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Business Expenses

INSIGHT: Business Meals and Entertainment After the Tax Act: No More Fun and 50% Freebies

Ruth Wimer of Winston & Strawn analyzes the changes made by the new tax law to the meals and entertainment expense deduction. Wimer says the stricter treatment under the new rules require a taxpayer to address the existential question of ''what is entertainment,'' and concludes that fun is virtually no longer allowed after 2017, at least as a deductible business expense.

BY RUTH M. WIMER

Prior to 2018, the deduction for meals and entertainment related to business was subject to a complicated analysis to determine whether the dreaded 100 percent or the 50 percent disallowances under tax code Section 274 could apply. After the enactment of the legislation introduced as the Tax Cuts and Jobs Act, Pub. L. No. 115-97 (Tax Act), the pendulum has swung further so that the 100 percent and 50 percent disallowances apply to far greater amounts and types of business meals with the projected cost to businesses at $23.5 billion (Joint Committee Score of the Conference Report for the Tax Cuts and Jobs Act, 12/15/2017, E.2.a). The new Tax Act rules will cause the typical business entertainment meal to now be 100 percent non-deductible and the vast amounts of de minimis food and beverages provided to employees to be 50 percent non-deductible. Because the new disallowance rules apply more harshly to expenses which are ''entertainment, amusement, or recreation,'' the taxpayer must address the existential question of ''what is entertainment?'' This article is intended to provide a guide to the reduction or elimination of deductions with respect to common meal and entertainment expenses in the future.

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Meals and Entertainment Examples:

In light of the Tax Act, this article will address the following frequent examples, and more, which businesses must address anew:

- Coffee, tea, and bottled water provided in the break room;
- Breakfast, lunch, dinner, and snacks while on business travel;
- Air travel expenses, including company aircraft, to join business associates at a golf or other entertainment event;
- Evening entertainment activities, including meals, during employee, stockholder, etc. meetings;
- Client or customer restaurant meals; and
- Company cafeteria meals and operating expenses.

The quite surprising conclusions with respect to these examples is at the very end of the article, bearing in mind that technical corrections or guidance, including

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by the Internal Revenue Service may provide different results.

Meals and Entertainment: the Basics

''Meals'' refers to *any food and beverages* and may be subject to a 50 percent disallowance *whether or not* also entertainment, e.g., snacks or room service while on business travel. Entertainment expenses subject to the 100 percent disallowance *may or may not* also include meals, e.g., live music event with or without refreshments. Section 274(n) disallows 50 percent of ''food or beverage'' expenses unless exempted under Section 274(e)(2),(3),(4),(7),(8), or (9). Section 274(n) is in addition to the 100 percent deduction disallowance in Section 274(a) for ''entertainment, amusement, or recreation.''

Meals and entertainment expense deductions must first generally have some connection with a for-profit activity under Section 162 or Section 212 to be deductible at all before even getting to the 50 percent or 100 percent disallowances. In other words, taking one's spouse to dinner is not deductible unless the spouse happens to be a business associate and the dinner is in conjunction with business activities. Assuming the meals or entertainment are business related in any number of alternative ways, the deduction disallowances occur in a multi-tiered analysis under Section 274 due to the exceptions to both the Section 274(a) 100 percent disallowance and to the Section 274(n) 50 percent disallowance, and the exceptions to those exceptions. Examples of business related meals and entertainment include meals or entertainment directly related or associated with the active conduct of business such as a client dinner following business discussions or a store opening, advertising or public relations, or a means of providing compensation to employees or independent contractors.

Section 274 also includes deduction disallowance rules for other miscellaneous business deductions such as spousal travel, commuting, club dues, foreign travel, and lavish expenses. On the flip side, the *exclusion from income* for employer provided meals and entertainment are primarily in (1) Section 132 ''working condition fringe,'' e.g., executive is *not* taxed when taking a client to a business dinner, (2) Section 132(e)(2) de minimis fringe, e.g., small and infrequent or qualified ''cafeteria'' meals, and finally, (3) Section 119 which excludes meals provided for the convenience of the employer, e.g., employees working in a remote or isolated location or on 24/7 call. Section 274 was enacted to deny the deduction for the expenses otherwise deductible and otherwise excludable from the recipient's income because of the inherently personal nature of the benefit (Senate Finance Committee Report, S. Rep. No. 1881, 87th Cong., 2d Sess., (1962), 1962-3 C.B. 707, 731).

