

## ***Restaurant tips -***

⚠ This cover sheet is provided for information only. It does not form part of *Restaurant tips -*

⚠ This publication is extracted from the Tourism and Hospitality Industry Partnership - issues register. See travel agents issue 26 of that register. This publication should be read in conjunction with the related content of that register where further context is required.



## Tourism and Hospitality Industry Partnership

### Restaurant tips

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This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

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### Restaurant tips

1. A customer who dines at a restaurant may give a tip in addition to the payment for the meal. The tip is purely voluntary and is intended for the restaurant employees that provided the service. It may be paid by way of cash or credit card. The restaurant operator passes on the tip to the employees.

### Issue

2. Does a tip paid voluntarily form part of the consideration for the supply of restaurant meals by a restaurateur to the customer?

### Decision

3. No, a gratuity is not consideration for the supply by the restaurateur provided that the tip is passed on to the employees as intended.

4. Section 9-15 provides that consideration includes any payment, act or forbearance, in connection with, in response to or for the inducement of a supply of anything.

5. For a tip to be consideration for the supply of meals and beverages, it must be in connection with, in response to or for the inducement of the supply. A genuine tip - paid on a purely voluntary basis - is intended to go to the employees who provided the service. The restaurateur passes on the tip to the employees. The tip does not form part of the consideration for the supply of the restaurant meal.

**Note 1:** An entity must keep records showing that tips have been passed on to employees and not retained as part of the entity's business takings. If a tip is not passed on to the employees, then the tip is consideration for the supply by the restaurateur.

**Note 2:** If a tip is not paid voluntarily, for example, it is a pre-determined rate or an amount that is otherwise defined as a service charge, public holiday surcharge or similar, then the tip is consideration for the supply by the restaurateur.