

TKW TIPS

FOR THE HOSPITALITY INDUSTRY

Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, is required to be filed by all employers who operate large food or beverage establishments. A large establishment is one in which 1.) food or beverage is provided for consumption on the premises, 2) tipping is a customary practice, and 3.) has more than ten employees whose accumulated hours exceeded 80 on a typical business day during the preceding year. A worksheet is provided in the instructions for Form 8027 designed to calculate the average number of employee hours worked on a typical business day. As long as the average employee hours are under 80 per day there is no requirement to file the form.

Establishments operating for less than one month during the calendar year are not required to file Form 8027, nor are fast food restaurants and operations where tipping is not customary, such as cafeterias or places where 95% of sales are take out.

One would expect that organizations which have reviewed their operations and found that they are not required to file Form 8027 under the criteria outlined above, would be done with the related paperwork. That is not necessarily the case. Late in 2010, the IRS

released Form 14196 which requires an explanation as to why Form 8027 has not been filed. Pursuant to a Teleconference held on January 6, 2011, Form 14196 will only be required if an establishment receives a specific inquiry from the IRS, which the IRS has called a "soft request". At this time, it is unclear what a "soft request" is.

Form 14196 requires the filer to state the reason that Form 8027 is not required to be filed. If the exception to filing is because the average employee hours are below 80 per day, a copy of the computation must be attached to the form.

The Form can be viewed at <http://www.irs.gov/pub/irs-pdf/f14196.pdf>.

Form 14196 requires the filer to explain, under penalties of perjury, why they are not required to file Form 8027.

