NATIONAL RESTAURANT ASSOCIATION

CC:PA:01:PR (REG-110032-25)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Re: Written Comment Letter to the Notice of Proposed Rulemaking and Public Hearing, Occupations That Customarily and Regularly Receive Tips; Definition of Qualified Tips (REG-110032-25)

The National Restaurant Association respectfully submits these comments to the Notice of Proposed Rulemaking And Public Hearing, Occupations That Customarily and Regularly Receive Tips; Definition of Qualified Tips (REG-110032-25), 90 Fed. Reg. 45340 (Sept. 22, 2025). The proposal provides a definition of "qualified tips" for purposes of the income tax deduction for qualified tips under Section 224 of the Internal Revenue Code, as enacted by Section 70201 of Public Law No. 119-21, 139 Stat. 72 (July 4, 2025). We deeply appreciate the Department of Treasury and the Internal Revenue Service (IRS) for the timely issuance of the proposed regulations.

Founded in 1919, the National Restaurant Association is the leading business association representing the U.S. restaurant and foodservice industry, which encompasses over 1 million establishments and a workforce of 15.7 million employees. In 2025, the restaurant industry is forecast to generate $1.5 trillion in sales, solidifying its role as a engine of the U.S. economy. Beyond its economic impact, it is a vital source of employment for 1 of every 10 workers.

Nationally, tipped servers take home a median of $27 an hour, with the highest-paid making more than $41 an hour. The earning potential of the tipped occupations in restaurants and foodservice locations is what draws servers to a career in the restaurant industry. As public policy, the deduction for No Tax on Tips recognizes the extra effort restaurant employees make every day—whether it's staying late, working weekends, or going the extra mile for customers.

Across the restaurant industry, there are over 2 million workers who will be eligible for the tax deduction that National Restaurant Association economists project will help them keep $6.4 billion more of their compensation (chart below).

2025 TIPPED RESTAURANT WORKER SAVINGS

State	Tax Savings ($M)
Alabama	$68
Alaska	$12
Arizona	$135
Arkansas	$40
California	$616
Colorado	$121
Connecticut	$59
Delaware	$21
District of Columbia	$30
Florida	$519
Georgia	$171
Hawaii	S34
Idaho	$31
Illinois	$246
Indiana	$112
Iowa	$59
Kansas	$51
Kentucky	$67
Louisiana	$83
Maine	$23
Maryland	$101
Massachusetts	$140
Michigan	$166
Minnesota	$118
Mississippi	$37
Missouri	$114

State	Tax Savings ($M)
Montana	$25
Nebraska	$38
Nevada	$112
New Hampshire	$29
New Jersey	$146
New Mexico	$33
New York	$361
North Carolina	$184
North Dakota	$18
Ohio	$204
Oklahoma	$63
Oregon	$69
Pennsylvania	$231
Rhode Island	$29
South Carolina	$109
South Dakota	$21
Tennessee	$125
Texas	$528
Utah	$42
Vermont	$12
Virginia	$152
Washington	$124
West Virginia	$24
Wisconsin	$135
Wyoming	$13

Most restaurants are small businesses. Ninety percent of restaurants employ fewer than 50 people. There are restaurants in nearly every county in the U.S., and the aggregate of these small businesses make the foodservice industry the nation's second-largest private employer, underscoring our important role in local economies. Yet, behind the seeming ubiquity of restaurants is a fragmented and fiercely competitive landscape. Seven in 10 restaurants are single-unit businesses that run on tight profit margins of just 3-5%, making them highly susceptible to rising costs and economic uncertainty. Operators must continuously adapt to shifting consumer preferences, evolving regulations, and financial pressures, all while managing the realities of razor-thin profitability.

Restaurant operators appreciate the efforts by the Treasury Department and IRS to educate our workforce on this new deduction.

Application of the Proposed Regulations to "Suggested Gratuities"

The treatment of "suggested gratuities" under the income tax deduction for qualified tips under Section 224 is vital given their increased use by restaurant operators.

This voluntary "suggested gratuities" on a bill helps certain dining parties (i.e., based on party size or location) understand appropriate levels of service recognition and support tipped workers when those parties present a greater incidence of non-tipping or under-tipping. This is not a mandatory service fee, but a "suggested" amount that allows customers the sole discretion to adopt the amount or to adjust the suggested gratuity amount by increasing it, decreasing it, or eliminating it entirely. As the proposal indicates, restaurants provide customers with such "suggested gratuities," on both traditional paper receipts and in electronic handheld point of sale ("POS") devices.

The Association strongly supports the inclusion of the two examples in the Proposed Regulations. Example 3 and Example 4 provide clear guidance for restaurant operators in designing their documentation processes to ensure that "suggested gratuities" result in payments that ultimately are considered qualified tips for purposes of Section 224, ensuring their servers and other tipped employees benefit from the deduction as approved by Congress. The Association urges that Example 3 and Example 4 be included when the proposal is finalized.

Request for Another POS Example

Example 4 shows a POS device with tip buttons (15%, 18%, 20%, other, and no tip). But many POS systems also use a "tip slider," which lets customers pick and adjust the tip amount. Like the buttons, the slider is voluntary and lets customers decide the tip amount, including choosing no tip. We suggest adding another example to confirm that using a tip slider also results in a qualified tip, such as the following:

> *Example: Same as Example 4, but the POS device has a virtual tip slider with a suggested 18% gratuity. Customer F uses the slider to select 18% and pays by credit card. Since Customer F could adjust the 18% tip higher or lower, or remove the tip entirely, the 18% is a qualified tip.*

While restaurant operators might already treat tip slider amounts as qualified tips based on Example 4, having a specific example would clear up any confusion and help avoid mistakes that could affect both restaurant operators and their staff.

Updating Revenue Ruling 2012-18

The proposed regulations mention Revenue Ruling 2012-18, which used similar rules to Section 224(d)(2)(A) to tell tips apart from service charges for FICA and income tax withholding. However, the revenue ruling does not provide examples with respect to "suggested gratuities." Considering the two "suggested gratuities" examples in the proposed regulations, the Association recommends that consideration be given to adjusting Revenue Ruling 2012-18 with examples like Examples 3 and 4 and including a new "tip slider" example with a POS device.

We are grateful to share this comment letter and look forward to more engagement on the public policy process.

Warm Regards,

National Restaurant Association