

**Office of Chief Counsel  
Internal Revenue Service  
memorandum**

CC:TEGE:EOEG  
POSTS-142030-07

Third Party Communication: None  
Date of Communication: Not Applicable

UILC: 6053.03-00, 6053.00-00

date: January 23, 2008

to: Idolina Volz  
SBSE HQ Specialty Programs / Employment Tax  
National Tip Reporting Compliance

from: Marie Cashman  
Special Counsel  
Employment Tax & Government Entities  
Office of Division Counsel/Associate  
Chief Counsel (Tax Exempt and Government Entities)

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subject: Reporting Gift Card Redemptions on Form 8027

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

**ISSUE**

How should amounts redeemed with a gift card be reported on Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips?

**CONCLUSION**

Amounts redeemed with a gift card should be treated like cash. The amount redeemed is reported as a gross receipt to the extent the gift card is used to purchase food and beverages. If the patron may use the gift card for tipping as well, then the tip amount should be treated as a cash tip paid to the service provider. If the patron uses a credit card for tipping when redeeming the gift card for food and beverages, then the tip amount is reported as a charge receipt with a charged tip on Form 8027.

**FACTS**

Taxpayers sell gift cards that customers may redeem for food and beverages. Gift cards differ in amount and whether any amount of the gift card may be used to pay a tip typically depends upon the policy of the establishment. Thus, when customers redeem gift cards, the gift cards may cover the food and beverage and the tip costs in part or in full. When gift cards cover the food and beverage and tip costs in part, customers may

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leave additional cash or use a credit card to cover these costs. You have asked how affected establishments should report the redemption of gift cards on Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips. You advised that taxpayers have indicated they would like to treat the redemptions as charge receipts. You are concerned that treating the redemption as charge receipts could affect the calculation of the charged tip rate, which is determined by the charge receipts and charged tips amounts.

### LAW AND ANALYSIS

Section 6053(c)(1) of the Internal Revenue Code requires large food and beverage establishments to "report to the Secretary...the following information with respect to each calendar year: (A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts). (B) The aggregate amount of charge receipts (other than nonallocable receipts). (C) The aggregate amount of charged tips shown on such charge receipts. (D) The sum of--(i) the aggregate amount reported by employees to the employer under subsection (a), plus (ii) the amount the employer is required to report under section 6051 with respect to service charges of less than 10 percent." This information is reported on the Form 8027. Section 31.6053-3(a)(3) of the Income Tax Regulations.

The regulations define the terms necessary to complete the Form 8027: gross receipts, nonallocable receipts, charge receipts, and charged tips. Gross receipts include "all receipts (other than nonallocable receipts), from the provision of food or beverages by a large food or beverage establishment from cash sales, charge receipts (including charged tips only to the extent the cash sales amount has been reduced due to the employer paying cash to tipped employee for charged tips due them),...and the retail value of complimentary food or beverages...served to customers." Section 31.6053-3(j)(1). Nonallocable receipts are "receipts which are attributable to carryout sales or to services with respect to which a service charge of 10 percent or more is added." Section 31.6053-3(j)(3). Charge receipts include "credit card charges and charges under any other credit arrangement." Section 31.6053-3(j)(4). Other credit arrangements include house charges, city ledger, and charge arrangements to country club members. A tip included on a charge receipt is a charged tip. Section 31.6053-3(j)(4).

Although the regulations do not specifically address the treatment of gift cards, receipts from the sale of gift cards are not included in the definition of gross receipts. Amounts redeemed with a gift card either to purchase food and beverages or to tip the server do not fall within the definitions of charge receipts, charged tips, and nonallocable receipts. Customers use the amounts redeemed with gift cards as cash to cover meal costs. Accordingly, because gross receipts include all cash sales from the provision of food or beverages, the amounts redeemed should be treated as gross receipts for purposes of Form 8027. To the extent that customers may redeem gift cards for tipping, the tip amounts should be treated as cash tips paid to the servers.

Customers who use gift cards may also use credit cards and cash to leave tips and cover meal costs. Taxpayers should report these amounts appropriately as gross receipts, charge receipts, or charged tips. When customers use gift cards and credit cards to leave tips or cover meal costs, taxpayers should report the credit card amounts that cover meals costs as charge receipts and the tip amounts as charged tips. When customers use gift cards and cash to leave tips or cover meal costs, taxpayers should report the value of the gift cards and cash amounts as gross receipts on Form 8027. Tipped employees should report the amount of the cash tips to the employer. Section 31.6053-1.

#### CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

If you have any further questions, please call Marie Cashman or Ilya Enkishev at (202) 622-0047.