

Checkpoint Contents

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990 Deskbook

OTHER RESOURCES

UNRELATED BUSINESS INCOME

[RESOURCE R302: Meals and Entertainment Expenses That Are 100% Deductible in Calculating Unrelated Business Taxable Income](#)

RESOURCE R302

Meals and **Entertainment** Expenses That Are 100% Deductible in Calculating Unrelated Business Taxable Income

(See Key Issue [15A](#))

Generally, [IRC Sec. 274\(n\)](#) allows a deduction for only 50% of the otherwise allowable **meal** and **entertainment** expenses in determining an organization's unrelated business taxable income. However, the following expenses are exempt from the 50% disallowance rule at the organization's level [[IRC Sec. 274\(n\)\(2\)](#)]:

1. Expenses treated by the organization as compensation to an employee who is a recipient of the **meals** or **entertainment**, if such compensation is subject to normal withholding [[IRC Sec. 274\(e\)\(2\)](#)]. The 50% disallowance occurs at the employee level if the employee deducts the **meals** and **entertainment** as an employee business expense. [srcPPC990:2018b2ed00db99bab40^a](#)
2. Expenses for **meals** and **entertainment** that are includable in the gross income of a nonemployee recipient (including a contract laborer) when a Form 1099 is issued to the recipient (e.g., at a sales promotion for an unrelated business, the organization holds a drawing and awards a dinner cruise for 10 valued at \$750, and the winner is issued a Form 1099) [[IRC Sec. 274\(e\)\(9\)](#)].
3. Reimbursed amounts reported as compensation (subject to withholding for employees), or for which an independent contractor does not supply adequate substantiation [[IRC Sec. 274\(e\)\(3\)](#)].

The 50% disallowance occurs at the employee/independent contractor level, and the organization can deduct 100%-see Items 1 and 2. [However, if the reimbursed expenses are not reported as compensation income or the independent contractors supply adequate documentation (i.e., under an accountable plan) to the corporation, the 50% disallowance rule applies at the organization's level.]

4. Expenses related to recreational, social, or similar activities incurred primarily for the benefit of employees other than highly compensated employees (e.g., food and beverage provided by the organization at a picnic for employees of the organization's unrelated business) [[IRC Sec. 274\(e\)\(4\)](#)]. This exception does not apply when the recipients are independent contractors ([TAM 200030001](#)).
5. Expenses directly related and necessary to attendance at a business meeting of a Section 501(c)(6) organization [[IRC Sec. 274\(e\)\(6\)](#)].
6. Expenses for items made available to the general public (e.g., free popcorn or snacks used to help promote an unrelated business activity) [[IRC Sec. 274\(e\)\(7\)](#)]. It does not, however, apply when the **meals** and **entertainment** are provided on an invitation-only basis and not otherwise available to the general public [[Churchill Downs, Inc.](#) 307 F.3d 423, 90 AFTR 2d 2002-6615 (6th Cir. 2002)].
7. Expenses for **meals** and **entertainment** sold by the organization for adequate compensation [[IRC Sec. 274\(e\)\(8\)](#)]. This is a technical exception to prevent disallowance of **meals** sold in an unrelated business (e.g., a restaurant).
8. Expenses excludable from employees' gross income as a *de minimis* fringe benefit (e.g., coffee provided by the organization in the administrative offices of its unrelated business) [[IRC Sec. 274\(n\)\(2\)\(B\)](#)]. No 50% disallowance applies at the employee level either. Meals provided on an employer's premises for the convenience of the employer are considered a *de minimis* fringe benefit [[IRC Sec. 132\(e\)\(2\)](#)].
9. Expenses for tickets to fundraising charitable sporting events if [[IRC Sec. 274\(n\)\(2\)\(C\)](#)]:
 - a. the event is organized to benefit a Section 501(c)(3) organization,
 - b. 100% of the net proceeds are contributed to the organization, and
 - c. volunteers are used for substantially all the work in staging the event.

An example would be a charity golf tournament, where all of the net proceeds are donated to the charity.

10. Amounts for meals during a job-related move that are reimbursed and reported as income to the employee [[IRC Sec. 274\(n\)\(2\)\(D\)](#)]. No 50% disallowance applies at any level because meals

are not deductible moving expenses.

11. Expenses for meals provided to crew members of a commercial vessel (other than cruise ships, yachts, and similar type passenger vessels), if the meals are required by any federal law or would be required if not for the fact that the vessel operates on the Great Lakes, the Saint Lawrence Seaway, or an inland waterway of the United States, instead of at sea [[IRC Sec. 274\(n\)\(2\)\(E\)](#)].

12. Expenses for meals provided on offshore oil and gas platforms or drilling rigs, or on a platform or drilling rig (or related support camp) located in the United States north of 54 degrees north latitude [[IRC Sec. 274\(n\)\(2\)\(E\)](#)].

13. Expenses for *all* meals provided for the employer's convenience if more than 50% of the employees who receive meals on the employer's business premises are furnished the meals for the employer's convenience. Thus, if this 50% safe harbor test is satisfied, the employer can deduct 100% of the cost of providing all the meals [[IRC Sec. 119\(b\)\(4\)](#)].

Unless one of these exceptions applies, 50% of all business meal expenses incurred by the organization in its unrelated business activities are disallowed. The 50% disallowance even applies to the expense of reimbursing employees for business meals incurred while attending professional seminars and while traveling away from home. If a hotel or other lodging establishment includes meals in its room charge, a reasonable allocation must be made to determine the portion of the expenditure subject to the 50% meal disallowance. ^a

Note: The business meals deduction is 80% for individuals subject to Department of Transportation hours of service limitations [[IRC Sec. 274\(n\)\(3\)](#)].

Caution: The deduction for expenses to provide entertainment, amusement, or recreation to officers and directors is limited to the smaller of (1) the amount included in the recipient individual's compensation; or (2) the actual cost to the organization [[IRC Sec. 274\(e\)\(2\)](#)]. This rule is specifically intended to address case law allowing a deduction for the cost of operating an airplane owned by an organization, even though it exceeded the amount includible in the compensation of an officer or director who uses it under the Standard Industry Fare Level rules of [Reg. 1.61-21\(g\)\(5\)](#) .

Law Change Alert: Effective for amounts paid or incurred after December 31, 2017, the 2017 Tax Cuts and Jobs Act (TCJA) repealed the deduction for *entertainment* expenses. In addition the TCJA expands the 50% limit on the deductibility of business meals to include those provided on the employer's premises (i.e., there is no longer a 100% deduction).

Notes: ^a [IRS Notice 87-23](#) , 1987-1 CB 467 modified by [Rev. Proc. 90-15](#) .

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