

Part III Administrative, Procedural, and Miscellaneous

Voluntary Tip Agreements for Employers of Tipped Employees

Announcement 2001-1

The Internal Revenue Service has finalized pro forma Tip Rate Determination Agreements (TRDA) and Tip Reporting Alternative Commitment (TRAC) agreements for use in its Tip Rate Determination/Education Program (TRD/EP). The TRD/EP is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques.

The Service published five voluntary agreements in proposed form on May 8, 2000 (see 2000-19 I.R.B.): (1) a revised TRAC agreement for use in the cosmetology and barber industry (Announcement 2000-21), (2) a revised TRAC agreement for use in the food and beverage industry (Announcement 2000-22), (3) a revised TRDA for use in the food and beverage industry (Announcement 2000-23), (4) a new TRAC agreement for use in industries other than the food and beverage industry and the cosmetology and barber industry in which tipped employees receive both cash and charged tips (Announcement 2000-19), and (5) a new TRDA for use in industries other than the food and beverage industry and the gaming industry (Announcement 2000-20).

Final versions of these agreements are available on the IRS website at http://www.irs.gov/bus_info/msu-info.html.

They can also be obtained from any IRS office. The substance of the revised agreements has not changed.

The Service received comments from interested persons and has incorporated most of the comments in the final versions. Two commentators expressed concern about the employer that has already entered into an agreement and that may be interested in replacing its existing agreement with the new updated agreement. One commentator suggested that the updated provisions of the revised agreements automatically be extended to employers that have an existing agreement. The Service wants to offer employers the broadest choice of voluntary compliance agreements and recognizes that some employers may choose to continue to be bound by their existing agreements.

Another commentator suggested notifying employers who have existing agreements of the availability of the new updated agreement. These employers would be advised that, if they choose to enter into a new agreement, the old agreement will automatically terminate. In response to this comment, the Service has added a new Termination of prior agreement section to the termination provisions of the first three agreements listed above. The new provision states:

Termination of prior agreements. Any prior [TRAC agreement or TRDA] relating to an Establishment covered by this Agreement shall terminate on the day preceding the effective date of this Agreement with respect to the Establishment.

Some commentators requested clarification of certain provisions. They wondered, for example, whether the Service intends to terminate a TRAC agreement if

only one establishment fails to meet a requirement, or whether the Service will invoke the termination provision under the administrative or judicial action provision by instituting an examination of a tax return. These kinds of issues will be addressed in the IRS manual, Handbook 104.6.7.12.1, entitled TRDA/TRAC Agreements. This section of the manual is currently being revised to reflect these new provisions and address these issues. The appropriate manual provision will be available on the IRS website at http://www.irs.gov/bus_info/tax_pro/irm-part/part04.html. The Service expects to make these provisions available soon.

Taxpayers interested in learning more about these agreements should contact their local tip coordinator. A list of tip coordinators is available at

http://www.irs.gov/bus_info/tip-coord.html.

DRAFTING INFORMATION

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