In order to understand the changes by the Tax Act, it is necessary to understand the basic structure of Section 274. First, Section 274(a) now denies 100 percent of entertainment, amusement, and recreation expenses, previously disallowing only that which was *not* directly related or associated with the active conduct of business. Prior to amendment, the Section 274(a) 100 percent disallowance applied ''unless the taxpayer establishes that the item was directly related to or in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise) that such item was associated with, the active conduct of the taxpayer's trade or business.'' However, Section 274(e) then allows, as it previously allowed, the following as *exceptions* from that 100 percent disallowance:

1. *Section 274(e)(1)*: Food and beverages for employees on employer premises.
2. *Section 274(e)(2)*: Entertainment expenses treated as compensation, but the excess expenses for the company aircraft over the amount of the compensation included in income for ''specified'' employees remain completely disallowed.
3. *Section 274(e)(3)*: Reimbursed expenses.
4. *Section 274(e)(4)*: Non-discriminatory social and recreational expenses for employees.
5. *Section 274(e)(5)*: Employee, stockholder, etc. business meetings.
6. *Section 274(e)(6)*: Section 501(c)(6) Business League meetings.
7. *Section 274(e)(7)*: Items available to the public.
8. *Section 274(e)(8)*: Entertainment sold to customers.
9. *Section 274(e)(9)*: Items included in income of non-employees, with the same limitation as for employees in 2 above, that expenses for the company aircraft in excess of the amount included in certain non-employees' income remains completely non-deductible.

Finally, Section 274(n) provides a 50 percent disallowance for all food and beverages with the exception of that described in Section 274(e)(2),(3),(4),(7),(8), or (9) and for certain crew members, drivers, and other special workers. Tragically, the exception to the 50 percent disallowance of Section 274(n) which applied to de minimis fringe benefits was deleted by the Tax Act, and beginning with 2026 de minimis meals, qualified cafeteria expenses, and convenience of the employer meals are affirmatively disallowed pursuant to new Section 274(o). The *six* Section 274(e) list of exceptions remain as exceptions to the Section 274(n) 50 percent disallowance, so the employer taxpayer would be well advised to review those exceptions before determining that the meal expenses are indeed subject to the 50 percent Section 274(n) disallowance.

As previously stated, prior to the Tax Act, entertainment expenses that were directly related to or associated with the active conduct of business, e.g., client or customer entertainment, were not subject to the 100 percent Section 274(a) disallowance. The Tax Act changes the Section 274(a) disallowance to apply to *all* entertainment expenses unless one of the *nine* Section 274(e) exceptions apply. No changes were made to the list of exceptions in Section 274(e)(1)-(9) as described above, but the 50 percent Section 274(n) disallowance was changed significantly to drop the reference to a 50 percent disallowance for *entertainment* expenses, and as mentioned, delete the exception for de minimis fringe benefits, and after 2025, Section 274(o) disallows employer operated eating facility de minimis meals and meals for convenience fringe benefits.

The table at the end of this article summarizes the prior 50 percent and 100 percent disallowance as compared to the new rules.

What Is Entertainment?

The question of ''what is entertainment'' is of heightened significance because now the hard 100 percent

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disallowance for business entertainment rather than the 50 percent disallowance, applies (unless one of nine Section 274(e) exceptions apply.)

