

Hiring and Compensating Bar or Restaurant Employees

By Rieva Lesonsky



Before you start hiring your work force for your bar or restaurant, it's crucial to do your homework. Make sure you are well informed about employment and labor laws, such as laws pertaining to employee rights (discrimination and harassment, termination, safe and drug-free work environments, and benefits and wages). [OSHA](#) (the Occupational Safety and Health Administration) has strict policies all businesses must follow to protect employees from hazardous work environments. Fortunately, the OSHA outreach

program helps small business owners become compliant with workplace safety regulations.

In addition to federal laws and regulations, you'll need to know the laws in your state regulating bar and restaurant employees. Whether you hire part-time workers, full-time workers or a combination of both, you'll need to familiarize yourself with your state's minimum wage and overtime laws. Age stipulations when it comes to hours and job positions are also state mandated. Find out when minors can work in your state and (if this is part of the job) at what age they are allowed to serve alcohol.

If you hire any employees who are immigrants, be sure you verify their eligibility to work in the U.S. You don't want to get in trouble by hiring illegal aliens. Employers are responsible for all the normal payroll taxes due such as income tax, Social Security taxes and employee Medicare.

In addition, tips received by bar or restaurant employees are subject to withholding and must be claimed by employees on their income tax returns. If an individual's tips are over \$20 in any given month the employee must report that tip income on IRS [Form 4070, Employee's Report of Tips to Employer](#). In addition, if your business is considered a "large" food or beverage establishment, you must also report your employees' tip income. The criteria for a large business is as follows:

- Food or beverage is provided for consumption on the premises
- Tipping is a customary practice
- More than 10 employees, who work more than 80 hours total, were normally employed on a typical business day during the preceding calendar year.

Because the tax laws on tipping can be complicated to understand, the IRS has developed various voluntary compliance agreements for restaurant and bar owners who want a self-regulating alternative to IRS enforcement tactics such as tip examinations. There are three options, which include such actions

as instituting employee education on tax compliance, organizing a tip system and working with the IRS on a tip rate. Find out more on [Voluntary Compliance Agreements](#) on the IRS website. In addition, recently The Supreme Court ruled that the IRS can use estimates of tip income from restaurant employees to calculate the employer's share of FICA taxes on cash tips.

If you are unclear on any aspect of hiring and compensating workers for your bar or restaurant, be sure to consult an experienced accountant or attorney familiar with laws in this area.

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