NHL Team Prevails in Tax Case: Away from Home Meals are 100 Percent Deductible

The Boston Bruins case represents a potential (but not guaranteed) opportunity for employers outside of the sports industry to deduct 100 percent for meals provided to their employees far away from the business premises.

In general, meals provided to employees on or near an employer's premises can be 100 percent deductible by the employer (and not taxable to the employees) if the meals are provided for the convenience of the employer. However, companies are generally limited to a 50 percent deduction for the cost of employer-provided meals far away from the business premises. So why did the Tax Court hold, in Jacobs v. Commissioner, 148 TC No. 24 (June 26, 2017), that the Boston Bruins were able to fully deduct meals served in far-away-city hotels, where the hockey team stayed for on-the-road games, without applying the 50 percent deduction disallowance? Can this ruling similarly apply to companies outside of the sports industry?

Details

Background

The 2009 and 2010 returns for the S corporation owning the Boston Bruins (a National Hockey League team) claimed meal expense deductions of $255,754 and $284,446, respectively, for the full expenses incurred in providing meals to the hockey players and team personnel while at away-city hotels. The IRS determined deficiencies of $45,205 and $39,832 for the taxable years 2009 and 2010, respectively, asserting that the 50 percent disallowance deduction for meals under Section 274(n) of the Internal Revenue Code applied to the meal expenses provided to the traveling employees. The Bruins petitioned the Tax Court, disputing the IRS' determination.

At issue is whether the hockey club satisfied the exception to the 50 percent disallowance deduction for meals and were able to deduct 100 percent of the cost it incurred to provide its players and staff with meals while traveling to away games. In finding in favor of the Bruins, the Tax Court concluded that the away-city hotels constituted the Bruins' business premises. This ruling provides flexibility to the definition of an "employer-operated eating facility."

Meeting the Exception to the 50% Deduction Limitation

Section 162(a) allows taxpayers to deduct business expenses.

Section 274(n) imposes a 50 percent limitation on the deduction for meal expenses, unless an exception applies.

Section 274(n)(2)(B) provides that the 50 percent limitation does not apply if a meal qualifies as a de minimis fringe benefit that is excludable from the employee's gross income under Section 132(e).

Section 132(e)(2) addresses whether the operation of an eating facility by an employer qualifies as a de minimis fringe benefit. To meet this exception, each of the following six elements of Section 132(e) and its corresponding regulations must be satisfied.

1. **Access to the eating facility must be available in a nondiscriminatory manner.**

The Tax Court found that the Bruins provided pregame meals to all traveling hockey employees – highly compensated and non-highly compensated; players and non-players. Further, "traveling employees" is a reasonable classification that does not discriminate in favor of highly compensated employees.

2. **The eating facility is owned or leased by the employer.**

Although the hotel contracts entered into between the Bruins and the away-city hotels are not specifically identified as "leases," the Tax Court found that the

substance of these contracts indicates that the Bruins paid consideration in exchange for the "right to use and occupy" the hotel meal rooms, which constitutes a lease.

3. The eating facility is operated by the employer.

In accordance with the regulations, if an employer contracts with another to operate an eating facility for its employees, the facility is considered to be operated by the employer. The Bruins contracted with each away-city hotel regarding the operation of its meal rooms, as well as food preparation and service.

4. The meals furnished at the facility are provided during, or immediately before or after, the employee's workday.

The IRS conceded this requirement was satisfied, since meetings were held during the meals in preparation for the games.

5. The meals are furnished for the convenience of the employer.

Meals furnished at no cost to the employees for a substantial non-compensatory business reason are considered to satisfy the "convenience of the employer" requirement. The Tax Court noted that providing meals at away-city hotels enabled the Bruins to effectively manage a hectic schedule and maximize time dedicated to activities that help achieve the organization's goal of winning hockey games (e.g., ensuring players have adequate rest, reviewing game film, strategizing, making roster adjustments, conducting player-coach meetings, preparing for public relations inquiries, providing remedial and preventative athletic treatments, and workouts).

6. The facility in which meals are furnished is located on or near the business premises of the employer.

An employer's business premises is a place where employees perform a significant portion of duties or where the employer conducts a significant portion of its business. The Tax Court considered the traveling hockey employees' performance of significant business duties at each away-city hotel along with the unique nature of the Bruins' business. The Bruins' business requires the team to travel to various arenas across the United States and Canada for one-half of their 82-game regular season. The team's goals are to win as many regular season games as possible, qualify for the post-season, and win the championship. Staying at away-city hotels and conducting business there are indispensable to the Bruins' preparation for on-the-road games. The team could not perform all these necessary functions exclusively in Boston and a significant portion of their duties were performed at away-city hotels. Accordingly, the Tax Court held that each away-city hotel constituted part of the Bruins' business premises.

Insights

Although this precedent may readily apply to franchise teams within the sports industry, the flexible definition of an "employer-operated eating facility" adopted by the Tax Court may be sufficiently expansive to permit similarly situated companies to fully deduct meals away from their traditional employer facility. While elements (1) through (5) discussed above may be straight forward to satisfy, the sixth element may be more challenging for other companies to meet, depending on the nature of their business. For the remote location to constitute a company's business premises in which the cost of employer-provided meals are fully deductible, an employer must establish that its employees perform a significant portion of their duties at that location or the employer conducts a significant portion of its business there.