Every word of the long-standing regulations has significance in identifying which expenses are entertainment expenses. Treas. Reg. Section 1.274-2(b)(1) defines entertainment as:

''An activity of a type generally considered to constitute entertainment, amusement, or recreation, such as entertaining at night clubs, cocktail lounges, theaters, country clubs, golf and athletic clubs, sporting events, and on hunting, fishing, vacation and similar trips. Similar activities relating solely to the taxpayer's family also may constitute entertainment. Entertainment may include an activity that satisfies the personal living or family needs of an individual, such as providing food and beverages or a hotel suite to a business customer or the customer's family.

Entertainment does not include activities that are clearly not regarded as constituting entertainment, such as the provision of supper money by an employer to an employee working overtime, the maintenance of a hotel room by an employer for lodging of an employee while in business travel status, or the use of an automobile in the active conduct of a trade or business even though also used for routine personal purposes such as commuting to and from work.''

In conjunction with *personal* entertainment expenses, the preamble to the proposed regulations under Treas. Reg. Section 1.274-10 referred to the preceding existing regulations set forth above for the definition of ''entertainment'' and also stated that attending to business other than that of the employer, medical purposes, attending funerals, and participating in charitable activities is not entertainment. Presumably not even willing to provide that more complete list of examples, the final regulations only provide as an example, ''travel to attend a family member's funeral is not entertainment.'' Section 1.274-10(b)(1).

The long standing Treas. Reg. Section 1.274-2 goes on to provide several other relevant points:

''Objective test. An objective test shall be used to determine whether an activity is of a type generally considered to constitute entertainment. Thus, if an activity is generally considered to be entertainment, it will constitute entertainment for purposes of this section and section 274(a) regardless of whether the expenditure can also be described otherwise, and even though the expenditure relates to the taxpayer alone. This objective test precludes arguments such as that 'entertainment' means only entertainment of others or that an expenditure for entertainment should be characterized as an expenditure for advertising or public relations.''

The objective aspect of judging entertainment is often challenged. For example, executives might claim that going to the boss's daughter's wedding is not enjoyable, or that entertaining customers at the Super Bowl is miserable for a non-sports fan. However, the objective test is followed in the case law as well as being set forth in the Section 274 regulations. For example, in *Walliser v. Commissioner*, a U.S. Tax Court case, a bank officer responsible for marketing loans, participated in guided vacation tours with sightseeing and recreational activities, attended primarily by builders because the social relationships with builders established on the tours generated loan business. Participation in the tours was held to be an ordinary and necessary business expenses. However, the vacation tours were judged to constitute an ''entertainment, amusement, or recreation'' activity *despite the fact bank officer did not enjoy the tours*. The tours did not meet ''directly related to'' or ''associated'' tests and therefore were not deductible pursuant to Section 274(a).

The long time Section 274 regulations also provide an exception from entertainment which is related to the actual type of business engaged in by the taxpayer:

''However, in applying this test the taxpayer's trade or business shall be considered. Thus, although attending a theatrical performance would generally be considered entertainment, it would not be so considered in the case of a professional theater critic, attending in his professional capacity. Similarly, if a manufacturer of dresses conducts a fashion show to introduce his products to a group of store buyers, the show would not be generally considered to constitute entertainment. However, if an appliance distributor conducts a fashion show for the wives of his retailers, the fashion show would be generally considered to constitute entertainment.''

The above concept was unsuccessfully argued in *Churchill Downs, Inc. v. Commissioner*, where the company provided a hospitality tent, brunches, receptions, gala, winners' dinner, and week-long press refreshments in conjunction with the Kentucky Derby. The Tax Court held that these expenses were entertainment expenses to Churchill Downs, they were not exempt from the definition of ''entertainment'' due to the relationship to the horse racing business which was also entertainment, and it was not similar to a theater critic attending the theater.

''Parties'' are not on the list of entertainment activities in the Section 274 regulations, but it is clear that any kind of party is entertainment. By way of one example, in *Moore v. United States*, the large expensive annual party for real estate salespersons was characterized as entertainment, although ultimately deductible in part under the pre-2018 rules regarding expenses associated with the active conduct of business. Furthermore, because Treas. Reg. Section 1.274-2 cites ''holiday parties'' as exempt from the entertainment disallowance, such were clearly included in the first place as an entertainment activity.

