

A man and a woman, both wearing aprons, are standing in a cafe or kitchen. The woman is pointing at a laptop screen held by the man. They are both looking intently at the screen. The background shows a brick wall and a menu board with items like 'SUNRISE', 'MOJITO', 'ESPRESSO', 'LATTE', 'CAPPUCCINO', and 'MILKSHAKE'.

Tronc pitfalls, misconceptions and non-compliance

The ultimate Troncmaster
troubleshooter guide

The biggest questions about troncs answered by our Troncmasters team

Troncs have been around for a while, but hospitality businesses are becoming increasingly aware of them as a way of reducing the cost of processing pooled tips and ensuring employees receive their allocation of tips in a fair way that maximises the amount they receive.

Troncs are simple in principle, but the nuances of how they are set up, implemented and managed are far from simple. When we are contacted by employers looking to set up a tronc or review a tronc they have in place, it is evident that there are common misconceptions and errors across the industry.

In a nutshell

Using a compliant tronc scheme to distribute pooled tips does not attract National Insurance for either the employer or employee. This is because the Troncmaster is not the employer, and only payment from employment attracts National Insurance. The result is saving costs for businesses and keeping more money in the pockets of hospitality workers.

The purpose of this guide

Our team of Troncmasters have put together the ultimate troncs Q & A based on the questions and common themes they come across when talking to businesses about troncs.

Some decisions and actions make the tronc non-compliant, which has potential implications and penalties from HMRC. Others make the tronc inefficient, costing money for the business and losing money for staff. Others are not best practice and could reflect badly on staff perception of you as an employer.

Whether you are running your tronc internally or using an independent tronc service, such as Troncmasters, we wanted to cover all the essential questions, so you can feel confident about the process, stay out of trouble with HMRC, and fulfil your duty of care to staff.

Authors

Katie Linstead Troncmaster

Katie worked in the payroll industry for over 20 years, supporting hospitality clients from independent cafes and pubs to luxury clubs and hotels to national multi-site chain brands.



She now heads up the Troncmasters.co.uk service, helping businesses to set up and run ethical and compliant troncs schemes, where her insight into payroll is an added benefit.

A quick overview of troncs

And the different ways businesses manage gratuities

There are two ways in which businesses can administer tips and service charges. They can:

1. If the tip is intended to be given directly from a customer to an employee then it can be given via cash or electronically, for example through a mobile app.

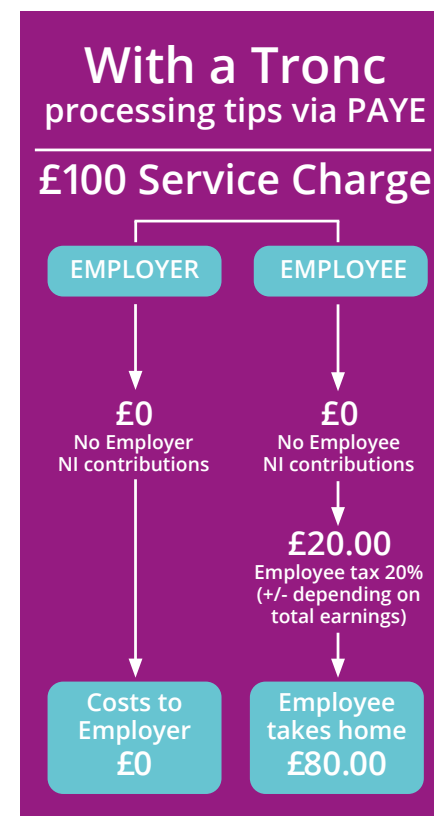
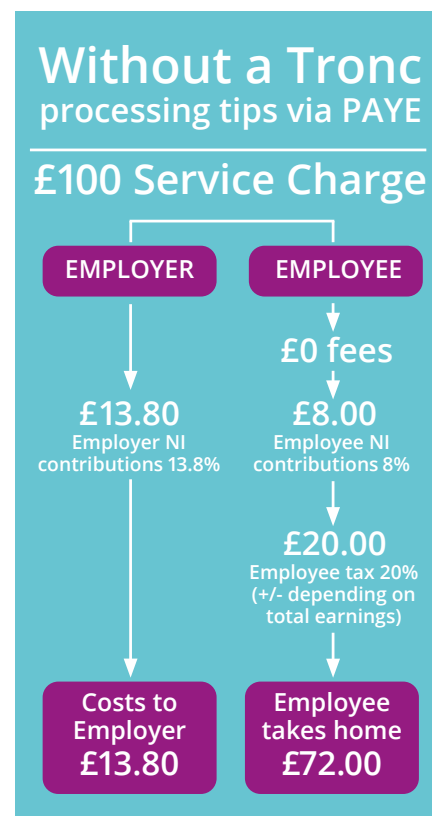
Certain sectors such as hairdressers and taxi drivers use this method. It can also be used in hospitality if the service was delivered by an individual, such as a cocktail mixologist, for example.

