

100-Percent Deduction Applies to Meal Portion of Per Diem

Cross References

- Notice 2021-63

In general, a taxpayer can choose to use the per diem rate to substantiate a deduction for the cost of a meal as an ordinary and necessary business expense while traveling away from home. IRC section 274(n)(1) limits a deduction for business meals to 50% of the cost. When the per diem rate is used to substantiate the cost of a meal, the taxpayer is allowed to deduct 50% of such per diem rate as the deduction for the business meal.

The Consolidated Appropriations Act, 2021, added IRC section 274(n)(2)(D) to the Internal Revenue Code which provides a temporary exception to the 50% limitation for business meals that are provided by a restaurant. Effective for expenses paid or incurred after December 31, 2020, and before January 1, 2023, food or beverages provided by a restaurant are 100% deductible provided the meal is otherwise deductible as a business meal.

New guidance issued by the IRS in Notice 2021-63 says that if the taxpayer properly applies the per diem rules to substantiate the amount of a business meal, the taxpayer may treat the meal portion of the per diem rate or allowance as being attributable to food or beverages provided by a restaurant.

See TheTaxBook news article, *100-Percent Deduction for Business Meals*, posted on 4/9/2021 for IRS guidance that explains the term “restaurant” for purposes of the 100-percent deduction for business meals.