

Are Business Lunches Entertainment?

17 Oct 2018

The new tax legislation, called the [Tax Cuts and Jobs Act \(TCJA\)](#) eliminated most deductions for client entertainment expenses. Prior law allowed a 50 percent deduction for both meals and entertainment expenses, and so there was no need for businesses to differentiate between the two categories. The newly enacted TCJA eliminated deductions for entertainment, amusement, and recreation expenses, but did not specifically state that business meals were not considered entertainment, amusement, or recreation. After the tax legislation was enacted, there was some murmuring that the elimination of business meals was not what Congress intended.

On October 3, 2018, the Internal Revenue Service issued [Notice 2018-76](#), which clarified the provisions in the TCJA, and set forth new procedures for business meals and entertainment expenses. The new guidelines are as follows:

1. The meal is deductible if it is “ordinary and necessary” in carrying on the business. For example, creating relationships to gain new business is ordinary and necessary.
2. The expense is not “lavish or extravagant” under the circumstances. Could that \$300 bottle of wine you just ordered be considered excessive?
3. An employee, or the taxpayer, is present at the “furnishing of the food or beverages” and the food and/or beverages are also provided to a client or business contact.
4. If the food and/or beverages are provided at an entertainment activity, the expense is still deductible if they are purchased separately, and separate receipts are retained by the business to substantiate the expenses. “[T]he entertainment disallowance rule may not be circumvented through inflating the amount charged for food and beverages.”

The Notice provides several examples, all involving sporting events. If clients, or prospective clients, are taken to a baseball game and the employee separately purchases food and beverages for the group, the expense for the baseball tickets is not deductible but 50 percent of the expense for the food and beverage could be deducted as a business expense. If the event is in a suite where the food is part of the overall cost but not separately stated, there is no deduction allowed. However, if the invoice separately lists the food and beverage, then those separate expenses are deductible at a rate of 50 percent.

Therefore, while those corporate suites are no longer a tax write-off, there are still tax incentives to cultivate business while wining and dining clients. The IRS is not requiring any sort of documentation to ensure that business was actually be discussed over the meal, or at the event, and so there is still some entertainment allowed for businesses and their clients as long as food and/or beverages are part of the event.

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TAGGED: [Tax Cuts and Jobs Act](#), [IRS Notice 2018-76](#), [Tax Law](#), [Business Law](#), [meals and entertainment expenses](#)