

**August 2019**

## Creating More Business Meal Tax Deductions After the TCJA

Here's good news for business meals: the Tax Cuts and Jobs Act (TCJA) removed the "directly related and associated with" requirements from business meals.

The net effect of this change is to subject business meals once again to the pre-1963 "ordinary and necessary" business expense rules.

You are going to like these rules.

### ***Restaurants and Bars***

**Question 1.** If, for business reasons, you take a customer to breakfast, lunch, or dinner at a restaurant or hotel, or to a bar for a few drinks, but you do *not* discuss business, can you deduct the costs of the meals and drinks?

**Answer 1.** Yes. Even though you did not discuss business, the law provides that if the circumstances are of a type generally considered conducive to a business discussion, you may deduct the expenses for meals and beverages to the extent they are ordinary and necessary expenses.<sup>1</sup>

Consider this "no discussion" meal a "quiet business meal."

**Question 2.** What are circumstances conducive to a business discussion?

**Answer 2.** This depends on the facts, taking into account the surroundings in which the meals or beverages are furnished, your business, and your relationship to the person entertained. The surroundings should be such that there are no substantial distractions to the discussion.<sup>2</sup>

Generally, a restaurant, a hotel dining room, or a similar place that does not involve distracting influences, such as a floor show, is considered conducive to a business discussion. On the other hand, business meals at nightclubs, sporting events, large cocktail parties, and sizable social gatherings would not generally be conducive to a business discussion.

## ***Meals Served in Your Home***

**Question 3.** Does a business meal served in your home disqualify the deduction?

**Answer 3.** No, as long as you serve the food and beverages under circumstances conducive to a business discussion. But because you are in your home, the IRS adds that you must clearly show that the expenditure was commercially rather than socially motivated.<sup>3</sup>

## ***Goodwill Meals***

**Question 4.** If, for goodwill purposes, you take a customer and his or her spouse to lunch and don't discuss business, will the cost of the lunch become non-deductible?

**Answer 4.** Not if, in light of all facts and circumstances, the surroundings are considered conducive to a business discussion, and the expenses are ordinary and necessary expenses of carrying on the business rather than socially motivated expenses.<sup>4</sup>

**Question 5.** Is the situation the same if the taxpayer's spouse accompanies the taxpayer at a dinner for business goodwill reasons?

**Answer 5.** Yes, the meal is deductible. This is true whether or not the customer's spouse is present. Again, the meal must meet the ordinary and necessary business expense standards.<sup>5</sup>

## ***Ordinary and Necessary***

Black's Law Dictionary defines "ordinary" as "occurring in the regular course of events; normal, usual."<sup>6</sup>

The Supreme Court noted that "necessary" means "appropriate and helpful."<sup>7</sup>

The business meal with a client, prospective client, or consultant is normal, usual, appropriate, and helpful to most businesses.

In a nutshell, the ordinary and necessary test should give you no trouble in meeting this deduction standard for your business meals with clients, prospects, consultants, and similar business contacts.

## ***Document the Meal Deductions***

You need to keep records that prove your business meals are ordinary and necessary business expenses. You can accomplish this by keeping the following:

1. Receipts that show the purchases (food and drinks consumed)
2. Proof of payment (credit card receipt/statement or canceled check)
3. Note of the name of the person or persons with whom you had the meals
4. Record of the business reason for the meal (a short note—say, seven words or fewer)

The costs of your business meals continue to be 50 percent deductible (as they were before the TCJA).<sup>8</sup>

## ***Takeaways***

The removal of the directly related and associated with rules makes deducting business meals easier under the TCJA. Under the new rules, you can again deduct quiet and goodwill business meals.

The new rules also make your documentation more straightforward, as we describe above.

As before, your spouse's presence at a meal enables the tax deduction for your spouse's cost of the meal. Also, meals served in your home that meet the ordinary and necessary business standard continue as tax-deductible business meals.

Considering how the TCJA damaged many tax deductions, you have to be thankful for its grandfatherly treatment of tax-deductible business meals.

[Client Letter on This Article for Use by Tax Pros. Click Here.](#)

- 1 Rev. Rul. 63-144, Q&A 15.
  - 2 Rev. Rul. 63-144, Q&A 16.
  - 3 Rev. Rul. 63-144, Q&A 17.
  - 4 Rev. Rul. 63-144, Q&A 18.
  - 5 Rev. Rul. 63-144, Q&A 19.
  - 6 Black's Law Dictionary, Ninth Edition, p. 1209.
  - 7 Commr. v Heininger, 320 U.S. 467 (1943); Welch v Helvering, 290 U.S. 111 (1933).
  - 8 Notice 2018-76.
-