

January 12, 2022

The Taxpayer Certainty and Disaster Relief Act of 2020 provides a temporary exception to the 50% limit on the amount that businesses may deduct for food or beverages. The temporary exception allows a 100% deduction for food or beverages from restaurants. The IRS issued Notice 2021-25 to provide additional guidance on these changes.

#### Meal Expenses:

Beginning January 1, 2021, through December 31, 2022, businesses can claim 100% of their food or beverage expenses paid to restaurants as long as the business owner (or an employee of the business) is present when food or beverages are provided and the expense is not lavish or extravagant under the circumstances.

Restaurants include businesses that prepare and sell food or beverages to retail customers for immediate on premises and/or off-premises consumption. However, restaurants do not include businesses that primarily sell pre packaged goods not for immediate consumption, such as grocery stores and convenience stores.

In addition, an employer may not treat as a restaurant any eating facility located on the business premises of the employer and used in furnishing meals excluded from an employee's gross income even if such eating facility is operated by a third party under contract with the employer.

#### Entertainment Expenses:

The notice does not alter the deductibility for entertainment expenses. No deduction is allowed for entertainment, amusement or recreation activities, facilities, or membership dues relating to such activities or other social purposes. In addition, no deduction would be allowed for benefits in the form of on premises gyms and other athletic facilities, or for amenities provided to an employee that are primarily personal in nature and that involve property or services not directly related to the employer's trade or business.

One exception includes amounts treated as taxable compensation to an employee (or includible in gross income of a recipient who is not an employee). Another exception from the 50% limitation includes expenses for recreational, social, or similar activities (including related facilities) primarily for the benefit of the taxpayer's employees, other than highly-compensated employees. In other words, entertainment for a client would not be deductible but entertainment for the benefit of employees could be fully deductible.

We encourage businesses to consider how their record keeping may need to be revised to address proper accounting for these changes and that the amounts are accurately reflected in their tax returns. We recommend setting up separate general ledger accounts for client/customer entertainment (nondeductible), business meals (50% deductible), business meals (100% deductible), and recreational/social employee expenses (100% deductible). We also recommend maintaining proper records and support for the deductions taken, including receipts and notations relative to who was in attendance.

As always, we encourage you to contact us with any questions you may have.