What may be gleaned from the above prior guidance is that entertainment, amusement, or recreation is that which is commonly viewed as such, but from a purely objective perspective, and with the exception of excluding the taxpayer's type of entertainment or business, e.g., nightclub owner's expenses of operating the nightclub, theater critic attending the theater. Another factor in judging whether expenses are incurred with respect to entertainment is the nature of the location, as discussed below.

Travel Expenses Under Section 274: Destination Should Not Be Resort-Like and Trip Should Have Little or No Entertainment on the Schedule

From the above, it is somewhat clear as to which actual activities will constitute entertainment: parties, golf, hunting, sporting events, theater, and the like. Thus, out-of-pocket expenses such as room rental for the party, food, drink, hunting fees, golf fees, and the-

ater tickets are included in the expenses subject to the 100 percent entertainment disallowance. In addition, the depreciation and fixed costs of a facility, e.g., golf course, athletic facilities, hunting lodge, yacht, and swimming pool, are also included as potentially nondeductible entertainment expenses. Section 274(a)(1)(B).

The issue arises as to whether the expenses related to *travel* to a location for business entertainment purposes in whole or in part are also included as an entertainment expense subject now to the 100 percent disallowance.

Despite the fact that for purposes of Section 274(n) the IRS and legislative history indicated that the cost of local transportation was *not* included in the 50 percent deduction disallowance, there is authority that for purposes of Section 274(a), transportation such as air travel is in fact included as an entertainment expense. For example, the Section 274(e)(2) and (9) rules specifically include the air travel related to personal entertainment trips for employees and independent contractors. Treas. Reg. Section 1.274-10 clearly includes the air transportation provided by the service recipient to employees for personal entertainment purposes, as subject to the Section 274 100 percent deduction disallowance. Also as an example, in an old Technical Advice Memorandum (TAM 9608004 2/23/1996), the taxpayer, owned a fixed-wing aircraft that was used for the furtherance of its trade or business; 80 percent of the aircraft's total flight hours was attributable to valid business purposes directly related to the active conduct of the trade or business. The remaining 20 percent, which was attributable to the transportation of customer representatives on hunting trips sponsored by the taxpayer, was held to be nondeductible. Thus, if a trip is for business entertainment purposes, the commercial air-tickets or the full allocable expenses of the company aircraft related to the trip will be nondeductible.

The issues taxpayers will need to address are: (1) when is the trip considered to be for business entertainment, (2) how to determine the amounts which will then be 100 percent non-deductible in situations where there are both business entertainment and other passengers, and (3) treatment of the trip when there are entertainment and non-entertainment activities at the destination.

The nature of the location can be almost conclusive in the characterization of an activity as an entertainment activity. For example, in the oft-cited entertainment case of *Ireland v. Commissioner*, beach front property in Northport, Michigan, on West Grand Traverse Bay was used for the purpose of holding business meetings. The owner and family never used it for vacation. The family members of business associates of the owner were there because they were accompanying a family member who was there on business. The mere presence of the family members ''appeared to be in the nature of a vacation trip'' and caused the facility to be characterized as an entertainment facility. *Townsend Indus., Inc. v. United States* involved a four day fishing trip in Canada, following a two day business meeting. The IRS initially treated the expenses of the trip as wages to the attending employees, but was reversed and characterized as a deductible business trip by the U.S. Court of Appeals for the Eighth Circuit. Although no real agenda or business meetings occurred during the fishing trip, the favorable decision was based on the perception of the trip by employees as a business trip, evidence that business discussions took place throughout, a just-released product, and the fact that no spouses or family were present. However, the fishing trip was subject to Section 274(a) requirements as ''entertainment'' because it was in a fishing resort in Canada. The IRS has historically articulated the position that a vacation site will be considered entertainment. Whether a trip is a business entertainment trip will thus be dependent upon the nature of the location, e.g., resort, as well as the actual entertainment activities which take place at the location.

