



## **IRS Gives Taxpayers A Break on Meal Deductions**

On October 3, 2018, the IRS issued Notice 2018-76 confirming that certain business meals will continue to be deductible, subject to the 50% limitation. As background, the Tax Cuts and Jobs Act ("TCJA") of December 2017 eliminated the deduction for *entertainment* expenses effective January 1, 2018, creating uncertainty whether *client business meals* would be treated as a form of nondeductible entertainment. The clarification provided by the IRS is welcome news for taxpayers with significant business meal expenditures, and taxpayers can rely on the notice until proposed regulations are issued.

The IRS notice was issued in response to requests from taxpayers and practitioners for guidance on the deductibility of business meal expenditures incurred before, during and after entertainment events. The TCJA did not specifically address under which circumstances, if any, such business meals would be considered entertainment expenses. Under the interim guidance, taxpayers can continue to deduct 50% of business meal expenditures that meet each of the following five criteria:

- The expense is ordinary and necessary in carrying on a trade or business;
- The expense is not lavish or extravagant under the circumstances;
- The taxpayer, or an employee of the taxpayer, is present at the meal;
- The meal is provided to a current or potential business customer, client, consultant or similar business contact; and
- In the case of business meals provided at an entertainment event, the meal is purchased separately from the entertainment or the cost is stated separately on an invoice. This rule cannot be circumvented by inflating the cost of the meal.

For example, a taxpayer who purchases tickets to attend a baseball game with a business contact cannot deduct the cost of the tickets, but the cost of food or beverages purchased separately at the game is 50% deductible. However, if a taxpayer purchases tickets to attend a basketball game in a suite, and the invoice for the tickets does not separately state the cost of food or beverages provided in the suite, then the entire expenditure is treated as a nondeductible entertainment expense. If the invoice does separately state the cost of the food and beverages, the taxpayer may deduct 50% of the expenses associated with the food and beverages provided at the game.

Individual taxpayers and businesses that regularly incur costs for meals with customers and clients should consider this new guidance requiring meals provided during an entertainment activity to be separately billed, to determine if any changes are necessary to comply with the new substantiation requirements. This might include requesting vendors to re-issue invoices for all-inclusive entertainment events to separately state the meal and entertainment costs. However, taxpayers should verify that the amounts reflect the fair market value of the food and beverages, since inflating the meal cost could result in a disallowance of the entire deduction. Taxpayers should also review their accounting and recordkeeping systems to ensure that they

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are properly tracking and capturing the appropriate information currently, including names of attendees, and other business purpose criteria, in order to sustain the tax deduction.

If you have questions about how this new guidance concerning the deductibility of business meals might affect you and your business, please contact your Bennett Thrasher tax advisor by calling 770.396.2200.