

Meal Expense and Reimbursements

Federal Employment Tax Rules & Regulations

Below are questions concerning meal reimbursements which KSDE submitted to IRS representatives for their review:

1 **Are meals taxable while attending a meeting related to business?** (It is assumed that the meals are obtained off site and the employer provides meal reimbursements to employees).

Answer: Generally, meals allowed for Staff Employees while away from their tax home, **but not overnight**, are taxable as a wage to the employee, subject to employment taxes. Travel must be away from home **overnight** to be excludable from wages.

In order for travel meal reimbursements **to be excludable from wages**, employees must be traveling away from their tax home on their employer's business. Traveling "away from home" means:

1. Employee must be traveling away from the general tax home area substantially longer than an ordinary day's work, **and**
2. Employee needs to obtain substantial sleep or rest to meet the demands of the work while away from home.

Courts have set very strict rules on what constitutes substantial sleep or rest.

See Publication 463, Travel, Entertainment, Gift, and Car Expenses; IRC §1.62(a)(2), Rev. Ruling 75-170, Rev. Ruling 75-432

2 **Are meals excludable from employees' wages when served in a business setting and business is conducted?**

Answer: Reimbursements or allowances provided to employees for meals may be excludable if the expenses are ordinary and necessary, and meet one of the following tests:

Directly-Related or Associated Entertainment:

Directly-Related Test –

Meal reimbursements meet the directly-related test and may be excludable from wages if:

1. The main purpose of the combined business and meal is the active conduct of business,
2. Business is actually conducted during the meal period, and
3. There is more than a general expectation of a specific business benefit at some future time.

All of the facts must be considered, including the nature of the business transacted and the reasons for conducting business during the meal. If the meal takes place in a clear business setting and is for your business or work, the expenses are considered directly related to your business or work.

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Directly-Related or Associated Entertainment: *(continued)*

Associated Test –

Entertainment-related meal reimbursements meet the associated test and are excludable if the entertainment is:

1. Associated with the active conduct of the employer's business, and
2. Directly before or after a substantial business discussion.

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Generally, an expense is associated with the active conduct of a business, if there is a clear business reason for incurring the expense. The purpose may be to get new business or to encourage the continuation of an existing relationship. These activities need not occur in a clear business setting.

Whether a business discussion is substantial depends on the facts of each case. A business discussion will not be considered substantial unless you can show that you actively engaged in the discussion, meeting, negotiation, or other business transaction to get income or some other specific business benefit. You must show that the business discussion was substantial in relation to the meal.

See Publication 463, Travel, Entertainment, Gift, and Car Expenses and Reg. §1.274-2(c) and (d)

3 Are meals excludable from wages when provided in a meeting with substantial business discussions and/or negotiations directly preceded or following the meal?

Answer: Generally yes. *Please refer to answer number 2, Associated Test Rules.*

See Publication 463, Travel, Entertainment, Gift, and Car Expenses and Reg. §1.274-2(c) and (d)

4 Meals served at meetings that are necessary and directly related to attending business meetings or conventions of certain exempt organizations, such as teachers' meetings, school board associations, etc. are excludable from wages?

Answer: Correct. Trade or Professional Association Meetings meals generally are nontaxable business expenses. Reg. 1.274-2(d)(3)

Reimbursements for meal expenses directly related to and necessary for attending business meetings or conventions of certain exempt organizations are excludable from wages if the expenses of your attendance are related to your trade or business. These organizations include chambers of commerce, business leagues and trade or professional associations.

See Publication 463, Travel, Entertainment, Gift, and Car Expenses

5 Are meals that are de minimis in value (\$25 or less) excludable from employee's wages?

Answer: Meals provided to employees that are de minimis in value are excludable from wages. A de minimis benefit is any property or service that you provide to an employee that has so little value that accounting for it would be unreasonable or administratively impracticable.

For example, an occasional party or employee picnic. Occasional means it doesn't happen regularly or frequently. Internal Revenue Code Section 132 (a)(4) provides that the value of de minimis fringe benefits are excludable from gross income. In addition, **regularly provided meal money does not qualify for the exclusion for de minimis fringes provided by an employer.** *See answer 6 for additional guidance.*

See Publication 15-B, Employer's Tax Guide to Fringe Benefits; IRC 132

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6 Meals that are provided for overtime work which exceeds beyond the normal work schedule are excludable from employee's wages?

Answer: Generally yes. If the following three conditions are met, occasional meal money may be excludable from income as a de minimis fringe benefit:

- 1) **Occasional Basis** – Meal is reasonable in value, and not provided regularly or frequently, **and**
- 2) **Provided for Overtime Work** – Overtime work necessitates an extension of the employee's normal work schedule, **and**
- 3) **Enables Overtime Work** – Provided to enable the employee to work overtime. Meals provided on the employer's premises that are consumed during the overtime period, or meal money expended for meals consumed during that period, satisfy this condition.

Regularly provided meal money does not qualify for the exclusion for de minimis fringes provided by an employer. Meal reimbursements as part of a company policy or union contract may not qualify as an excludable de minimis benefit because the benefit is required and may not be considered occasional. In this case, the employer would have the opportunity to set up the administrative procedures for reporting the benefit.

In no event will meal money calculated on basis of number of hours worked (e.g. \$5.00 per hour for each hour worked over 8 hours) be excludable as a de minimis fringe benefit.

See Publication 15-B, Employer's Tax Guide to Fringe Benefits; Reg. 1.132-6(d)(2)

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