



Tip Pools: Keeping your Restaurant Compliant

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What is a tip pool?

A tip pool, or a tip share, is any arrangement in which an employer requires employees to share or allocate tips or gratuities amongst other employees in the business. This can include arrangements in which tips are shared amongst all eligible employees, tipped employees only, or even more specific arrangements such as requiring a server to tip out a bartender.

Who is a “tipped employee” in Colorado?

In Colorado, to qualify as a tipped employee, the employee must regularly earn \$1.64 an hour in tips. Those not directly tipped still can qualify if their direct customer interactions impact tips and if they qualify under the 80/20 rule; for example, bussers may help servers by clearing tables, and hosts may “sufficiently interact with customers” to generate “undesigned tips” if they “greet customers, supply them with menus, seat them, and ‘enhance the wait’”.

How to Set Up a Lawful Tip Pool

Step 1: Consider if participants will be receiving the full minimum wage or whether you will be using the tip credit.

Step 2: Depending on Step 1, you must consider who can participate, such as limiting the pool to front-of-house staff or including back-of-house staff.

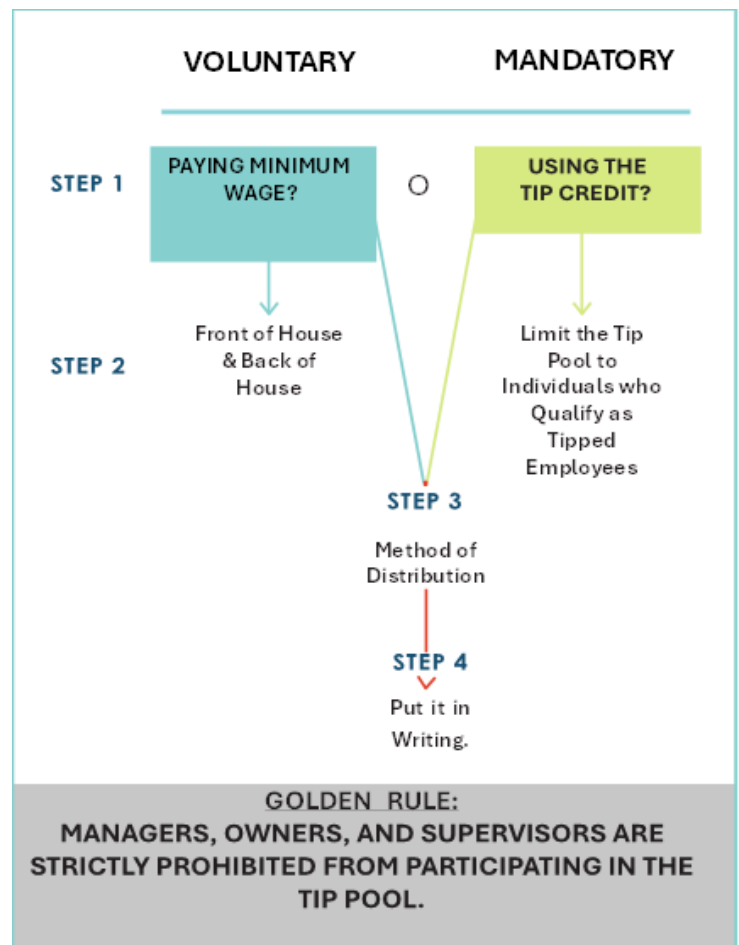
Step 3: Consider the method of distribution for the tip pool (i.e., pro rata based on hours, points systems, percentages, etc.)

Step 4: Put the policy in writing. Develop a tip-pooling agreement (and if using the tip credit, include a tip-credit notice). **Share the written plan, or tip-share agreement, for how your tip pool operates**, including which employees are required to pay into the pool and how the money is distributed.

Step 4(a): Notify your customers in writing, on menus, receipts, and/or visible signage. For example: **“Gratuities are shared among eligible employees.”**

Which employees can be included in a tip pool?

First and foremost, it is important to note that **under no circumstances can an owner or manager ever be included in a tip pool** (even if they are acting in a non-supervisory capacity, i.e. working an occasional shift as a bartender or server).





Who is a Manager? Supervisor?

It depends on job duties. A Manager/Supervisor's **primary duty** is **management** of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; customarily and regularly **directs the work** of two or more other full-time employees or their equivalents; and has the **authority to hire or fire** other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

Please note this does not mean that owners, managers, and supervisors are prohibited from keeping tips they receive directly through the course of their duties. For example, a supervisor who also sometimes works as a bartender is allowed to keep tips given to them directly by patrons they serve. That supervisor cannot, however, participate in a tip-pool arrangement that requires servers to tip out bartenders.

Tip pools that include non-regularly tipped employees

If you are considering a **tip pool that includes non-regularly tipped employees** (i.e., back-of-house workers), the rules are slightly different.

Non-regularly tipped employees are allowed to participate in a tip pool with regularly tipped employees, but only if you pay every staff member that's participating in the tip pool the full hourly minimum wage for your locality, or more. Including any non-regularly tipped employees in your tip pool eliminates your ability to take a tip credit towards the hourly wages of any employee participating in the tip pool.

Note: The tip credit in most of Colorado (except for Edgewater) is \$3.02/hour, which means that the tipped wage is \$3.02 less per hour than the full hourly minimum wage in your jurisdiction. The tip credit in the City of Edgewater is \$4.76/hour.

Tip pools that include only regularly tipped employees

If you are considering a **tip pool that includes only regularly tipped employees**, such as servers and bartenders, then **you may claim the tip credit** towards the hourly wages of any employee participating in the tip pool.

What tip-pool disclosures do I have to make to customers and employees?

You are legally required to notify customers if you are utilizing a tip pool of any kind. If your restaurant or bar has a tip pool or tip share, even if only regularly tipped employees are involved, **you must notify your customers of the tip pool in writing—be that on the menu, on table tents, or on receipts, indicating that “gratuities are shared by employees.”** [Here is a sample sign with language you can use on receipts.](#) You can also use the language on page 1 of this document (“Gratuities are shared among eligible employees.”)

In addition, **you need to devise a written plan, or tip-share agreement, for how your tip pool operates**, including which employees are required to pay into the pool and how the money is distributed. Share the plan with your employees so they can review and sign it.

Still have questions?

Please call us at 303-830-2972 or email at info@corestaurant.org.