2. Pooled tips can be allocated and distributed through the payroll. In this instance, without the use of a tronc scheme, they are subject to income tax and National Insurance for both the employee and employer
3. Tips can be put through a tronc scheme and distributed through the payroll (existing PAYE scheme) and do not attract National Insurance tax. With a tronc scheme, the minimum is paid back to the treasury.

A tronc system can be set up in-house if someone meets the strict criteria for compliance. Alternatively, it can be set up by a dedicated third party (like our own service, Troncmasters).

Some businesses decide to take up these duties themselves, and many have important questions that need answering to move forward confidently.

So let's look at the toughest, trickiest questions about troncs. With our help, you will be able to be compliant, stay competitive, and save on National Insurance.



This increase of £8 per £100 of tips equates to 11.11% more tips income in employees' pockets

Q: Can you pay tips using PAYE without a tronc?

In short, the answer is yes: you are completely compliant if you want to pass on the money through payroll this way. Furthermore, if the process is treated correctly, there's no real problem with doing this legally.

But financially, there are more efficient ways: tax and National Insurance are deducted from staff pay; the business also has to pay National Insurance. In addition, depending on the pension scheme type, there may be pension contributions for both employees and employer.

This approach also raises an ethical issue: employees get paid significantly less than if a tronc scheme was in place. So even if you administer tips this way, it's fair to say you should consider a tronc. The new Allocation of Tips legislation states that employees must receive 100% of tips.

A tronc system will mean management will not handle tips and service charges, but this process means everyone will pay less to HMRC.

Q: Can we allow staff to take tips in cash from the till?

Tips have a long tradition of being given as cash from customers to staff. However, technology has changed this, with many customers choosing to pay by card and other contactless methods. So, it's no surprise that many businesses allowed staff to 'cash out' from the till when tips were paid by card.

The bad news is this is not a compliant way of handling tips and could be viewed by HMRC as illegal. During the pandemic, HMRC updated their regulations so that all card monies must be paid through payroll. If card monies are cashed out instead of paid through payroll, it could be seen as tax evasion.

If you want to do things right, electronic payments must be distributed using payroll; by opening the till, the business effectively decides who receives what. This could be done directly through the payroll by the

employer, or first allocated via a tronc system, where non-management staff - not the business - determine the distribution of tips.

By handing out cash, the staff member has the added task of declaring tips to HMRC through self-assessment.



To have a compliant tronc scheme, you must set a clear plan. This plan decides what happens with electronically paid tips. Make sure that when the plan is drawn up, it is decided by the Troncmaster and any tronc committee. Management or hiring staff should have no real hand in decision-making when it comes to tips for the monies to be considered part of a tronc.

Q: Our tronc is run as a separate PAYE, causing multiple tax codes for employees

First off, it's worth understanding why this happened - it's because the tronc in question is being run as a standalone PAYE scheme rather than through the employer's PAYE; employees are then classed as having "other" employment so tax at the basic rate has to be deducted through this separate tronc payroll.

And as the Real Time Information system with HMRC cannot see any difference between "other" or tronc payments, it can issue split tax codes every month. And split tax codes can mean a split personal allowance.

Consequently, staff can end up paying too much tax if one allowance is stretched across both codes... or too little if the system allocates full personal allowances to both PAYE schemes. This can cause stress and de-motivate staff, and create additional administration for them in asking HMRC to reassess tax at the end of every tax year.

If you're going to use PAYE, process it through the employer's existing PAYE scheme, with the correct amount of tax collected at the right time.

Q: Staff are saying the split isn't fair... what can we do?

Sometimes a staff member might be upset about their share of gratuities. Other times, it's not just one person who steps forward but a whole team.

However, just because people are upset doesn't always mean something is wrong. If you have a tronc scheme in place, the rules of the distribution of tips will have been decided and should have been communicated to the workforce. Their share of the tips should never be a surprise.

Any complaints or decisions that could be interpreted as the business influencing the allocation of tips could spark an enquiry with HMRC asking for backdated National Insurance contributions going back as far as four years. This is why having a clear tronc scheme constitution which outlines the rules is so important.



Remember, if you are trying to help staff see eye-to-eye on tips, then as a manager, there is only so much you can do. All disputes must go through the Troncmaster. If they are the person causing the issue, then mechanisms must be in place to vote out the Troncmaster or members of any tronc committee.

