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For tax purposes, the Canada Revenue Agency (CRA) classifies tips into two categories: **controlled** and **direct**:

## CONTROLLED TIPS

**If the employer is able to control how the tip will be paid, it's a controlled tip.**

Common examples are when a service charge is added to the bill, or tips are distributed by the employer through a tip sharing arrangement set out in an employment contract (written or verbal) that outlines how the tips will be divided. Tips included in the employer's business income are also considered controlled tips.

The amount each employee receives appears in Box 14 on his or her T4 slip. Employers must make source deductions, including income taxes and EI and CPP premiums.

Controlled tips must also be declared as employer income. Employers are entitled to deduct controlled tips, but should have documentation in case of contradictory employer/employee claims.

## DIRECT TIPS

**If the employer has no control over the amount of gratuity an employee receives, it's a direct tip.**

This includes credit card and debit card tips – provided they are not included in the employer's business income or subject to a tip sharing arrangement. Direct tips are considered income, not wages, and no source deductions are made. Employees are required by law to report the income they collect from customers, minus the amount that they pay into a tip pool, on line 104 of their tax returns.

**NOTE:** *There are different rules in Quebec, where employees must declare all tips to employers, who must treat them as insurable earnings. Please see Tipping Regime in Quebec*

## Credit and Debit Card Tips

Payment card tips must be returned directly to the employee to be considered direct tips. Restaurants Canada received clarification from CRA that *"an extension of this position would be where an employer might for cash flow reasons, delay paying out the tips to the workers until the next day."* In this situation, the tips are still considered direct, because the employer is simply a conduit. They are not insurable earnings.

## Tip-Pooling

In some restaurants, servers collect tips directly from patrons and then contribute a portion of these tips to an employee-run pool. The employer re-distributes the pool to the kitchen staff and other employees who do not receive tips directly from patrons.

In this situation, CRA considers the tips collected by servers as "direct tips" and the tips paid out by the employer as "controlled tips." If servers are required to put all tips into the pool to be re-distributed by the employer, then all amounts distributed from the tip pool are deemed "controlled tips."

## Ownership of Tips – Provincial Legislation and Case law

JURISDICTION	LEGISLATION
<b>Alberta</b>	Silent
<b>British Columbia</b>	Legislation prohibits employers from making deductions from tips for any cost of business.
<b>Manitoba</b>	Legislation is silent, but government has taken the position that tips are considered to be the property of the house. Exceptions to this rule of thumb occur where agreements between the employer and employee specify that tips, or a portion of them, will be returned or retained by the employee.
<b>New Brunswick</b>	Legislation makes tips property of the employee.
<b>Newfoundland &amp; Labrador</b>	Legislation states that tips are property of employee; however, if paid by credit or debit, statutory deductions can be made from tips by employer. <i>(this contradicts ruling by CRA)</i>
<b>Nova Scotia</b>	Silent
<b>Ontario</b>	Legislation prevents an employer from accessing any portion of an employee's tips and cannot withhold or make deductions from the employee's tips or gratuities except under the following circumstances: <ol style="list-style-type: none"> <li>1. Employers may oversee and distribute tip pooling agreements as long as the employer does not receive a share of the tip pool</li> <li>2. An employer may participate in the tip pooling agreement as long as that person performs the same work as others in the agreement</li> <li>3. A collective agreement that has agreements counter to this legislation</li> <li>4. If tips are put on credit cards, the credit card fee can be deducted from the amount remitted to the staff</li> </ol>
<b>Prince Edward Island</b>	Legislation states that tips and gratuities are the property of the employee and no employer can require an employee to share a tip or gratuity with that employer. An employer can adopt a policy of pooling tips and gratuities for the benefit of employees and must advise an employee in writing at the time of hiring that this policy is in effect.
<b>Quebec</b>	Legislation states that tips belong to employee and must be paid in full. Tip sharing must be voluntary and employer cannot impose or intervene.
<b>Saskatchewan</b>	Silent
<b>North West Territories</b>	Legislation indicates that wages do not include tips but otherwise silent.
<b>Nunavut</b>	Silent
<b>Yukon</b>	Silent