

Meal Expenses at 100 Percent for 2021 and 2022

One portion of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (part of the 5,593-page Consolidated Appropriations Act, 2021), provides a 100-percent deduction for business related expenses paid or incurred after December 31, 2020, and before January 1, 2023, for food and beverages provided by a restaurant. This provision does not change the definition of business-related meal expenses; it merely changes the percentage that can be deducted.

Since the Act does not define “restaurant”, IRS has now done so in Notice 2021-25 by stating a “restaurant” for this purpose means a business that prepares and sells food or beverages to retail customers for immediate consumption, regardless of whether the food or beverages are consumed on the business’ premises. However, a restaurant does NOT include a business that primarily sells pre-packaged food or beverages not for immediate consumptions, such as a grocery store; specialty food store; beer, wine, or liquor store; drug store’ convenience store; newsstand; or a vending machine or kiosk.

A “restaurant” does NOT include:

- 1) Any eating facility located on the business premises of the employer and used in furnishing meals excluded from an employee’s gross income under IRC Section 119, or
- 2) Any employer-operated eating facility treated as a de minimis fringe benefit under Section 132(e)(2), even if operated by a third party under contract with the employer.

This text has been shared courtesy of: David & Mary Mellem, EAs & Ashwaubenon Tax Professionals, 920-496-1065 (fax 920-496-9111).

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