

# Tips and Other Gratuities Guideline

**Disclaimer:** This resource has been prepared to help employees and employers understand some of the minimum rights and obligations established under the Employment Standards Act, 2000 (ESA) and regulations. It is not legal advice. It is not intended to replace the ESA or regulations and reference should always be made to the official version of the legislation. Although we endeavor to ensure that the information in this resource is as current and accurate as possible, errors do occasionally occur. The ESA provides minimum standards only. Some employees may have greater rights under an employment contract, collective agreement, the common law or other legislation. Employers and employees may wish to obtain legal advice.

## Introduction

On June 10, 2016, the [Protecting Employees' Tips Act, 2015](#) came into force amending the [Employment Standards Act, 2000](#) (ESA) to create rules around the handling of tips and other gratuities in the workplace.

This guideline has been prepared to provide general information regarding the ESA rules with respect to the handling of tips and other gratuities in the workplace. For more information visit [Ontario.ca/tipsandgratuities](#) or call the Employment Standards Information Centre at 1-800-531-5551 (or TTY 1-866-567-8893 for the hearing impaired). Information is available in multiple languages.

## Overview

### What are tips and other gratuities?

Under the ESA, a “tip or other gratuity” is:

- A payment voluntarily made or left by a customer to an employee;
- A payment voluntarily made or left by a customer to the employer for employees; and
- A payment of a service or similar charge imposed by the employer,

where a reasonable person would believe that the payment would be kept by an employee or shared amongst employees. Examples of tips and other gratuities include:

- A payment given to an employee by a customer for a service in any form including cash or other electronic payments such as debit or credit card, or
- Service charges at banquet halls or other establishments that are meant for employees.

### When can an employer withhold or make deductions from employees' tips?

Employers are allowed to withhold or make deductions from their employees' tips and other gratuities if they are:

- required by law or court order,

- administering a tip pool (a collection of employees' tips that is redistributed amongst some or all of the employer's employees. This includes tip outs.)

**PLEASE NOTE: Deductions from tips and other gratuities to cover things like spillage, breakage, losses or damage, etc. are not allowed.**

## Can managers and employers keep their tips or a portion of a tip pool?

Managers can keep their tips and can generally participate in a tip pool.

Employers can keep their tips and may participate in a tip pool if:

1. They are a director, sole proprietor, partner or shareholder in the business, **and**
2. Regularly spend most of their time doing the same work as the employees who share in the tip pool (or other employees in the same industry that would normally receive or share tips).

## Best practices

### Employers should:

- Establish a clear policy for the handling of tips and tip pooling (including, for example, when tips paid electronically are given to employees, how tip jars are divided, etc.). A number of online tools are available to help track and calculate tip pools.
- Post the tip pooling policy in the workplace where employees can see it.
- Track the amounts collected and/or redistributed as part of a tip pool.
- Track the tips and other gratuities paid by electronic methods, and the amounts given to employees.
- If service charges are being included on invoices or banquet hall rental agreements, clearly indicate who or what that money is intended for (e.g., tips for servers or facilities charges, etc.)

### Employees should:

- Track the tips you receive, including amounts received from a tip pool. A number of downloadable mobile apps are available to help track tips and other gratuities.
- Track how much you pay into tip pools.

## Employment Standards Claims

Employees who believe that they have not received their rights under the ESA and wish to file a claim can access the Employment Standards Claim Form online at [Ontario.ca/ESAforms](http://Ontario.ca/ESAforms) or at select ServiceOntario Centres. To locate the nearest Centre, please call 1-800-267-8097.