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THE TAX LAWYER

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TAXES 1/06/2015

### IRS Taxes Tips For Jesus

The anonymous Tips for Jesus guy or gal is at it again. What do you have if you take a modest \$50.74 bill at San Francisco's Tacolicious Mexican eatery and add a \$2,000 tip? News, and a very happy waitstaff. Tips for Jesus is anonymous but posts photos online to verify the large gratuities left at numerous restaurants. Workers at Tacolicious pool their tips, so everyone benefits. But guess who also benefits? The IRS.

Some people are trying to name the Jesus tipper. For example, [according to Valleywag](#), the Jesus tipper might be Jack Selby, former Paypal VP. On the two days after Christmas, Tips for Jesus also left \$11,000 on tips at Phoenix area restaurants, according to [ABC News](#). Some are even calling the [tips for Jesus person a 'Donor'](#). But whoever the Jesus tipper is (or are if there are several), there's no doubt about the IRS piece of the pie. Here are 10 tips about tips:



1. **Tips Belong to the Employee.** Tips are to be retained by the employee and can't be taken by the employer.
2. **Tip Pooling is Allowed.** Employees who regularly receive tips (like waiters, bartenders and bus boys) can pool their tips. Chefs, dishwashers and management cannot.
3. **Service Charges Aren't Tips.** Chefs, dishwashers and management can only receive a portion of mandatory service charges. These are not considered tips so can be distributed as the employer sees fit.
4. **Tips are Taxable.** Employees must claim all tips as income. This includes tips the employer pays over to employees for charge customers and tips employees received directly from customers.
5. **They're Wages.** Even though employees receive tips from customers, they are generally subject to withholding by the employer.
6. **Employees Must Report.** Employees report tip income on [Form 4070](#), Employee's Report of Tips to Employer. This signed report, due the 10th of the month after the tips are received shows: (a) Employee's name, address, and Social Security number; (b) Employer's name and address; (c) The

month or period; and (d) Total tips received. (No report is required for months when tips are less than \$20.)

7. **Employer Reporting.** Employers must collect income tax, employee Social Security tax and employee Medicare tax on tips reported by employees. The employer can collect these taxes from an employee's wages (withhold excess amounts from wages to allow for the tips).
8. **Allocation of Tips.** Employers must ensure total tip income reported is at least 8% of total receipts for that pay period. If not, the employer allocates the difference between actual tip income reported and 8% of gross receipts.
9. **IRS Form W-2.** The amount of tip income allocated to each employee is shown in box 8 of their [Form W-2](#) for the year.
10. **Tip Reporting.** Employers operating large food or beverage establishments must file [Form 8027](#), Employer's Annual Information Return of Tip Income and Allocated Tips, to report employee tips.

Can you argue that a tip of this size really isn't a tip and is actually a gift? Maybe, but its weak so don't try it with the IRS. Remember the guy or gal handing out no-strings Hidden Cash? Tweets from handle @HiddenCash give clues, and a report by [Inside Edition](#) said that benefactor is Jason Buzi. But whoever it was spawned emulators in the US and the UK.

These weren't tips after a meal, so perhaps the argument they were gifts was a little better than for those big Tips for Jesus. But clearly the Hidden Cash also wasn't a charitable contributions, not in the traditional sense. They are a kind of grassroots giveback but probably aren't gifts either. After a small start, [Hidden Cash](#), sparked a multi-city frenzy.

That cash man has attracted huge Twitter followers. But is it taxable? Even if it isn't a tip, it sure is, [so it's a windfall to the IRS too](#). Notice now the IRS gets a piece of just about everything?

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