

## Business Deduction is Denied for Entertainment Expenses

### Prior Tax Law (thru 2017):

Under pre-Tax Cuts and Jobs Act law, no deduction was allowed for ordinary and necessary expenses for an activity of a type generally considered to be entertainment, amusement, or recreation, or for a facility used in connection with such an activity, **unless** the taxpayer established that the expense was **directly related** to or associated with the active conduct of the taxpayer's trade or business or income-producing activity. The deduction couldn't exceed the portion of the item that met the "directly related to or associated with" standard. However, the restrictions on deducting entertainment expenses don't apply to nine types of expenses that are listed in Code Sec. 274(e). The deduction allowed for entertainment expenses was limited to 50% of the otherwise deductible amount of the expense.

### New Law (starting in 2018):

Under the Tax Cuts and Jobs Act, no deduction is allowed for: (1) an activity generally considered to be entertainment, amusement, or recreation, (2) membership dues for any club organized for business, pleasure, recreation, or other social purposes, or (3) a facility used in connection with any of the above items. Entertainment expenses are completely nondeductible, regardless of whether they are directly related to or associated with the taxpayer's business, unless one of the exceptions in Code Sec. 274(e) applies. Code **Sec. 274(e)** wasn't changed by the Tax Cuts and Jobs Act.

These exceptions are as follows:

- 1) **Food and beverages for employees-** Expenses for food and beverages (and facilities used in connection therewith) furnished on the business premises of the taxpayer primarily for his employees.
- 2) **Expenses treated as compensation**
- 3) **Reimbursed expenses-** Expenses paid or incurred by the taxpayer, in connection with the performance by him of services for another person (whether or not such other person is his employer), under a reimbursement or other expense allowance arrangement with such other person.
- 4) **Recreational, etc., expenses for employees.** Expenses for recreational, social, or similar activities (including facilities therefor) primarily for the benefit of employees (other than employees who are highly compensated employees. For purposes of this paragraph, an individual owning less than a 10-percent interest in the taxpayer's trade or business shall not be considered a shareholder or other owner, and for such purposes an individual shall be treated as owning any interest owned by a member of his family.
- 5) **Employee, stockholder, etc., business meetings.** Expenses incurred by a taxpayer which are directly related to business meetings of his employees, stockholders, agents, or directors.
- 6) **Meetings of business leagues, etc.** Expenses directly related and necessary to attendance at a business meeting or convention of any organization described in [section 501\(c\)\(6\)](#) (relating to business leagues, chambers of commerce, real estate boards, and boards of trade) and exempt from taxation under [section 501\(a\)](#).
- 7) **Items available to public.** Expenses for goods, services, and facilities made available by the taxpayer to the general public.
- 8) **Entertainment sold to customers.** Expenses for goods or services (including the use of facilities) which are sold by the taxpayer in a bona fide transaction for an adequate and full consideration in money or money's worth.
- 9) **Expenses includible in income of persons who are not employees.** Expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under [section 74](#). The preceding sentence shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included (or would be so required except that the amount is less than \$600) in any information return filed by such taxpayer (issuing 1099) and is not so included.

As under pre-Tax Cuts and Jobs Act law, taxpayers may still generally deduct 50% of the food and beverage expenses associated with operating their trade or business, such as meals consumed by employees on work travel.