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IRS Serves Up Tax Change to Restaurants and Servers

Beginning in January, the IRS will consider the [automatic gratuities that restaurants charge on dinner checks](#) as service charges. That means those automatic gratuities will be considered regular wages for servers - subject to payroll tax withholding - instead of tips, which servers typically report as income on their own. The IRS issued the automatic gratuity ruling last year, but will apply the new rule beginning in 2014.

"I don't know if it's necessarily going to affect me too much," said one Richmond server (made anonymous for this article). The server said fellow waitstaff at the restaurant she works at use their discretion when applying automatic gratuity to parties of six or more. "It's really up to the server, and I typically don't ever add it," she said.



That's because the percentage computed in the automatic gratuity is often less than the tip she'd otherwise receive from the table voluntarily. "A lot of times if you don't add gratuity, [the tip] will be more," she said. "20 percent is the minimum now, as far as servers are concerned."

Essentially, servers receive two kinds of tips: those in the form of cash and those added to credit card charges. Servers claim just their credit card tips from the restaurant at the end of each shift. "That's what all the servers do." Those tips are recorded by the restaurant, documenting it via its employee payroll services.

Cash tips are a different matter. Many servers make a small hourly rate (some as low as \$2.13 an hour). "I don't ever get any money on my paycheck because of taxes" in the form of FICA, Social Security, etc., the server said. Like most servers, she lives off her tips.

And just like most servers, this server pockets cash tips, which, in contrast to credit card tips, are often undocumented. Although illegal, it's largely assumed that a majority of servers operate this way. The upcoming tax change will mean that if an automatic gratuity is paid for in cash, servers won't be able to pocket that money, as the restaurant must declare it.

But the server said diners seldom pay with cash these days and that dinner checks for parties of six or more are often paid for (including tip) with credit cards - which are reported. That means the upcoming IRS change won't affect servers too much, if at all.

"The difference will be more on my end," said Emilia Sparatta of Heritage. She's the one that handles payroll information at the restaurant. The new IRS ruling will mean she'll have to look for and document those gratuity charges. "I'll have to do a little more work noticing if [Heritage servers] have an automatic gratuity."

Sparatta said that it's up to Heritage's servers to add automatic gratuities to dinner checks of large parties. "We don't automatically apply gratuity to a lot of people," she said. "I feel we can trust our guests to do the right thing."

While the new change may have little effect on day-to-day operations of Heritage, Sparatta said it will likely make things more difficult during the Holidays and other special events when the restaurant offers prix fixe dinners. That's because those meals are typically given an automatic gratuity when the check comes. "We'll have to wait and see how it goes," she said.

Source: Nathan Cushing for RVA News