Q: Is it OK if staff salaries are below the National Minimum Wage if tips push them over the line?

This is not unheard of in this industry: sometimes, staff salary fell below the National Minimum Wage, but tips made up the shortfall.

This is not OK. This practice is unethical and contravenes National Minimum Wage legislation, so it is illegal.

What's happening is that, intentionally or unintentionally, the employer is masking its payments. This is against National Minimum Wage legislation.

And the consequences? HMRC will charge 200% of the underpaid National Minimum Wage as a penalty. And that's not the only possible hit: there can be an additional penalty for underpaid tax and employer National Insurance.

If this happens in your business, you must ensure people are paid the correct hourly rates before tips. The hourly rate and hours worked should be set out in detail on every payslip.

Q: Can I reward staff from tips?

Some employers use tips and service charge receipts to reward their employees for good work.

There are no penalties for doing this, but it depends on how this extra pay is processed and distributed as to possible problems.

There could be some significant compliance issues if the employer is dictating the distribution of tips rather than a Troncmaster.

Ultimately, any handling of money from tips should be done under the direction of the Troncmaster. Practically speaking, money should be given by the employer using normal pay and not from service charges; performance-related pay should come from the business directly.

That's not to say you can't ask the Troncmaster if they want to pay extra tips to someone - but it's totally up to them and should not be influenced by the business owners. Any decisions must also be recorded to reflect this, and there should be a clear capacity to allow this within the employee tronc agreement.

Q: We have a compulsory service charge. Can this be included in our tronc scheme?

Should compulsory, receipt-itemised service charges be included in the money processed through a tronc scheme?

The answer is no. Why? Because this is a direct charge made by a business, in the same way as you might charge for food and drink. This means it is employer income, not a discretionary tip.

Because of this, it must be subject to VAT, income tax, and corporation tax, where applicable.

Whenever this money is distributed to employees, it should be made through the payroll and therefore be subjected to normal tax and National Insurance deductions.

Of course, it means an extra cost to the business and a lower payout to the employees compared to a tronc scheme.

If you want service charge money to be distributed using a tronc, you need to make sure these payments from the customer are discretionary.



To ensure a service charge is discretionary, customers must be made aware that it is discretionary so they can either accept or decline a service charge. You should inform them early in the transaction process, i.e. on the menu, and at the end on the invoice or bill.

When the service charge is paid, the employer is thought of as holding funds on behalf of the Troncmaster, and the money can then be shared under the scheme.

Q: Can I guarantee Tronc rates in an employment contract?

It may be tempting, but the answer is no.

Decisions regarding the tronc scheme need to be “outside” of employment. So, if someone with hire-and-fire power has a hand in tronc decisions - by declaring who gets what in employment contracts - HMRC might want up to four years of employer National Insurance back.

A Troncmaster, or Tronc Committee, should set out the rules and regulations in a tronc scheme. For example, any pay guarantees should be clearly listed in a document outlining the tronc scheme rules, and

the same paperwork should also explain what would happen if the fund is low for a given period. This should then be sent to the employee from the Troncmaster, not the employer.

Q: Our Troncmaster is in the leadership team - is this OK?

This is one of the most common mistakes businesses make. In a 2022 survey, by IRIS Software and Censuswide, across 500 hospitality businesses, over 50% of companies using a tronc scheme had non-compliant Troncmasters as they were either a Direct/Business Owner (30%) or a Manager (38%).

The likelihood is that these roles have involvement in the hiring process, and that would make them ineligible to be Troncmaster.

A Troncmaster cannot be the owner of the business or a director, nor can they be anyone with hiring responsibilities which often include managers and HR personnel.

The whole premise of a tronc scheme is that the Troncmaster cannot be someone who has employment responsibilities within the business, so a Manager, and certainly the Business Owner or Director, is likely to fall into this camp, and if acting as the Troncmaster making it non-compliant

To escape National Insurance liability, the staff must be paid outside employment. That means nobody in charge of the tronc can be considered a leader or have the power to employ anyone at the business. There's also an ethical issue: bosses at the top are not subject to any scrutiny as to how they share out tips.

You risk penalties if an HMRC audit is triggered. Should they decide that the tronc scheme was not adequately allocated outside of employment, HMRC could decide to levy National Insurance liabilities to the employer and employees, going back as far as four years.

The solution is to ensure that the Troncmaster is not a leader in the business and cannot hire staff. The bad news is whoever's left to choose from might not have the skillset to complete the task; the good news is that an independent Troncmaster service can do the job instead.