A taxpayer traveling to a vacation site, such as Naples, Florida, or Las Vegas, Nevada spending three days in business meetings and two days at leisure engaging in entertainment activities with business associates such as golf or gambling raises the issue as to whether the entire cost of the air-travel is deductible due to the ''primary purpose of the trip'' being business, or alternatively and not likely, only 3/5 deductible as non-entertainment business. Alternatively, perhaps the entire trip in these examples is tainted because of the nature of the location creating a presumption that the trip is business entertainment. Personal guests included on the trip, where the company aircraft provided the transportation, raises the issue of the proper calculation of the deduction given the pre-existing disallowance guidance, Treas. Reg. Section 1.274-10, for personal entertainment travel on company aircraft which has applied for several years. These are just some of the many issues that taxpayers must now address due to the new 100 percent business entertainment disallowance.

It would be logical that any guidance issued regarding the costs related to business entertainment follow the concepts and allocation methods that exist for personal entertainment travel under Section 274(e)(2) and (9), which focuses on per passenger purposes of each leg of each flight to determine the dollar amount of expenses subject to disallowance. Treas. Reg. Section 1.274-10(c).

Meals as Entertainment: No Laughing or Maybe Even Going to Restaurants

After the Tax Act, food and beverage expenses will be very difficult to categorize as 100 percent deductible, 50 percent deductible, or not deductible at all. If food and beverage expenses are entertainment, and not exempt under Section 274(e)(1),(2),(3),(4),(5),(6),(7),(8), or (9), then the 00 percent disallowance applies. If not entertainment and not exempt under Section 274(e), then the 50 percent disallowance applies. If exempt from being subject to the 100 percent entertainment disallowance *and* the 50 percent meals disallowance pursuant to Section 274(e)(2),(3),(4),(7),(8), or (9), then the food and beverages are completely deductible, e.g., food and beverages at holiday parties.

First, it is clear that food and beverages can be an entertainment expense. The ''act of receiving a guest or guests and providing them with food and drink'' is one dictionary definition of entertainment. Legislative history cites restaurant meals numerous times as entertainment expenses. The Treas. Reg. Section 1.274-2 definition of entertainment includes: ''an activity that satisfies the personal living or family needs of an individual, such as providing food and beverages or a hotel

  DTR ISSN 0092-6884

suite to a business customer or the customer's family.'' In Hippodrome Oldsmobile, Inc. v. United States, discussing Section 274 and related congressional reports, it was noted that if the taxpayer conducts substantial negotiations with a group of business associates and that evening entertains that group and their wives at a restaurant, theater, concert or sporting event, such entertainment expenses, if associated with the active conduct of the taxpayer's business, will be deductible even though the purpose of the entertainment is merely to promote goodwill in such business.

Because Section 274(e)(1) exempts food and beverages provided on an employer's premises from the 100 percent Section 274(a)(1) disallowance for entertainment expenses, it is clear that such food and beverages could at times be considered entertainment and thus needed an exemption. Note that the Section 274(e)(1) exemption from the Section 274(a) 100 percent disallowance, did not and does not ''work'' or apply for the Section 274(n) 50 percent disallowance. Stated differently, food and beverages on the employer's premises are exempt from the 100 percent Section 274(a) entertainment disallowance, but not the Section 274(n) meals disallowance. Because the Section 274(e) exemptions are not mutually exclusive, then of course if the food and beverages were provided at a company holiday party, Section 274(e)(4) would provide a 100 percent deduction.

Food and beverage expenses would certainly be considered entertainment when included at a party or gala event or at resorts based on the authorities cited above concerning the definition of entertainment activities. On the other hand, room service or snacks consumed during business travel, alone in a hotel room, would not likely be considered entertainment. Somewhere in between, and likely a very big category for many businesses, is the business associate dinner in a good restaurant in the evening, perhaps including alcoholic beverages.

