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The List of Nondeductible Expenses Continues to Grow

[PROFESSIONAL SERVICES](#), [TAX](#), [TAX REFORM](#), [TCJA](#)
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The Tax Cuts and Jobs Act (TCJA) has made significant changes to the tax code and the related underlying deductions available to taxpayers. These changes have had a significant impact on professional service organizations. Specifically, businesses that operate in this environment have seen the deduction for expenses related to client entertainment go from 50% deductible to nondeductible. In addition, businesses frequently bring in meals for internal meetings or to enhance their employees' efficiency. Those expenses were 100% deductible prior to the passage of TCJA and are now 50% deductible until 2025, and then they become nondeductible.

If you thought the reduction and elimination of deductions stopped there, think again. In December of 2018, the IRS issued Notice 2018-99 that addressed the tax treatment of qualified transportation fringe benefits, which include van pools, transit passes, bicycle commuting and qualified parking. This notice provides that, at a high level, if the cost of qualified transportation fringe benefits is not included in an employee's wages, the employer will not be entitled to the underlying deduction for those transportation fringe benefits.

The IRS allows that any fringe benefits paid on behalf of the employee that are less than \$260 per month will be considered de minimis and not required to be included in an employee's taxable compensation. However, to the extent these benefits are not included in an employee's taxable compensation, they will not be deductible by the employer. So while the IRS has provided a de minimis threshold to reduce reporting requirements and to enhance employee benefits, the TCJA has now deemed those expenses nondeductible. The common expense that you would think of is parking paid by the employer on behalf of the employee, but this also applies to Section 125 qualified transportation fringe benefits that employers do not fund, but instead provide a mechanism by establishing a plan to enable employees to pay for all or a portion of their qualified transportation fringe benefits on a pre-tax basis.

However, now because these benefits are paid pre-tax (even though they are not paid by the employer), the employer will not be able to deduct the wage expense attributable to the pre-tax funding of qualified transportation fringe benefits. This may be a big surprise for many employers that thought it would be limited to transportation fringe benefits paid directly by the employer. This can have a significant impact on employers located in an urban setting, where the majority of their employees take advantage of the pre-tax funding of qualified transportation fringe benefits related to parking and transit passes.

Employers that are located in suburban or rural areas that provide employees free parking will also need to quantify the cost of the parking provided, and to the

extent it is not included in the employee's wages, will need to disallow the tax deduction related to the cost of parking provided to employees. There is a four-step process outlined in IRS Notice 2018-99 to quantify the amount of parking-related expenses that would not be deductible. In some cases, if more than 50% of the parking area is available for use by the general public, there may be little to no expense disallowed. Please consult a Schneider Downs tax professional to determine how these rules may impact your business.

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