



CODE OF PRACTICE ON DISCRETIONARY TIPS AND SERVICE CHARGES

What is discretionary service charge?

This is a payment suggested by the restaurant, which the customer is totally free to make or not. The payment is made to the restaurant (or similar establishment) by cash, card or cheque. It is not a cash tip (see below).

What are tips and gratuities?

These are additional payments given by the customer over and above the amount of the bill and any discretionary service charge. They fall into two categories: cash tips (see below), given to an individual employee, or non-cash tips, being additions to the amount on the bill and paid to the restaurant, whether by card or cheque.

How should cash tips be dealt with?

Cash tips are payments given directly by customers to individual employees, not to the restaurant (or similar establishment). Any arrangement for sharing cash tips among employees should be in accordance with their wishes. The restaurant owner will not be involved in this process. It is the responsibility of the employees receiving such cash tips to make proper disclosure to HM Revenue and Customs and to account for Income Tax in respect of these earnings.

What deductions may be made from discretionary service charge or non-cash tips paid to the restaurant before they are made available for allocation to employees?

There is no legal requirement for the restaurant to allocate a particular proportion of the service charge or tip income to employees. However, a deduction for costs incurred in handling these sums would cover credit card and banking charges, payroll processing costs, and the average costs of credit card fraud. The level of costs deducted will vary, depending on the nature of the business. Any deductions made by the restaurant over and above those for these costs should be disclosed to customers as part of the disclosure process (see below).

How should discretionary service charge and non-cash tips be paid out?

Where discretionary service charge and non-cash tips are paid to employees by the restaurant, they are most commonly paid from the restaurant's bank account, with Income Tax deducted under PAYE. The broad process for distribution of these amounts should be disclosed to customers as part of the disclosure process (see below).

What disclosure should be made?

Restaurants should disclose to customers how they deal with discretionary service charge and non-cash tips, at least by a written note available for inspection at each restaurant and on the restaurant's website, if there is one.

The disclosure should cover:

- i) Whether an amount is deducted for handling costs (and how much);
- ii) How the remainder is shared between the restaurant and the employees;
- iii) The broad process for distribution, for example, that they are shared between the employees in the restaurant through a system controlled by a representative of the employees.