The explanation of the 1986 Tax Reform Act provision concerning the cutback of the deduction of meal expenses defines the term ''meals'' to include food or beverage costs incurred in entertaining business customers at the taxpayer's place of business or at a restaurant, or in attending a business convention or reception, business meeting, or business luncheon at a luncheon club. This reference to meals as part of entertainment specifically referencing a restaurant does not bode well for claiming that even a ''quiet'' client or customer dinner at a restaurant is not entertainment, in addition to being a meal, and thus subject to the harsher 100 percent deduction disallowance of amended Section 274(a)(1). In the past, these kind of meals by and large circumvented the Section 274(a)(1) disallowance as ''directly related or associated'' with business because actual business discussions took place in conjunction with the evening activity, before, during, or after. Also stacking the cards against client customers dinners being other than entertainment is the fact that a former Section 274(e)(1) exemption from the 100 percent entertainment disallowance referenced the quiet business meals. The exemption would not have been necessary had the quiet business meal been exempt already due to not fundamentally being entertainment.

De Minimis Meals: Score Against the Bruins

Prior to the Tax Act, Section 274(n) provided an exclusion from the 50 percent disallowance for food and beverages which were excludable from an employee's income under Section 132(e)(2) as a de minimis fringe benefit. A de minimis fringe benefit is any property or service the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer's employees) so small as to make accounting for it unreasonable or administratively impracticable. Section 132(e)(1). De minimis fringe benefit examples include coffee, tea, and bottled water in the break room, *occasional* bagels, donuts, lunches, and one-off items such as a birthday cake.

Meals provided at an ''employer operated eating facility,'' more commonly referred to as ''company cafeteria,'' are also a de minimis fringe benefit (despite the fact that the meals may not meet the low in value and infrequent requirements) where the facility is operated by the employer, is located on or near the business premises of the employer, the revenue derived equals or exceeds the direct operating costs, e.g., food and service and the meals are provided on a nondiscriminatory basis. Section 132(e)(2). The preceding revenue requirement is met for the portion of meals provided for the convenience of the employer under Section 119 thus providing an interesting dependency between two statutory provisions and allowing the completely free and sometimes gourmet meals provided to employees in remote employer facilities as not subject to the 50 percent Section 274(n) disallowance. The most common employer operated eating facility providing the de minimis exclusion for employees is where employees have access to an on premises cafeteria for which the employees are provided food and beverages at *subsidized prices*. However, as mentioned, employers with the need to keep employees close to work, even during meals, often provide completely free dining facilities for the convenience of the employer and such meals are excludable from the employee's income under Section 119. The meals so provided are deemed to meet the revenue requirements for the de minimis exclusion under Section 132(e)(2) and thus under prior law, not subject to the 50 percent deduction disallowance.

In a recent surprising decision, the Tax Court concluded that the pre-game away-city meals provided to the Boston Bruins hockey team were not subject to the 50 percent deduction disallowance on the basis that the meals were both for the ''convenience of the employer'' and were provided at an ''employer operated eating facility.'' In *Jacobs v. Commissioner*, the court found that meals, including dinner, breakfast, lunch, and snacks, were de minimis because the room provided without charge by the hotel was an ''employer operated eating facility'' and met the non-discrimination requirements, because the meals were provided to all employees of the Bruins traveling to the games.

Perhaps in response to the Tax Court decision in favor of the Bruins, the de minimis fringe benefit exemption under Section 274(n) is now no longer available as a means to avoid the 50 percent deduction disallowance. However, the Tax Act change to Section 274(n) did not prevent an employer from using one of the exceptions under Section 274(e)(2),(3),(4),(7),(8), or (9).

The only one of these exceptions which is an attractive means of avoiding the 50 percent meals disallowance is Section 274(e)(4), non-discriminatory employee social or recreational activities. Thus, taxpayers will take a closer look at de minimis food and beverage expenses to determine whether the expenses are related to a non-discriminatory employee social or recreational activity, e.g., pay-day coffee and donuts in the cafeteria, in which case the meal would again be 100 percent deductible.

After 2025, there is a new affirmative 100 percent denial of deduction under Section 274(o) for both de minimis cafeteria meals, along with the cost of operating the eating facility, and meals for the convenience of the employer.

