Congress of the United States

Washington, DC 20515

August 12, 2025

The Honorable Scott Bessent
Secretary
Department of Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Dear Secretary Bessent;

We are writing today regarding the implementation of the tax deduction created by Section 70201 of Public Law 119-21, commonly known as "No Tax on Tips."

As you know, H.R. 1, an Act to provide for reconciliation pursuant to title II of H. Con. Res. 14, provided that certain taxpayers may take a deduction of up to $25,000 annually to reduce or eliminate taxable income on tipped wages. This proposal closely models legislation introduced or cosponsored by Nevada lawmakers in both the House and Senate.[1] As you know, Nevadans rely on tips more than any other state in the nation and tax relief has been a critical bipartisan priority.[2]

Given our work on proposals related to Section 70201, we would like to highlight the following issues for the Department of Treasury in order to ensure the successful implementation of this provision for our constituents and tipped workers across the country.

Coordination with GITCA and Related Programs

In Nevada, many workers who earn tips are covered by a Gaming Industry Tip Compliance Agreement (GITCA) or a similar program. Under these programs, employers and the Internal Revenue Service (IRS) designate set tip rates for various employee classifications to ease reporting requirements. The employee's income is then reported on the employee's W-2 based on the designated rates. Employees under a GITCA are deemed compliant with Internal Revenue Code tip reporting requirements.

We urge Treasury and the IRS to maintain GITCA and related programs and provide the ability for employees under a GITCA to take the tips deduction based on their tip rate if they choose, rather than forcing them to begin full reporting of individual tips outside an agreement in order to benefit from the deduction. Additionally, these programs should maintain their current audit protection to facilitate easier reporting for workers.

[1] S.129 - No Tax on Tips Act & H.R.1314 - TIPS Act
[2] https://taxpolicycenter.org/taxvox/tipped-workers-their-income-taxes-and-states

Auto-Gratuities

The clear purpose of "No Tax on Tips" is to provide tax relief to service workers who rely on tipped income. Our constituents in traditionally tipped occupations often rely on so called "auto-gratuities." These gratuities are applied most often in high-volume or group-service settings, such as large parties, but are common in other situations as well.

Section 224(d)(2)(A) excludes payments that are "subject to negotiation," "not voluntary," and "determined by the payor." In auto-gratuity arrangements, disclosure of the gratuity amount is common and factored in as part of the voluntary purchasing decision by the customer. Functionally, for employees, there is no distinction between auto-gratuity and a tip, and inclusion of this income as eligible will prevent arbitrary distinctions between tip practices that would disadvantage workers based solely on the business model of their employer. In this same vein, suggested tip amounts that are prompted by a business at the time of payment must also be included as eligible income for the tip deduction.

Joint Returns with ITIN

Congress provided that this deduction shall only apply to married couples if the taxpayer and the taxpayer's spouse file a joint return. Additionally, the statute also states that "no deduction shall be allowed under this section unless the taxpayer includes on the return of tax for the taxable year such individual's social security number." Many of our constituents in Nevada do not file with a Social Security Number (SSN), but rather with an Individual Taxpayer Identification Number (ITIN). Due to this, many joint returns in Nevada may include one SSN filer and one ITIN filer.

Under the text of the original House-passed reconciliation bill, the deduction would have been further restricted on joint returns to only those who filed with a SSN for both taxpayers. Indeed, many provisions of the underlying bill restricted other tax benefits for those who file with ITINs. Together, these make clear that limiting the eligibility to joint returns with two SSNs is a policy goal that was not successful in passing Congress and should not be pursued through regulatory guidance or rulemaking. Treasury and the IRS must instead adhere to the plain reading of the statute and allow those married individuals who file with a SSN on a joint return to be eligible, regardless of the filing method of their spouse.

List of Occupations

Under the statute, Treasury must publish a list of occupations which "customarily and regularly received tips on or before December 31, 2024." Only workers in these occupations will be permitted to claim the deduction.

