) = $1,800 (amount allocable among employees who had a shortfall)

(f)

Shortfall employees	Allocable amount		Shortfall ratio		Amount of allocation
A.	$1,800	×	270/1,885	=	$258
B.	1,800	×	320/1,885	=	306
D.	1,800	×	475/1,885	=	454
E.	1,800	×	450/1,885	=	430
F.	1,800	×	370/1,885	=	353

Since employee C has no shortfall, there is no allocation to C.

Note: *In this example, the total amount of allocation is $1,801 resulting from the rounding off to whole numbers.*

Line 7c—Good faith agreement.—An allocation can be made under a good faith agreement. This is a written agreement between you and at least two-thirds of the employees of each occupational category of employees who receive tips (e.g., waiters, waitresses, employees who bus tables, and maitre d's) working in the establishment when the agreement is adopted. The agreement must:

(a) Provide for an allocation of the difference between total tips reported and 8% of gross receipts among employees who receive tips that approximates the actual distribution of tip income among the employees;

(b) Be effective the first day of a payroll period that begins after the date the agreement is adopted, but no later than January 1 of the next year;

(c) Be adopted when there are employees in each occupational category who would be affected by the agreement; AND

(d) Allow for revocation by a written agreement adopted by at least two-thirds of the employees in occupational categories affected by the agreement when it is revoked. The revocation is effective only at the beginning of a payroll period.

Line 8—Total number of directly tipped employees.—Enter the total number of directly tipped employees who worked at the establishment during 1991. This is the cumulative total of all directly tipped employees who worked at the establishment at any time during the year. If you have a large turnover of directly tipped employees, this number may be large.

Do not use this number to determine if you must file Form 8027. The filing requirement (more than 10 employees) is based on the number of **all** employees working at the establishment, not just the number of directly tipped employees.