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IRS Releases Proposed Regulations on Deducting Expenditures for Meals and Entertainment

The 2017 Tax Cuts and Jobs Act (TCJA) amended Section 274 to revise the rules for deducting expenditures for meals and entertainment, effective for amounts paid or incurred after Dec. 31, 2017. (Section references are to the Internal Revenue Code of 1986, as amended.) The TCJA repealed the directly related and business discussion exceptions to the general prohibition on deducting entertainment expenditures in Section 274(a)(1)(A). The TCJA also amended the 50% limitation in Section 274(n)(1) to remove the reference to entertainment expenditures. As a result, entertainment expenditures are no longer deductible unless one of the nine exceptions in Section 274(e) applies. The IRS has released proposed regulations (REG-100814-19 (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-03723.pdf>)) that address the elimination of the deduction for expenditures related to entertainment, amusement or recreation activities and provide guidance to determine whether an activity is of a type generally considered to be entertainment. The proposed regulations also address the limitation on the deduction of food and beverage expenses. The proposed regulations generally follow Notice 2018-76, with a few changes or clarifications in response to comments. Taxpayers may rely on the guidance in Notice 2018-76 until the regulations are finalized.

Under the proposed rules, taxpayers may deduct 50% of an otherwise allowable business meal expense if (a) the expense is an ordinary and necessary business expense under Section 162(a) paid or incurred during the tax year when carrying on any trade or business; (b) the expense is not lavish or extravagant under the circumstances; (c) the taxpayer or an employee of the taxpayer is present when the food and beverages are furnished; (d) the food and beverages are provided to a current or potential business customer, client, consultant or similar business contact; and (e) for food and beverages provided during or at an entertainment activity, they 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. With respect to requirement (d), the food and beverages must be provided to a “person with whom the taxpayer could reasonably expect to engage or deal in the active conduct of the taxpayer’s trade or business such as the taxpayer’s customer, client, supplier, employee, agent, partner, or professional adviser, whether established or prospective.” The proposed regulations apply this standard to the deduction of food and beverage expenses generally by including employees as a type of “business associate.” This makes the standard applicable to employer-provided meals as well as to situations in which a taxpayer provides meals to both employees and nonemployee business associates at the same event. The IRS requests comments on this standard.

IRS Issues Audit Guidance to Private Foundations on Self-dealing Excise Tax

The IRS has released guidance on its website (<https://www.irs.gov/government-entities/private-foundations-self-dealing-irc-4941d1c>) that gives audit guidance on the private foundation self-dealing excise tax. The issue snapshot discusses transactions such as furnishing goods, services or facilities between a private foundation and a disqualified person that may be subject to the self-dealing excise tax.

IRS Revises Reportable Transaction Disclosure Form

The IRS has revised Form 8886, Reportable Transaction Disclosure Statement (<https://www.irs.gov/pub/irs-pdf/f8886.pdf>), and its instructions (<https://www.irs.gov/pub/irs-pdf/i8886.pdf>).

The revision to the form adds lines regarding a taxpayer's total amount of tax benefits gained from a reportable transaction.

IRS Issues Memo Eliminating Certain Requirements for Listed Transaction Exams

The IRS Large Business and International Division issued a memorandum (LB&I-04-0220-0004 (<https://www.irs.gov/pub/foia/ig/lmsb/lbi-04-0220-0004.pdf>)) communicating changes to the information document request (IDR) enforcement process and the acknowledgment of facts IDR process during examinations of listed transactions and transactions of interest.

IRS Revised FATCA FAQs on QI/WP/WT Certification and Periodic Review Requirements

The IRS has revised its general frequently asked questions (FAQs) (<https://www.irs.gov/businesses/corporations/qualified-intermediary-general-faqs>) on the Foreign Account Tax Compliance Act (FATCA) Qualified Intermediaries (QIs), Withholding Foreign Partnerships (WPs), and Withholding Foreign Trusts (WTs). The revisions focus on certification and periodic review requirements.

New Jersey Updates Corporation Business Tax Overview

The New Jersey Division of Taxation has updated its corporation business tax overview (https://www.state.nj.us/treasury/taxation/corp_over.shtml). The overview discusses the history of the tax, current and historical rates, the minimum tax, short-period tax returns and the corporations subject to the tax.



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New Jersey Releases Technical Bulletin on Net Deferred Tax Liability Deduction

The New Jersey Division of Taxation has issued a technical bulletin (New Jersey Division of Taxation Technical Bulletin No. TB-96, 02 (<https://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb96.pdf>)) that discusses the net deferred tax liability deduction. Beginning on or after Jan. 1, 2023, publicly traded companies and their affiliates whose deferred tax positions are negatively affected as a direct result of the change to mandatory combined reporting may claim a net deferred tax liability deduction in an amount necessary to offset the increase in the net deferred tax liability, the decrease in the net deferred tax asset or the aggregate change from a net deferred tax asset to a net deferred tax liability.