

# BMD Factsheet - Entertainment

Entertainment expenses are **NOT DEDUCTIBLE** – except in very limited circumstances.

## What is Entertainment?

Recreation:

- amusement,
- sport,
- leisure time pursuits, including in vehicles, vessels or aircraft (joy flights),
- tickets to sporting or theatrical events,
- sight-seeing.

Certain Christmas Gifts to Employees:

- by way of food, drink or recreation
  - e.g. a holiday,
  - tickets to sporting events, the theatre or cinema or
  - the cost of a night out at a restaurant

Food:

- Business lunches at cafes/restaurants,
- cocktail parties,
- the cost to an employer of providing staff social functions.

Entertainment also covers **TRAVEL or ACCOMMODATION** associated with any of the above.

Non deductibility applies no matter **who the recipients** of the entertainment are and **irrespective** of whether there is a **genuine connection** with **business activities**.

## What is not Entertainment?

- The cost of a relatively inexpensive Christmas gift (e.g. a bottle of whisky or wine or a food hamper) to be consumed at home.
- Morning and afternoon teas.
- **Light lunches** provided during the working day on business premises.

**YOU MUST ASK THE FOLLOWING QUESTIONS TO DETERMINE IF THE PROVISION OF FOOD AND DRINK CONSTITUTES ENTERTAINMENT**

*Why is the food and drink provided?*

- If provided for refreshment – not entertainment
- Where provided in a social situation – entertainment

## What food and drink is being provided?

- The more elaborate the meal, the more likely it will be entertainment.
  - For example, when an employer provides morning or afternoon teas or light meals, that food or drink does not usually confer entertainment on the employee. By contrast, a three course meal provided to an employee during a working lunch has the characteristics of entertainment. The nature of the food itself confers entertainment on the employee.

## When is the food and drink being provided?

- If being provided **during work time, overtime or while travelling overnight**, it is less likely to be entertainment, as it will be for a work related purpose.

(However, **meals during work time are only deductible if away overnight, at a seminar or working lunches on business premises** – refer further below)

- However a social function held during work time will be entertainment

## Where is the food and drink being provided?

- On the employers premises or at the usual workplace – less likely to be entertainment
- In a function room, hotel, restaurant or consumed with other forms of entertainment e.g. in a corporate box at a sporting event, likely to be entertainment

The Commissioner accepts that where an employee travelling:

- to a seminar/coffee & muffin on way to visit a client - you can claim
- You can't claim lunch while 'out on the road' as it's purely sustenance
- But if away overnight (or more than 8hrs) in the course of performing employment duties, food and drink consumed, including alcohol are generally deductible (whether alone, with other employees or with clients who are also travelling, or with a spouse). The food and drink provided to the employee without any supplementary entertainment (e.g. a floor show) do not have the character of entertainment and as such may be deductible under general deduction provisions, whether or not it is subject to FBT.

Whether food or drink constitutes entertainment must be determined in consideration of:

- venue,
- quality of food and drink,
- the occasion,
- cost and nature.

For example -

- A gala dinner at a leadership seminar held at a luxurious location was entertainment,
- The provision of sandwiches and coffee during a working session is not entertainment.

## Seminars

The cost of food, drink, accommodation and travel that is incurred in attending a seminar lasting at least 4 hours is NOT entertainment. A seminar includes:

- A Conference
- Convention
- Lecture
- Meeting
- Award presentation
- Speech
- Q & A session
- Training session
- Educational course

### An expense is not deductible IF

- The seminar is a **'business meeting'**

OR

- the main purpose of the seminar is the promotion or advertising of a business or of its goods or services.

**A seminar is a 'business meeting' if its main purpose is to enable discussion of the affairs of a particular business between persons associated with that business.**

A **deduction** is available **if** the **seminar** is organized on behalf of employer solely for training employees, partners, and directors in matters relevant to the company's business **AND** conducted in conference facilities owned by a person whose business is operating venues for conferences.

Special Safeguards:

If you sponsor a sporting event and are given a sporting box or tent, the commissioner will look beyond the costs of sponsorship and disallow them accordingly. Where e.g. advertising signs are provided in conjunction with a corporate box, the ATO accepts that 5% of the total costs are deductible advertising and 95% are entertainment (2017 Master Tax Guide 16-400 p 1026).

## Promotional Events

If your business conducts a promotional event which is **open to the public** then expenses are deductible and not entertainment.

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