The Kiplinger Tax Letter

CIRCULATED BIWEEKLY TO BUSINESS CLIENTS SINCE 1925

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Dear Client:

Washington, March 23, 2018

HIGHLIGHTS
Health Care Individual mandate
Filing Season Name change
Home Sales Short selling
Real Estate Rental losses
Foreign Accounts Amnesty ending
Enforcement Refundable credits

Big changes for employers under tax reform. We'll delve into three of them in this Letter.

Let's begin with meals and entertainment.

Entertainment expenses are not deductible. Before 2018, firms could generally take a tax write-off for half of their business-related entertainment costs. Tax reform axed this break starting with 2018 returns, so no more writing off show tickets, golf course fees, sporting events and the like, even if taking clients.

Holiday parties are still fully deductible.

Employee meals on business travel remain 50% deductible by the employer.

Limits are now placed on meals at an employer-operated eating facility, such as a cafeteria. Whereas companies used to be able to deduct the entire expense, the write-off is now subject to a 50% bite. After 2025, the cost is disallowed in full. The same rules apply to meals an employer brings on-site for employee meetings and other on-premises meals that are provided for the convenience of the employer.

The deductibility of the cost of client meals is murky under the new tax law. There's a sharp divide among tax practitioners on this issue. Some say that client meals, such as at a restaurant for a business dinner or a post-golf lunch at a country club, are 50% deductible if business is conducted or discussed. Others aren't so sure and take a more conservative position that client meals can no longer be written off until IRS comes out with guidance saying otherwise. We appreciate the uncertainty, but we tend to side with those that say client business meals remain 50% deductible, provided the meals aren't so lavish that they rise to the level of entertainment.

To be on the safe side, business owners should track all of their receipts in separate ledger accounts based on the specific type of meal or entertainment expense.

Firms can no longer deduct the cost of transportation-related fringe benefits offered to employees, such as for on-site parking, mass transit passes and bicycles. The write-off is axed regardless of whether benefits are paid directly by the employer or through a reimbursement arrangement or compensation reduction agreement, IRS confirms in Publication 15-B, its annual employer tax guide to fringe benefits. We expect firms to still offer these benefits, notwithstanding the loss of the tax break.

Employees can still use pretax money for parking and mass transit passes. Ditto for vanpools, but not bicycle commuting. The monthly limit for 2018 is $260. It should be noted that New York City, San Francisco and Washington, D.C., require employers of a certain size to offer workers pretax commuter benefits.

The tax laws have caught up with the Time's Up and #MeToo movements.

Businesses that settle sexual harassment claims can't deduct payments that are subject to a nondisclosure agreement. The same goes for attorney's fees. It remains to be seen what impact this will have on employers involved in these suits. For example, will there be fewer nondisclosure agreements or less money paid out?

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