



# 2019 RESTAURANT OWNERS GUIDE

TAX & ACCOUNTING



CPAs AND BUSINESS ADVISORS

# RESTAURANT TAX LAWS

## THE BIG 3



Restaurants have the dubious honor of having unique tax law in three big areas of tax. Income, Payroll and Sales tax laws have specific rules that heavily affect how restaurants operate and set up their own internal processes.

We will highlight a few topics from each of these areas and try to explain them in enough detail to arm restaurant owners with the knowledge to head into tax season with a few more weapons in their tax arsenal. Each tax area mentioned has several caveats that are too specific to explore here, so please be sure to consult with a CPA that is well versed in restaurant-specific tax guidelines.







## Tax Cuts and Jobs Act

Unless you have been living under a rock somewhere, you have most likely heard about the Tax Cuts and Jobs Act (TCJA) of 2017. Whether what you heard was accurate or not is a whole different story. The IRS has been putting out clarifying language and many questions are still unanswered even though it's 2019.

### Qualified Business Income Deduction

Allows an individual taxpayer to deduct 20% of qualified business income. There are many limitations and phase-outs for this new deduction but, in general, restaurants clear those hurdles with no problem! In simple terms, if you make \$100,000 taxable net income in the restaurant, the IRS will only tax you on \$80,000!

### Bonus Depreciation

Unlimited 100% first-year depreciation for new or used qualified assets acquired and placed in service after 9/27/17 and before 1/1/23. Basically, any furniture or equipment you buy can be completely expensed right away! It is good to discuss the pros and cons of this since that leaves nothing to deduct in future years and if you're paying for the equipment for 5 years it can be nice to have the deduction parallel the cashflow.





## Meals and Entertainment

In the past, meals and entertainment expenses were mostly 50% deductible when associated with the active conduct of business. The new law made tracking a little tougher with 3 buckets:

**100% Meals** – Company parties, meals offered to the public for seminars or promotion

**50% Meals** – Business meals with clients, prospective clients, etc where business IS discussed. Office meals and meals while traveling.

**0% Meals and Entertainment** – Meals where business is NOT discussed. All entertainment expenses (rounds of golf, sporting event tickets, etc.)





## Capitalization Policies

Rarely does a new IRS rule make a restaurant owner's life easier. However, the capitalization policies effective 1/1/2016 (and still effective in 2018) truly do that. In prior tax years, all items costing \$500 or more had to be capitalized and depreciated over the assets' useful life which was generally five to seven years. This resulted in the need to track every piece of kitchen equipment and make sure to catalog all items that broke and were replaced during the year. This became far too cumbersome for any active restaurant owner.

The IRS listened and will now allow you to immediately expense all items costing \$2,500 or less. There is a higher threshold for certain taxpayers but most independent restaurants do not meet this criteria. We highly recommend adopting this as a written policy of your restaurant. While the written policy is not required by the IRS, it won't hurt and provides a bit of formality to your adoption of the rule.

There is an annual election that needs to be made with any tax return where this policy was followed. Best practice is to file this election with every return whenever this rule may apply.



# PAYROLL TAX



## Work Opportunity Tax Credit

The Work Opportunity Tax Credit (WOTC) is an employer credit tied to hiring individuals from certain targeted groups that have historically experienced barriers to employment. In 2016, the targeted groups include:

- Unemployed Veterans (including disabled veterans)
- Temporary Assistance for Needy Families (TANF) Recipients
- Food Stamp (SNAP) Recipients
- Designated Community Residents (living in Empowerment Zones or Rural Renewal Counties)
- Vocational Rehabilitation Referred Individuals
- Ex-Felons
- Supplemental Security Income Recipients
- Summer Youth Employees (living in Empowerment Zones)

The WOTC can be administratively intense to successfully claim, however it can result in a tax credit of \$1,200 – \$9,600 per employee depending on the group above. This means a dollar for dollar reduction in the amount owed to the IRS. The WOTC has strict timelines for application but the potential tax credit can be so lucrative it's important not to overlook it.