The intent of this provision is to prevent workers who do not typically earn tipped income from claiming the deduction through tax gaming. We agree that guardrails are an important part of successful implementation, but urge you to take a broad reading of traditionally tipped occupations and use the regulatory authority provided elsewhere within the statute to prohibit such gaming. In Nevada, tipped occupations include a wide range of fields such as valets, cooks,

hosts, cocktail servers, and more. A narrow reading of this intentionally broad provision runs the risk of inadvertently leaving out hardworking Nevadans whom Congress intended to provide tax relief. To address these concerns, Treasury should also publish an initial list of eligible occupations and provide a robust public comment period.

In addition, due to the broad range of occupations that receive tips in Nevada and the novelty of this deduction, we urge Treasury and IRS to provide maximum clarity for filers regarding how to determine what occupation they serve in and how to determine eligibility.

Specified Service Trade or Business Restrictions

Section 70201 of H.R. 1 provides that individuals in a Specified Service Trade or Business (SSTB) under section 199A of the Internal Revenue Bode are not eligible to claim the deduction; similarly, employees whose employer is in an SSTB also are not eligible. SSTB is a complicated classification that was introduced under the *Tax Cuts and Jobs Act* (TCJA) in 2017. In most cases, the SSTB restrictions in H.R. 1 will have little overlap with "occupations customarily receiving tips" that must be prescribed by the Secretary to determine eligibility. However, we are concerned that a broad reading of the SSTB restrictions could harm workers in one industry that is classified as an SSTB under section 199A: performing arts.

The final regulations for section 199A define performing artists as "individuals who participate in the creation of performing arts, such as actors, singers, musicians, entertainers, directors, and similar professionals performing services in their capacity as such."[3] In Nevada, many entertainment professionals, such as dancers, rely on tipped income. The SSTB restrictions in H.R. 1 were clearly intended to prohibit professionals in fields such as law or finance from reclassifying income from tips, not arbitrarily restrict the deduction from entertainers. A broad reading of the law's SSTB restriction may inequitably fall on entertainers who rely on tipped income, contrary to the intent of this provision to help workers who traditionally receive tips. We urge Treasury and the IRS to issue regulations that allow, to the extent permitted under the statute, the ability of performing artists to use the deduction when their occupation otherwise has traditionally received tips.

Marriage Penalty

Section 70201 provides that "the amount allowed as a deduction under this section for any taxable year shall not exceed $25,000" but does not specify if this amount applies in the case of a joint return. Such an interpretation would create a substantial marriage penalty for couples with two tipped wage earners and we urge IRS and Treasury to allow up to $25,000 per individual, even if filing jointly as mandated by the statute for married couples. A $50,000 cap on joint returns aligns with Congressional intent, as evidence by the phase out language under §224(b)(2)(A), which states that the deduction is reduced "by $100 for each $1,000 by which the taxpayer's MAGI exceeds $150,000 ($300,000 in the case of a joint return)." It is clear from this language, which provides for a phaseout at double the income level for joint returns, that Congress intended the deduction cap to be doubled in the case of a joint return and for the $25,000 limit to be applied on an individual basis.

[3] https://www.irs.gov/pub/irs-drop/td-reg-107892-18.pdf

Withholding

Congress provided that the deduction for tipped income shall be available starting this year and available through 2028. We are concerned about the temporary nature of this proposal and preferred a permanent deduction, as passed by the Senate on May 20, 2025 via legislation we introduced, to the temporary Republican-passed plan. Due to the abbreviated availability of this deduction, it is critical that Treasury provide withholding as soon as practicable to ensure our constituents feel tax relief this year. We urge Treasury to focus its resources on completing this task.

As lawmakers representing our nation's most hospitality and service industry dependent economy, we hope to maintain a productive dialogue with Treasury and IRS as your agencies work to implement this provision. Please do not hesitate to reach out if we can be of assistance, and we look forward to your response.

Sincerely,

Catherine Cortez Masto
United States Senator

Jacky Rosen
United States Senator

Dina Titus
Member of Congress

Steven Horsford
Member of Congress

Susie Lee
Member of Congress