Meals and Entertainment Example Conclusions

Pending some good, clear guidance from the IRS regarding the amendments by the Tax Act, the below conclusions are a reasonable interpretation of the deductions for the common specific examples which employers frequently encounter:

■ Coffee, tea, bottled water provided in the break room—50 percent. However, if part of a non-discriminatory employee social or recreational activity, then 100 percent deductible.

■ Breakfast, lunch, and dinner while on business travel—50 percent generally. However, if entertainment, then ''0'' deduction, unless the entertainment is for non-discriminatory employee social or recreation activities, in which case 100 percent deductible.

■ Air travel expenses, including company aircraft, to join business associates at a golf or other entertainment event— ''0'' deduction generally. However, if with respect to either non-discriminatory employee social or recreation activities, or employee, stockholder, etc. business meetings, then 100 percent deductible.

■ Evening entertainment activities, including meals, during employee, stockholder, etc. business meetings—50 percent deduction for meals, 100 percent deduction for non-meal entertainment.

■ Client or customer restaurant meals— ''0'' deduction where classified as entertainment. If not entertainment (e.g., meal following a family funeral), then 50 percent deduction.

■ Company cafeteria—Pre-2026 meals only 50 percent unless considered non-discriminatory employee recreation or social activity in which case 100 percent deductible. Post 2025, cafeteria meals and operating expenses are 100 percent non-deductible with no clear statutory ability to use any exceptions.

Deduction Allowance Comparison

	Deduction Allowed	
	Prior to 2018	2018 Tax Act
Entertainment, including meals, directly related or associated with business, unless exempted in 1–9 below:	50%	0%
1. Food and beverages on employer premises, e.g. executive dining facilities	50%	50%
2. Personal Entertainment treated as Employee compensation on Form W-2 e.g. employer paid vacation		
Entertainment	100%	100%
Food	100%	100%
Company Aircraft for Specified Employees excess over amount included on Form W-2, e.g. $40,000 flight expense, $4,000 on Form W-2, $36,000 not deductible	0%	0%
3. Reimbursed expenses (another taxpayer has the disallowance)		
Entertainment	100%	100%
Food	100%	100%
4. Social and recreational activity expenses for employees e.g. holiday parties, summer picnics		
Entertainment	100%	100%
Meals	100%	100%
5. Business meeting of employees, stockholder, directors, etc.		
Entertainment other than meals	50%	100%
Meals	50%	50%
6. Section 501(c)(6) Business League meetings, e.g. chamber of commerce, real estate board, certain professional organizations		
Entertainment other than meals	50%	100%
Meals	50%	50%

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	Deduction Allowed	
	Prior to 2018	2018 Tax Act
7. Items available to the public, e.g., public radio or, distribution of samples, casino complimentary goods and services		
Entertainment	100%	100%
Meals	100%	100%
8. Entertainment sold to customers, e.g., yacht charter or restaurant business may deduct expenses in selling to customers		
Entertainment	100%	100%
Meals	100%	100%
9. Items included in income of non-employees, e.g., independent contractors or directors		
Entertainment	100%	100%
Meals	100%	100%
Company Aircraft for Specified Individuals e.g. directors excess over amount included on Form 1099-misc., e.g., $40,000 flight expense, $4,000 on Form 1099-misc $36,000 not deductible)	0%	0%
Meals excluded from income as a de minimis fringe including qualified cafeteria/convenience of the employer, not exempted in Section 274(e)(2),(3),(4),(7), (8) or (9)	100%	50%*
De minimis meals as above exempted in Section 274(e)(2), (3), (4), (7), (8) and (9)	100%	100%**
* Qualified cafeteria de minimis meals including operational expenses, and also Section 119 convenience of the employer meals, are completely non-deductible after 2025		
** Not clear whether the exemptions in Section 274(e) will apply to the law in effect after 2025		
Business expense related to Section 501(c)(3) charitable sports event tickets including excess over face value	50% limit did not apply	Special treatment no longer applicable

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