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Serving up the new tipping rules

The new tipping rules

With new rules surrounding the processing of tips introduced at the beginning of the month, we explain what businesses need to be aware of.

The Employment (Allocation of Tips) Act 2023 provisions come into effect on 1 October 2024 bringing changes to processes, data protection and dealing with employees.

The Department for Business and Trade (DBT) has published [the code of practice on fair and transparent distribution of tips](#). The method of tip collection and distributions a company uses will determine the level of involvement the payroll or finance department will need to have in these processes.

Code of practice

The relevant items in the code for dealing with employees are set out below.

To ensure fairness, employers must ensure the following.

- *All tips are distributed to staff by the end of the month following the month the tip is given, at the very latest.*
- *Clear and objective factors are used to decide the fair allocation of tips, but unlawful discrimination, either direct or indirect, must be considered.*
- *Ideally, employees are consulted on what fair looks like for a given workplace and their considerations should factor into the policy produced.*
- *If an employer assigns a tronc master, they are obliged to act if they feel the tronc is being operated in an unfair manner.*

To ensure transparency, employers must ensure the following.

- *A tipping record is maintained for three years from the date a tip is paid. This record must include all qualifying tips received at the place of business and the amount allocated to each worker.*

- *Workers have a right to make a written request to view a tipping record, to include the total amount of qualifying tips received in the period requested and the amount allocated to the individual. This is limited to one request per worker in a three-month period, and the request can be for any period going back up to three years, provided they were employed for the full period requested.*
- *The records are kept in accordance with data protection rules. This obviously means that only the tips allocated to a worker can be shared with that worker, other workers' tipping records should be kept private.*

Legal standpoint

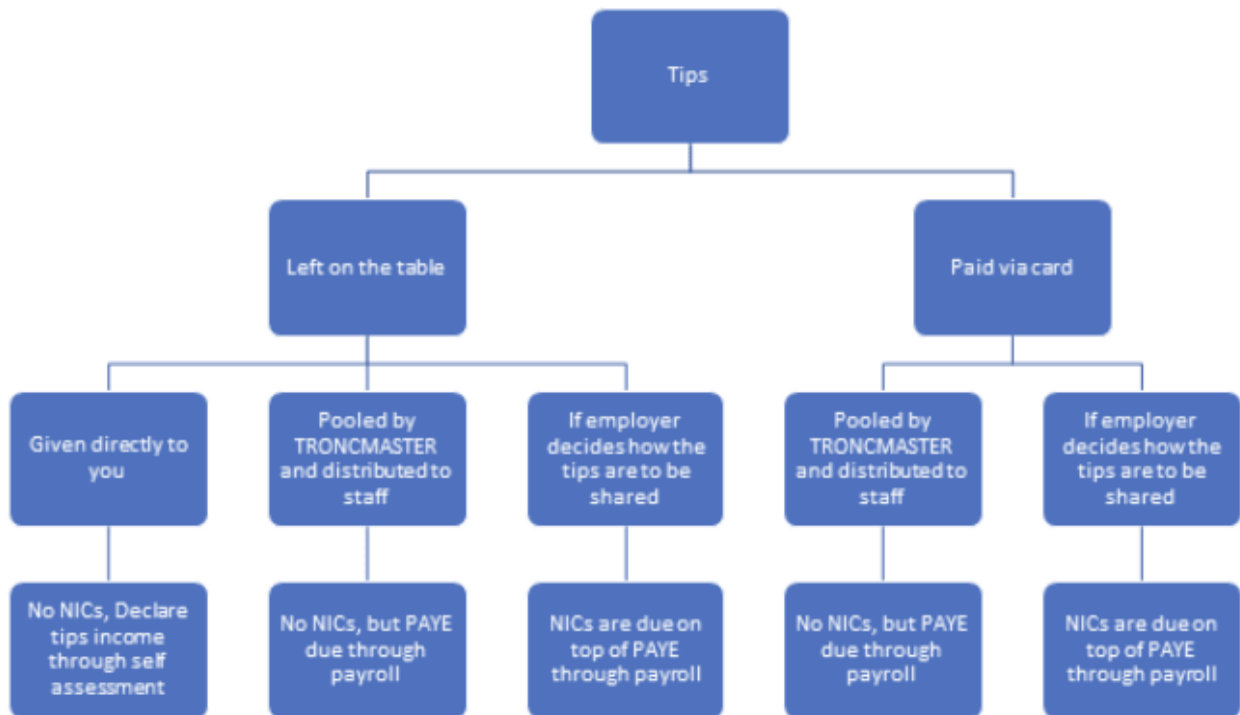
It should also be noted on the legal standpoint for whether employers' processes are considered fair and transparent: "An employer cannot be said to have met its obligation to handle tips fairly and transparently if individual workers are not aware of their entitlements in line with the tipping policy."

This highlights the importance of having an easily accessible, easy to read and clear policy that employees can find. When thinking of distribution methods, employers should ensure agency and temporary staff are not disadvantaged. The policy is not required to be shown to the public, but the employer may choose to do so.

But while thinking of tips, it is important to remember the tax treatment for them, especially as processes will be under more scrutiny. Below are some helpful things to remember about tips and the tax treatment of processing them in different scenarios from the advisory team at the Chartered Institute of Payroll Professionals (CIPP).

- *Firstly, if an employer has any national minimum wage earners it is important to know that any tips received at work do not count towards national minimum wage, but tax is due upon them.*
- *If the tips are distributed by the business owner or someone who has an influence on how the business is run, then the payment is subject to both tax and national insurance.*
- *If, however, the employees elect a tronc master (this could be a head waiter or chef – someone who is not involved in the day-to-day running of the business), the tronc master would decide who would get the tips and how much each they would be paid out of tips. Where a business has a tronc master and has formally agreed this with HMRC, the tips are then subject to tax only, through the payroll.*

Below is a flow chart explaining how the tips must be treated with and without a tronc master in place.



Employers working in hospitality and other professions where tips are likely to be given will need to ensure that these new requirements are well thought through and incorporated into policy and procedure as soon as possible.

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