

SNIDER, CORALES & ASSOCIATES, P.S.C.

CERTIFIED PUBLIC ACCOUNTANTS

UPDATED Meals & Entertainment Regulations (2017 Tax Cuts and Jobs Act)

The Tax Cuts and Jobs Act, that was enacted December 22, 2017, made a drastic reduction to the income tax deductibility of business "Meals and Entertainment". The IRS has already stated that it could take the organization years to provide guidance on the Act, so we have summarized the opinions of top CPA education providers and analysts below. These regulations are in effect for amounts incurred or paid after December 31, 2017 until December 31, 2025. Please contact us to discuss your specific situations, questions, and concerns.

On October 3, 2018, the Internal Revenue Service issued Notice 2018-76 announcing its intention to publish proposed regulations that will provide guidance on the deductibility of expenses for certain business meals. Until the proposed regulations become effective, Notice 2018-76 provides additional guidance for the treatment of certain business meals. Any information below that is updated from SC&A's previous guidance will be **underlined** and in **bold**.

Meals & Entertainment 0% Deductible

The new tax law does not allow a deduction for any activity generally considered to be entertainment, amusement, or recreation. The costs of related event tickets, membership dues, facilities, and associated travel are also not allowed. **However, the taxpayer's trade and business industry shall be considered in applying this test (and thus could be considered business promotion).**

- Dues for membership in a club that is for social or business networking purposes is considered entertainment and is not deductible.
- Reimbursing an employee under an accountable plan (see Accountable Plan below) for business meals not associated with overnight travel is not deductible by the Company and is still not taxable to the employee.
- The cost of taking a client to a ball game or other form of entertainment, even while discussing business, is not deductible. **(Separately purchased food and beverages while attending an entertainment event is 50% deductible, as long as it meets the other business meal requirements.)**
- The cost of entertainment expenses that are directly related to the active conduct of a business are no longer deductible (see Promotional Events below).

Meals & Entertainment 50% Deductible

Food and beverage expenses associated with the operations of the Company are 50% deductible. Please remember that an overly extravagant meal will not be considered an ordinary and necessary business expense, thus it will not be deductible.

- The cost of a business meeting with employees, stockholders, or directors is 50% deductible.
- The cost of a business league meeting that includes a lunch fee, like the local Chamber of Commerce, is still 50% deductible.
- **The cost of meals at a seminar or conference is 50% deductible.**
- Meals that are associated with overnight business travel are 50% deductible.
- Reimbursing an employee under an accountable plan (see Accountable Plan below) for meals associated with overnight travel is 50% deductible by the Company and is still not taxable to the employee.

Meals & Entertainment 50% Deductible, continued

- The cost of food and beverages furnished to employees on behalf of the employer, at the convenience of the employer, and on the Company premises is 50% deductible.
 - Examples include lunch at a sales meeting, dinner during overtime work, food served in an on-site cafeteria.
 - This does not include Company purchased meals every Friday for employees.
- The cost of any de minimis fringe benefit that is provided at the convenience of the employer to employees such as coffee, water, or donuts is 50% deductible.
- **The cost of taking a client or prospective client out to eat is 50% deductible as long as the following rules are met:**
 - **Business is conducted, and**
 - **The taxpayer or taxpayer's employee is present, and**
 - **The meal is not lavish or extravagant.**
- **Be careful that you don't include an entertainment portion to dinner. If the cost of food and beverages at an entertainment event is not separately stated, then the event is 0% deductible as entertainment.**

Meals & Entertainment 100% Deductible

The new tax law allows some food and beverage expenses to still be fully deductible. A few examples are described below.

- The cost of a meal or an entertainment event is fully deductible if it is included as compensation to an individual employee on his or her Form W-2, to a non-employee individual and provided a Form 1099-MISC, or to a business that will include the benefit of the meal or event as income.
- The cost of an infrequent event such as a Company picnic or holiday party for employees that are mostly non-owners/officers/directors is fully deductible.
- The cost of food and beverages provided to the general public **for free (for example at a seminar)** such as coffee, water, or mints is fully deductible.
- **Meal expenses sold to a client or customer or reimbursed by a client or customer is 100% deductible.**

Accountable Plan

An "accountable plan" is a Company policy that specifies how employees are reimbursed for the business expenses they incur while working. Such business expenses might include tools and supplies, uniforms, meals and travel costs. As long as the Company has an accountable plan in place and reimburses employees for legitimate business expenses in accordance with its policy, such expenses are not treated as income to the employee. In accordance with the new Tax Cuts and Jobs Act, all expenses reimbursed to employees under an accountable plan are treated as deductible expenses of the Company, except for business meals not associated with overnight travel. Meals consumed while working away from home overnight are 50% deductible to the Company. For travel out of town overnight, the Company may still use the per-diem method of reimbursement to employees instead of reimbursing actual expenses; however, per-diem reimbursement of meals are still only 50% deductible for the Company.

Promotional Events

Promotion and marketing expenses are an ordinary and necessary cost of doing business. In order to continue promoting your business, events that included entertainment previously will need to be modified to provide a specific marketing pitch such as the introduction of a new product or an improvement to Company facilities. Such an event would need to prove a clear business relationship by reaching new customers, managing its brand, or providing information about its products. Food and beverages served at such a promotional event to the general public are 100% deductible.