

Tax Notes

IRS Issues Final Regulations on Meals and Entertainment Deduction

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The IRS issued its final regulations on the deductibility of meals and entertainment expenses on September 29, 2020. In Treasury Decision 9925, the agency implements the deductibility changes that were part of the original 2017 Tax Cuts and Jobs Act (TCJA) and generally mirror those proposed in February 2020. The new, final regulations are effective for tax years beginning on or after October 9, 2020 and can be found in this [link](#).

Although for many taxpayers, meals and entertainment expenses are down significantly in 2020 because of restrictions related to COVID-19, the regulations will have an impact for years to come. Here are the key takeaways.

That's Entertainment

The TCJA generally eliminated the deduction for expenses related to entertainment that are not provided for fair value, i.e., client entertainment. The final regulations confirm that entertainment expenses are not deductible and provide clarity on the deductibility of business meals that are provided at, or during, an entertainment activity. Business meals related to entertainment are deductible (subject to the 50% limitation), but the amount for food and beverage must be separately invoiced or charged separately on the bill, and the amount must reflect the venue's usual selling cost for the food and beverage. For example, if an employee takes a client to a Knicks game and purchases beverages, the cost of the beverages must be separately invoiced from the ticket price to the event and the deductible amount will be the normal and customary price for the beverage at the venue (\$15 for a Bud Light).

Meals For Business Travel

Food and beverage expenses for business travel remain deductible, subject to the 50% limitation. These include off-site business meetings and meals during travel away from home for business (whenever that happens again). However, in order to be eligible for the deduction, the food and beverage must not be lavish under the circumstances, the food and beverage must be provided to the taxpayer (or business associate) and the taxpayer (or an employee) must be present when it is consumed – in other words, you can't buy a meal for a client sitting in his or her hotel room and you probably can't deduct that \$3,000 bottle of wine to accompany your dinner.

The Company Picnic

The final regulations confirm that food and beverage expenses paid by employers for the benefit of their employees for a "recreational, social or similar activity" are generally 100% deductible. This means that the food and beverage expense of a company holiday party, picnic, team building event or similar occasion are not only excluded from entertainment costs, but are not subject to the 50% limitation. Exceptions to this rule apply if the recreational activity is only for owners or highly compensated employees.

Gimme a Break?

On the other hand, the final regulations confirm that snacks and beverages provided in a pantry or break room for employees are not expenses for a "recreational, social or similar activity." Thus, while these expenses are deductible as food or beverage provided at the employer's location for the benefit of employees, the tax deduction for these expenses is limited to 50% of the amount incurred. Previously, these expenses were 100% deductible.

Good News for Restaurants

The final regulations clarify the treatment of shift meals for employees, such as at restaurants. These are fully deductible (not subject to the 50% limitation), as long as they are consumed onsite and the food and beverage were purchased with the intent of providing meals to paying customers.

What Now?

This is a great time for businesses to review their substantiation around meals and entertainment expenses. Are there expenses you were looking to deduct that are excluded under the TCJA and the relevant regulations? On the positive side, are there deductible expenses that you have not been taking, or perhaps have been subjecting to the 50% limitation that can be fully deductible? Our team is pleased to assist with that analysis and help you understand the impacts of these new rules.

Contact Us

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