

[Business Meals Tax Deduction](#)



Business Meals Tax Deduction Updated

By [Jason Watson, CPA](#)

Posted October 4, 2018

Good news from the IRS. They recently released [Notice 2018-76](#) which essentially restores the business meals tax deduction that small business owners have leveraged in the past to help grow their business.

How did we get here?

The Tax Cuts and Jobs Act of 2017 removed entertainment from available business tax deductions. The way [Section 274](#) was written after TCJA and using historical interpretations, it could have been viewed that business meals with a client or customer was actually entertainment which happens to involve a meal.

The IRS recognized the confusion brought out by the changes in Section 274 as part of TCJA, so they came out with Notice 2018-76. A little background first... Here is the blurb from [IRS Pub 463](#) which defines entertainment as-

Entertainment. Entertainment includes any activity generally considered to provide entertainment, amusement, or recreation. Examples include entertaining guests at nightclubs; at social, athletic, and sporting clubs; at theaters; at sporting events; on yachts; or on hunting, fishing, vacation, and similar trips.

Entertainment also may include meeting personal, living, or family needs of individuals, such as providing meals, a hotel suite, or a car to customers or their families.

A meal as a form of entertainment. Entertainment includes the cost of a meal you provide to a customer or client, whether the meal is a part of other entertainment or by itself. A meal expense includes the cost of food, beverages, taxes, and tips for the meal. To deduct an entertainment-related meal, you or your employee must be present when the food or beverages are provided.

Caution- this is the old rule from IRS Publication 463 for Travel, Entertainment, Gift, and Car Expenses. The Tax Cuts and Jobs Act of 2017 put this in limbo because Section 274 was heavily modified. Now we have Notice 2018-76 to connect the dots between Pub 463, TCJA, Section 274 and business meals.

IRS Notice 2018-76

Now with the clarification offered by [IRS Notice 2018-76](#), 50% of business meals may still be deducted if you follow these guidelines as outlined in the notice-

1. The expense is an ordinary and necessary expense under § 162(a) paid or incurred during the taxable year in carrying on any trade or business;
2. The expense is not lavish or extravagant under the circumstances;
3. The taxpayer, or an employee of the taxpayer, is present at the furnishing of the food or beverages;
4. The food and beverages are provided to a current or potential business customer, client, consultant, or similar business contact; and
5. In the case of food and beverages provided during or at an entertainment activity, the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. The entertainment disallowance rule may not be circumvented through inflating the amount charged for food and beverages.



Here is an example of a business meals tax deduction that is allowed (straight from the wizards at the IRS who label everyone as A and B)-

Taxpayer A invites B, a business contact, to a baseball game. A purchases tickets for A and B to attend the game. While at the game, A buys hot dogs and drinks for A and B.

The baseball game is entertainment as defined in § 1.274-2(b)(1)(i) and, thus, the cost of the game tickets is an entertainment expense and is not deductible by A. The cost of the hot dogs and drinks, which are purchased separately from the game tickets, is not an entertainment expense and is not subject to the § 274(a)(1) disallowance. Therefore, A may deduct 50 percent of the expenses associated with the hot dogs and drinks purchased at the game.

There are more examples in the IRS notice, but you get the idea. Old school is now the same school, just make sure you disconnect the meal from the entertainment. And no boosting the meal bill to reduce the entertainment bill just to be able to deduct it- "this hot dog cost \$100, but it came with a free baseball ticket." Ummm... Nope! See #5 above.

Other considerations that are commonly forgotten-

- You can deduct 50% for meals with employees when business is discussed. Common deduction when you [add your spouse on payroll](#) (and he or she actually does work).
- You can deduct 50% of the cost of transportation to and from the venue where the meal is consumed. Denver to Aspen on United to eat at Jimmy's. Seems reasonable, and the meatloaf is unbelievable (who uses kobe beef for meatloaf?!).
- You can deduct 50% of the costs associated with the meal such as taxes and tips, keeping in check with lavish or extravagant. Tipping \$500 at McDonald's for the extra cheese on your Big Mac, and then asking for a kickback out back behind the dumpster is probably not good. If you do, get a receipt... we're sure you paid a commission on the kickback (kidding!).

The IRS will be updating Section 274 to reflect the interpretations above. Congress butchered it with crayon, and it needs a makeover. "Makeover: IRS Style" That is must-see TV right there!*Jason Watson, CPA is the Managing Partner of the Watson CPA Group, a business consultation and tax preparation firm, and is the author of [Taxpayer's Comprehensive Guide on LLC's and S Corps](#) which is available online.*