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longer charge automatic gratuities for most large groups now that a change in the federal income tax code has closed a long-standing loophole.

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Like most other restaurants in Maine, DiMillo's On the Water in Portland says it will no longer charge automatic gratuities for most large groups now that a change in the federal income tax code has closed a long-standing loophole.

The tax code change, which took effect Jan. 1, forces restaurants to treat automatic gratuities as service charges rather than as voluntary tips. That means that the automatic tips are taxable wages, and must go through a more stringent accounting and taxation process, restaurant and tax analysts said.

Some restaurant employees said eliminating automatic gratuities could reduce their income, because large parties don't always tip enough to compensate for the time it takes to serve them. Others said they would rather eliminate mandatory tips than be forced to receive that income as part of a weekly paycheck.

Food servers and bartenders already are required to report their tips, even when they are in cash, to the Internal Revenue Service as income and pay the required taxes. That doesn't always happen, said Greg Dugal, president and CEO of the Maine Restaurant Association.

"They should claim them all, but we all know that may or may not be true," Dugal said.

Still, he said, as diners increasingly pay with credit and debit cards instead of cash, tips have become more traceable by the Internal Revenue Service and restaurant staffers are reporting more of their income than in decades past.

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parties, to avoid additional compliance costs and to allow employees to take their tips home on the day they get them," he said. "Getting servers to work large parties will probably be harder."

## NO EFFECT ON MINIMUM WAGE

In Maine, the minimum hourly wage for a worker who receives tips is \$3.75, provided that the worker earns an average of at least another \$3.75 per hour in tips for a total of \$7.50 per hour, the state's minimum wage. If not, the employer must make up the shortfall with regular wages.

The tax policy change has no effect on the minimum wage or how it is calculated, Dugal said.

Most automatic gratuity policies apply only to groups of eight or more and require a surcharge of 15 to 20 percent, with 18 percent being the most common rate.

The majority of restaurant owners in Maine are opting to do away with automatic gratuities, often noted on the bill as a service charge, because the alternative would be to deal with a more complicated system of accounting, Dugal said.

"Service charges always have to be passed through payroll and paid out through payroll," he said.

Darden Restaurants, the corporate parent of Olive Garden and Longhorn Steakhouse, is no longer adding automatic gratuities to guest checks for large parties, according to Rich Jeffers, director of communications for the Orlando-based company.

"As a convenience for our guests, all checks now include suggested tip amounts of 15 percent, 18 percent, and 20 percent, regardless of party size," Jeffers explained in an email. "Of course, it's up to the guest to leave whatever tip amount they choose."

Some establishments, such as the Sea Dog Brewing Co. restaurants, will not be

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Suggested gratuity is OK because it's not compulsory," said DiMillo, whose family owns the restaurant. "It's just a guide."

Functions such as banquets will continue to be charged an automatic gratuity of 18 percent, he said. Weddings will be charged 20 percent because they require more staff and service.

DiMillo said the restaurant already was moving in the direction of treating tips as wages because a significant, growing percentage of its sales is paid for with credit and debit cards. Within a couple of weeks, servers will begin getting those tips, along with wedding and banquet tips, in their weekly paychecks instead of at the end of the night, he said.

So far, there has been no revolt among the staff about the changes, DiMillo said, although some people are concerned about how it will affect their income.

"I don't think we'll lose anybody," he said. "They make really good money at DiMillo's. It depends on how many hours they work and how aggressive they are, but they make between \$17 and \$25 an hour."

Cameron McManus, a full-time waitress at DiMillo's who serves a lot of larger parties at the restaurant, said staff members are split on the concept of getting more of their compensation through a weekly paycheck rather than cash at the end of the night.

"There are some people who just like to have cash," she said.

Others, including McManus, are content to receive the bulk of their tips once a week, she said.

McManus said one benefit of receiving higher weekly paychecks is that she would not have to save up nightly tips to pay for her health insurance coverage.

“I'm turning 26 in the summer, and I'm going to be kicked off my parents' plan,” she

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know one of our co-workers ended up getting a \$10 tip on a \$300 tab, which kind of hurts you a little bit in the heart.”

Diane York, owner of an event planning business in Portland and a DiMillo's regular, said she agrees with the policy change.

Restaurants never should have imposed mandatory tips in the first place, she said. However, she agreed that automatic gratuities are appropriate for banquets and weddings because of the considerable amount of extra work that goes into serving them.

“I completely understand,” York said, “because the individual guests are not going to be giving tips to the waiters and waitresses, who work so hard.”

York said she and her husband are good tippers and likely would leave the same amount regardless of whether the gratuity was voluntary or automatic.

But Elizabeth Day, a mother of two who works at Sebago Brewing Co. in Portland, said not all patrons are so conscientious.

Day said she is concerned that without an automatic gratuity policy, she would miss out on some big tips she needs to support her family.

“My concern about this is that I don't think a lot of people know this change has happened,” she said, adding that most of the restaurant's regular guests just assume the gratuity already is included in their tab.

Most diners leave more than 18 percent, but the practice of mandating the tip acts as a kind of security blanket for servers, Day said. Automatic gratuities protect them from foreign tourists unfamiliar with American tipping customs, as well as large parties that run up bills larger than they expected and take the difference out of the tip, she said.

“A party like that can be your entire night,” Day said. “If they leave you 8 percent or

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