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Deductibility of Business Meals

Under the TCJA, deductions for entertainment, amusement, or recreation expenditures are now 100% disallowed, rather than being 50% deductible as they were prior to the TCJA. There was some concern that food and beverage expenditures might also be subjected to this same 100% disallowance if they were incurred in conjunction with entertainment or if the meal itself was somehow considered entertainment. Fortunately, the IRS has now issued guidance that clarifies that food and beverage expenditures will still be 50% deductible if associated with a trade or business and if all the following tests are satisfied:

- The expenditures are ordinary and necessary.
- The expenditures are not lavish or extravagant.
- The taxpayer and/or an employee of the taxpayer is present when the food or beverages are provided.
- The food or beverages are provided to a current or potential business customer, client, consultant, or similar business contact.
- The food or beverages are either purchased separately from the entertainment or stated separately on the bill, invoice, or receipt. (An anti-abuse provision states that the disallowance rule for entertainment costs cannot be circumvented by inflating the amount charged for food or beverages.)

The IRS has stated that taxpayers may rely on the guidance above until proposed regulations are published by the IRS. In addition, the IRS provided three examples of the application of these rules. For each example, assume that the food and beverage expenses are ordinary and necessary expenses under Code Sec. 162(a), paid or incurred during the tax year in carrying on a trade or business, and are not lavish or extravagant under the circumstances.

Example 1. Taxpayer “A” invites business contact “B” to a baseball game. “A” purchases tickets for “A” and “B” to attend the game. While at the game, “A” buys hot dogs and drinks for “A” and “B.”

The baseball game is entertainment, and thus the cost of the game tickets is an entertainment expense and is not deductible by “A.” The cost of the hot dogs and drinks, which are purchased separately from the game tickets, is not an entertainment expense and is not subject to the 100% disallowance rules.

Therefore, “A” may deduct 50% of the expenses associated with the hot dogs and drinks purchased at the game.



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Example 2. Taxpayer “C” invites business contact “D” to a basketball game. “C” purchases tickets for “C” and “D” to attend the game in a suite, where they have access to food and beverages. The cost of the basketball game tickets, as stated on the invoice, includes the food and beverages.

The basketball game is entertainment, and thus the cost of the game tickets is an entertainment expense and is not deductible by “C.” The cost of the food and beverages, which are not purchased separately from the game tickets, is not stated separately on the invoice. Thus, the cost of the food and beverages also is an entertainment expense that is subject to the 100% disallowance rules.

Therefore, “C” may not deduct any of the expenses associated with the basketball game.

Example 3. Assume the same facts as in Example 2, except that the invoice for the basketball game tickets separately states the cost of the food and beverages.

As in Example 2, the basketball game is entertainment, and thus the cost of the game tickets, other than the cost of the food and beverages, is an entertainment expense and is not deductible by “C.” However, the cost of the food and beverages, which is stated separately on the invoice for the game tickets, is not an entertainment expense and is not subject to the 100% disallowance rules.

Therefore, “C” may deduct 50% of the expenses associated with the food and beverages provided at the game.