

Preparing for change: Tipping Act and Code of Practice Webinar Q&As

We have five different sites but the payroll is processed by a group company? Can the service charge be transferred to the group company and paid by the group company?

There isn't anything within the legislation that prohibits you passing the service charge for the five sites to the group company given the salaries payroll process is dealt with by the group company. However, the service charge collected at those five sites would need to be paid to customer facing workers of those sites plus any non-customer facing workers whose roles are linked to those sites.

Gift vouchers given to staff are declared under gifts currently, as these can be exchanged for good and services (a cash equivalent) these seem to be in scope of the tipping legislation. If these gift vouchers are given direct to the employee, does that make them excluded?

Gift vouchers given by customers to staff (worker-received tips) would not be caught by the legislation unless employer exercise control or significant influence of such vouchers.

Can I as the GM (who isn't included in the tip distribution) act as the Troncmaster and therefore get the NI exemption?

A GM is an acceptable position to act as the troncmaster and would be required to ensure all allocations met the requirements of both the legislation and HMRC's E24 for NIC exemption. If such requirements were met, then exposure is likely to fall on the employer.

Can a third-party provider charge a processing fee if they are just processing tips, as they are not an employer?

No deductions can be made from the tip amount left by the customer.

What if my two restaurant sites are very close to each other and the employees are shared between the two? It wouldn't make sense for me to pool them separately.

If the two sites are viewed as two separate places of business, then you cannot pool the tips from both sites. Should a worker have worked in both sites during a period the allocation process could reflect this, say based on the hours worked at either site. Should you wish to argue both sites are one place of business you would need seek specialist advice.

Can you confirm the specifics on "A right for agency workers to benefit from the Act in the same way as workers" please?

An agency worker must be treated under the legislation as if they were a worker of the employer.

Hi, what if staff like for the tips to be collected and distributed at Christmas for example?

Unfortunately, the legislation states that the tip must go to workers by the end of the following month it is collected in.

Do we need to deplete the full tronc reserves by 1st July, are there specifics on how we are allowed to utilise these funds?

No, the legislation is not retrospective, and any tips collected before 1st July 2024 will not fall under the new legislation.

Are staff Christmas fund donations from members covered under the legislation? Particularly when the funds open, are collected and paid out?

If your members are customers and the said donations are considered to be either employer-received tips or worker-received tips that becomes subject to employer control then they would fall under the legislation.

How will holiday pay be dealt with? Presumably those on holiday no longer receive tronc when not in site, and have their holiday pay calculated off the wage rate before tronc payments

We suggest consultation with your workers for them to decide if they wish for tips received during a holiday period should be shared with those on holiday. Holiday pay in relation to contractual salary is not covered by the legislation given this isn't tip related.

Do agency workers get service charge from the very first shift then? Did you say we can pay directly to the agency worker?

Yes, agency workers would be entitled to tips on every shift they work. You can pay this directly to the worker.

Does tronc need a separate PAYE scheme under the new legislation?

No. A troncmaster can utilise the employers PAYE scheme provided that the troncmaster does not receive, hold or themselves pay out the tips and, instead, the employer does so.

Could you explain how GDPR applies when workers can request to view allocation.

Workers can only request the total amount tips of that were collected, then passed for allocation and the individual amount they have received; not anything on other employees. So GDPR would not apply.

Could we fix tronc for salaried head office and distribute the remainder to the operations team?

You must show any head office staff's role links to the place of business that received the tips, and their allocation is fair and transparent.

Does the policy have to be available to the public?

No.

Is there a distinction between a service charge and a staff fund in regard to the new legislation?

If the tip constitutes either employer-received tips or worker-received tips that becomes subject to employer control, then they would fall under the legislation. We see many clients who collect tips over a period of time, a staff fund, for example member clubs or golf clubs, but this does not prohibit the legislation from applying.

Have more questions?

Call us today on +44 (0)20 7710 3389 or email troncmaster@buzzacott.co.uk