An independent service often works better because it is completely disconnected from the company in the eyes of HMRC, and there is no risk of bias in decision-making.



Q: HMRC is contacting our employees and asking for records we don't have! What do we do?

This can happen at any time in the year.

Sometimes, a Troncmaster exits a business and does so without leaving behind adequate records. Then, in the following months, the remaining team members can get asked by HMRC for details that might no longer be available. And management has no record, either.

There are no compliance duties regarding this, but the duty of care to your staff still lies with you; in an ideal world, you should be able to help them recover their data.

Furthermore, even though there are no obvious compliance issues, you can still find yourselves unstuck; under these circumstances, the

business is open to tough questioning from HMRC. This can be especially true if the inspector finds something odd in the paperwork or they want to dig deeper into the business. This is exceptional, but it can happen.

One way to prevent this is to create an agreement between a Troncmaster and the business. This agreement stipulates that if a Troncmaster leaves, they hand over the data and either close the scheme (if it's a separate PAYE) or pass it to the next Troncmaster (if it's a payroll PAYE scheme).

All the business has to do is store the data for safekeeping if there is a gap between appointed Troncmasters.

Q: Tronc payments are showing up on staff payslips as pensionable - is this correct?

If the pay is showing up as taxable only and not subject to National Insurance, but you can see that pension contributions are being calculated on the tronc amounts, then this needs to be corrected. It's non-compliant.

Pension contributions come from pay subject to National Insurance and regularly paid, so irregular payments like bonuses or commissions could be excluded. Tronc pay is not subject to National Insurance.

The payroll provider must ensure tronc pay is correctly classed as non-pensionable. While discussing pensions, it's worth remembering that Tronc pay is not subject to student loans or attachments of earnings calculations, as those are also taken from pay subject to National Insurance.



Internal or independent Troncmaster?

The choice is yours

There is no right and wrong answer to whether to use a Troncmaster from within your business or an independent third-party service. However, now you have more information about the complexities, and potential pitfalls, of setting up and running a tronc scheme, it will help you make a more informed choice.

Internal Troncmaster considerations

If you are considering appointing an internal Troncmaster, here are some additional things to consider;

- Does your candidate have the right skill set?
- Are they willing?
- Do they understand the responsibilities involved?
- Can they act impartially and manage employee queries and possible grievances?
- Are they outside of any hiring responsibilities?
- What record keeping do you have in place to capture the tronc rules?
- How do you communicate the tronc rules to existing and new staff?
- What will happen if the Troncmaster leaves the business or no longer wishes to take on the role?

Using an independent Troncmaster

Like outsourcing your payroll or HR, you can also outsource the Troncmaster role, using a third-party service to help you set up the scheme and administer the division of tronc payments every pay period.

- No issue of independence from the employer
- It takes away the stress and hassle of running a tronc scheme from an employee within the business
- Benefit from the expertise in running schemes for many businesses
- The scheme is compliant with HMRC
- Good record keeping
- Good communication with employees
- Ability to benefit from any additional technology they may have



Peace of mind with our Troncmaster Service

Running a tronc is never easy, but Troncmasters provides services designed to relieve stress.

Troncmasters designs robust and compliant tronc schemes for hospitality organisations in dialogue with staff. This means none of your team members has to take on these duties, and HMRC compliance is overseen by dedicated professionals.

Even better, your business stays competitive as a recruiter, ensuring all the money your staff are entitled to goes to them.

For organisations that use our Dataplan payroll services, it can be as simple as making a call and adding Troncmasters to their existing agreement.

Troncmaster services

We have a range of services to suit your tronc scheme needs

- **Tronc Lite** Using an existing PAYE scheme allows our organisation to be the Troncmaster at a low cost without changing your payroll.
- **Managed Tronc** Letting us undertake gratuities distribution and run a separate PAYE payroll for your tronc system.
- **Tronc+Payroll** We can provide a complete end-to-end service by managing your payroll and tronc.
- **Tronc Consultancy** If you would like advice or review on a current tronc scheme.

Managing and sharing out gratuities is a big undertaking, and it's one you can entrust to people who have the expertise, processes and technology. No one in your business has to deal with the extra stress of deciding, allocating and administering pooled tips; instead, your team can concentrate on making your customers, clientele, clients, and patrons happy.

By IRIS



Contact Troncmasters now - our specialist consultants are happy to talk through your options and answer any questions you may have.

Call **03331 122610**
Visit **troncmasters.co.uk**
Email **enquiries@troncmasters.co.uk**

Troncmasters Ltd, 1 Prince Albert Gardens,
Grimsby, DN31 3AG