

Exceptions to the 50 Percent Disallowance Rule for Business Meal Expenses

Most business owners are aware of the tax rule that disallows 50% of their otherwise allowable deductions for business meals. This provision normally applies regardless of the reason for the meal—from taking clients out to dinner to paying for your meals while traveling away from home. What is not nearly as widely known is that there are several exceptions to this 50% disallowance rule. When one of these exceptions applies, you generally receive a 100% deduction for the business meal expenses—which might just make even a good meal taste that much better. Here's a quick rundown of the major exceptions to the disallowance rule.

- **The Office Coffee Bar.** Employers can deduct 100% of the cost of providing employees with free coffee, soft drinks, donuts or similar snacks or beverages to be consumed on the business premises.
- **Employee Parties.** Employers can deduct the full cost of providing food and beverages at recreational, social or entertainment gatherings primarily for the benefit of rank and file employees (as opposed to highly compensated employees). Examples include company outings, banquets or other gatherings (such as an annual holiday party) for employees and their guests.
- **Meals Served on the Employer's Premises.** In the right circumstances, which can be fairly difficult to meet, an employer may provide employees with meals at work and claim a full deduction (without the employees' having to report the value of the meals in their income). The key is the meals have to be provided (a) for a valid business reason, (b) on or near your businesses premises, and (c) primarily for the convenience of the employer (rather than merely as an added fringe benefit for the employees).
- **Items Available to the Public.** Expenses incurred for meals available to the general public are 100% deductible. Examples include free food at concerts hosted by a shopping mall, free dinners for potential restaurant customers, free hot dogs at a car dealership promotion, free wine and food at an exhibition sponsored by a liquor dealer and free cookies furnished by a realtor at an open house.
- **Amounts Billed to Clients.** When services are provided as an independent contractor, the service provider can deduct 100% of job-related meal expenses by billing the client separately for these costs. (Obviously this isn't always practical.) The client is then stuck with the 50% disallowance rule. If separate billing doesn't occur, the 50% disallowance rule applies to the service provider.
- **Charity Sporting Event.** The allowable deduction for the cost of a ticket to a qualifying charity sporting event isn't reduced by the 50% meal disallowance rule even when meals are included. The ticket package must include admission to the event, but it can also include meals and refreshments. To qualify, the charitable event must give 100% of its net proceeds to a charity and use volunteers to do almost all the work. The classic example is a charity golf tournament with a meal included in the deal.
- **Hours of Service Limitations.** In lieu of the regular 50% disallowance, individuals whose work is subject to the hours of service limitations of the U.S. Department of Transportation (*e.g.*, interstate truck drivers, certain air transportation employees, certain railroad employees) can deduct 80% of their business food and beverage expenses in 2008.

There are enough exceptions to the 50% disallowance rule that most businesses can meet at least one, if not more of them. To the extent your business qualifies for any of them, it's important that the qualifying expenses be tracked separately (typically by charging them to a separate account in your accounting records) so that a full deduction can be claimed.

For Further Information

If you have any questions regarding the types of business meal expenses that may qualify for a full deduction or how to properly isolate and account for them in your records, please contact **Michael Gillen** of the **Tax Accounting Group** at 215.979.1635 or magillen@duanemorris.com or the practitioner with whom you are regularly in contact.

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