



TaxNewsFlash

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Final regulations: Occupations that customarily and regularly receive tips and definition of “qualified tips”

The U.S. Treasury Department and IRS today issued [final regulations](#) (T.D. 10044) that identify occupations that customarily and regularly received tips on or before December 31, 2024, and provide a definition of “qualified tips” for purposes of the income tax deduction for qualified tips enacted under the “One Big Beautiful Bill Act” (OBBBA).

Background

Section 70201 of the OBBBA provides individuals with an income tax deduction for tax years 2025-2028 equal to the qualified tips received during the year and reported on Form W-2, Form 1099-K or Form 1099-NEC, or reported by the taxpayer on Form 4317. Qualified tips include any cash tip received in a job that traditionally and customarily receives tips as of December 31, 2024. However, qualified tips do not include any amount received by an individual unless the amount:

- Is paid voluntarily without consequence of nonpayment, is not subject to negotiation, and is determined by the payor
- Is not received in the course of a trade or business that is a specified service trade or business as defined in section 199A(d)(2)

The deduction cannot exceed \$25,000 and starts to phase out when the taxpayer’s modified adjusted gross income exceeds \$150,000 (\$300,000 for joint filers).

Final regulations

As explained in the related IRS release—[IR-2026-49](#) (April 10, 2026)—the final regulations adopt the proposed regulations issued in September 2025, after consideration of the more than 300 written comments received. Consistent with the proposed regulations, the final regulations list more than 70 separate occupations of tipped workers organized according to a new categorization system created by the Treasury Department and IRS, with each assigned a three-digit code called a “Treasury Tipped Occupation Code” (TTOC) and grouped together in the following more general occupational categories:

- 100s – Beverage and food service
- 200s – Entertainment and events
- 300s – Hospitality and guest services

- 400s – Home services
- 500s – Personal services
- 600s – Personal appearance and wellness
- 700s – Recreation and instruction
- 800s – Transportation and delivery

The list provides the “TTOC Occupation Title” for each occupation code, a short description of the types of services performed by individuals working in an occupation included in this occupation code, illustrative examples of specific occupations that would be included under the occupation code, and the related SOC System Code(s). The final regulations expand the list to include visual artists and floral designers in the personal services category and add gas pump attendants in the transportation and delivery category.

The final regulations also follow the proposed regulations in further clarifying that qualified tips must satisfy certain requirements:

- Qualified tips must be paid in cash or an equivalent medium, such as check, credit card, debit card, gift card, tangible or intangible tokens that are readily exchangeable for a fixed amount in cash, or another form of electronic settlement or mobile payment application denominated in cash.
- Qualified tips must be received from customers or, in the case of an employee, through a mandatory or voluntary tip-sharing arrangement, such as a tip pool.
- Qualified tips must be paid voluntarily by the customer and not be subject to negotiation. Qualified tips do not include service charges unless the customer has an option to disregard or modify the service charge. For instance, in the case of a restaurant that imposes an automatic 18% service charge for large parties and distributes that amount to waiters, bussers and kitchen staff, if the charge is added with no option for the customer to disregard or modify it, the amounts distributed to the workers from this service charge are not qualified tips.

Importantly, workers can take the deduction only for qualified tips that are included on Form W-2, Form 1099-NEC, Form 1099-MISC, Form 1099-K, or reported by the worker on Form 4137. Gig workers and other self-employed individuals can qualify for this deduction if their occupation is on the list of occupations that receive tips and the other statutory and regulatory requirements are met.

To prevent reclassification of income as qualified tips, and to prevent abuse of the deduction, the proposed regulations included a rule providing that a payment would not be treated as a qualified tip if the tip recipient has an ownership interest in or is employed by the payor of the tip. In response to various comments received, the final regulations replace that rule with a provision stating that an amount is not a qualified tip, and thus not eligible for the deduction if, based on all relevant facts and circumstances, the amount represents a recharacterization of wages or payments for goods or services for purposes of claiming the deduction. The final regulations further provide facts and circumstances that may indicate a recharacterization of wages, payment for services, or other income as tips include:

- A charge for services provided in an invoice is less than the payment from the payor shown on a related receipt or information return, and the cash tip reported on the receipt or information return is in an amount that approximates the difference between the charge amount on the invoice and payment amount on the receipt or information return.
- A significant shift in historical tipping or payment practices between the payor and the tip recipient.

In addition, the final regulations provide that if the following facts and circumstances are present, there is an irrebuttable presumption that the amount paid reflects a recharacterization of wages, payment for services, or other income as tips, and therefore cannot be a qualified tip:

- The employer of an employee is the payor, as defined in Treas. Reg. § 1.224-1(c)(5) of the final regulations, of a cash tip received by the employee.
- The tip recipient has a direct ownership interest in the payor, as defined in Treas. Reg. § 1.224- 1(c)(5) of the regulations, of a cash tip.

The final regulations define ownership interest to mean, in the case of a corporation, ownership (by vote or value) of 5% or more of the stock in such corporation; in the case of a partnership, ownership of 5% of the profits interest or capital interest in such partnership, or in any other case, ownership of more than 5% of the beneficial interests in the entity. An ownership interest is tested as of the date the tip is received. The final regulations also provide that an ownership interest is a direct ownership interest if it is an ownership interest held directly by the tip recipient or if it is an ownership interest held through an entity disregarded as separate from its owner for Federal income tax purposes; an ownership interest held through a qualified subchapter S subsidiary as defined in section 1361(b)(3); an ownership interest held through a grantor trust (under subpart E of part 1 of subchapter J of chapter 1 of the Code); or an ownership interest held through a custodian, broker, nominee, agent, or other similar intermediary.

The final regulations are effective on the date that is 60 days after the date the regulations are published in the Federal Register (which is scheduled to be April 13, 2026), and the final regulations apply for tax years beginning on or after December 31, 2024. However, as stated in the proposed regulations, taxpayers may rely on the proposed regulations for tax years beginning after December 31, 2024, and on or before the date the regulations are published as final regulations in the Federal Register, provided that taxpayers follow the proposed regulations in their entirety and in a consistent manner.

Guidance on claiming the deduction for 2025 was provided in Notice 2025-69, and additional guidance on information reporting and claiming the deduction in subsequent years will also be provided in the instructions to the relevant forms.

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