

IRS defines “restaurant” for 100% deduction of business meals

Business meals are 100% deductible until Jan. 1, 2023—*when purchased at a “restaurant.”*

But does “restaurant” include: delivered food? food purchased grocery stores? at specialty food shops?

Here are the answers.

A restaurant, for purposes of a business meal deduction, is an establishment that prepares and sells food or beverages to retail customers for immediate consumption—regardless of whether the food or beverages are consumed on or off the restaurant’s premises (IRS Notice 2021-25).

In other words, take-out is included—when purchased from a “restaurant.”

Not included: food or beverages purchased from:

- X grocery stores
- X specialty food stores
- X beer, wine, or liquor stores
- X drugstores
- X convenience stores
- X newsstands; and
- X vending machines or kiosks

Food or beverages acquired from businesses that primarily sell prepackaged food or beverages not for immediate consumption are only 50% deductible—*and* only when the expenses meet the requirements for deductible food and beverage expenses.

Eating facilities located on the employer’s business premises are not “restaurants”

An employer-operated facility treated as a de minimis fringe benefit is not a restaurant, regardless of whether the facility is operated by the employer or a third party under contract with the employer.

To be 100% deductible, food and beverage expenses must meet the requirements of §274, *Disallowance of certain entertainment, etc., expenses*, which are as follows:

- ✓ The cost of food or beverages cannot be provided at an entertainment activity unless purchased separately from the entertainment or stated separately in an invoice, bill, or receipt; and
- ✓ The expense cannot be lavish or extravagant under the circumstances, and the employer or its employee must be present when the food or beverages are provided.