A great practice is to supply all new hires with a Form 8850 along with their new hire packets. This form is filled out by the new hire and simply tells the employer whether the employee falls into one of the above groups. If the new hire indicates they fall into one of the targeted groups, the employer has 28 days to submit this signed form electronically, via fax or by mail to the Minnesota Department of Employment and Economic Development.



# PAYROLL TAX



## Employer Tip Credit

The Employer Tip Credit is arguably the most beneficial restaurant-specific tax credit under current tax law. The credit can be complicated to calculate in states that allow employers to pay their tipped employees less than minimum wage, but for better or worse, Minnesota does not allow this.

As employees report their tips on their payroll, the restaurant is required to match Social Security and Medicare on all of these wages. This boils down to the restaurant having to pay 7.65% extra in payroll tax on wages that went straight to the employee from the patron. There is, however, a silver lining to this. All of that extra payroll tax paid in by the restaurant can be claimed back as a tax credit on the owner's tax return. Much like the WOTC, this Tip Credit will reduce, dollar for dollar, any tax obligation to the IRS.

To put this in real terms, if the tipped employees of a restaurant collectively claim \$50,000 worth of tips received during 2016, the restaurant has paid 7.65% in payroll taxes on those tips. When the company tax return and then the owner's tax return are filed, the owner will get \$3,825 as a tax credit to offset their total IRS obligation. While it's technically a tax credit that has been paid for, it can be a nice surprise to offset a restaurant owner's personal tax obligation.



# SALES TAX



## Auto Gratuities

Auto Gratuities are a classic fight between a restaurant's necessity and a regulatory nightmare. Every restaurant owner knows a server that has been run ragged trying to keep up with a party of 10, only to get tipped 5%. Auto Gratuities should be a simple answer to this annoying problem. This transaction was unfortunately complicated by the IRS and the State of MN. To make it even worse, they complicated this transaction in different ways.

Let's tackle the IRS problem first. Auto Gratuities in the eyes of the IRS are cash wages to employees, NOT a tip. This means it needs to be included on the employee's payroll and it is NOT eligible for the employer tip credit discussed above. This can mean \$7.65 in lost tax credits for every \$100 of Auto Gratuities claimed instead of a regular tip.

Minnesota decided this was a sales taxable transaction. Not only is it sales taxable, it should be sales taxed at the appropriate percentage of liquor vs food tax as the overall bill breaks down to. Which means if the customer spent \$75 on food and \$25 on liquor, the auto-gratuity should be taxed 75% at the base food sales tax rate and 25% at the increased liquor sales tax rate. This sounds like a tracking nightmare, so it's time to say thank you to our point of sale providers.

## Employee Meals

Employee meals are handled in two distinct ways. If the employee receives a discounted meal, simply charge sales tax on what the employee pays for the meal. If the original price of the meal is \$15 but the employee receives \$10 off per shift, tax the \$5. Easy enough.

If the employee receives a free meal, however, it requires a little more tracking. The restaurant must pay Use tax (self-imposed sales tax) on the cost of the food and all the taxable items that went along with that meal. That cost includes disposable cups, napkins, straws and soft drinks.

Keeping up on the ever changing tax environment from various government agencies can be daunting. Hopefully after reading the items above, and with a great team around you, tax season can be a little less mysterious.





# CONTACT



Keeping up on the ever changing tax environment from various government agencies can be daunting. Hopefully after reading the items above, and with a great team around you, tax season can be a little less mysterious. If you would like additional information on our tax, audit and accounting services for restaurants, please Nick Swedberg, CPA at [nswedberg@myboyum.com](mailto:nswedberg@myboyum.com) or 952.858.5585.

## **Nick Swedberg, CPA**

Specializing in Restaurants & Breweries

Since joining Boyum Barescheer in 2008, Nick has become a firm leader in client service. His tax planning and preparation work along with CFO services for clients led him to play a significant role in the firm's Business Advisory Services department.

Clients reach out to Nick for his patient assistance and support. A large portion of Nick's client base is in the restaurant and brewery industries. Being a self-proclaimed "foodie", Nick makes it a priority to frequent his clients' establishments as often as possible.



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