# Recent Developments in Federal Income Taxation

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## Selected Highlights of the Tax Cuts and Jobs Act

- Accounting
  - Increased ability of C corporations to use cash method [p.3, A.1]
    - C corporations, and partnerships with C corporation partners, can use cash method if average annual gross receipts over 3 prior years do not exceed $25 million.
    - Applies even if inventory is material income-producing factor.
    - Change in accounting method treated as made with IRS consent.
  - Expanded exception to the UNICAP rules [p.5, D.1]
    - Available to taxpayers who meet the $25 million gross receipts test (above).
    - Available to those who produce and those who acquire for resale
  - Revenue recognition by accrual method taxpayers [p. 5, D.2]
    - No later than recognized in "applicable financial statement"
    - Codification of deferral method for advance payments
  - See Rev. Proc. 2018-40 (Aug. 3, 2018) (accounting method changes)

## Costs of Entertainment
## 2017 TCJA § 13304
## *Outline: item D.2, page 8*

- TCJA § 13304 amends Code § 274(a) to disallow business deductions for:
  1. Costs "[w]ith respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation."
  2. Membership dues with respect to any club organized for business, pleasure, recreation or other social purposes.
- Applies to taxable years beginning after 2017.
- Notice 2018-76, 2018-42 I.R.B. 599 (10/3/18).
  - Treasury and IRS will issue proposed regulations.
  - Meals are still deductible (subject to 50% limit) if, among other requirements, taxpayer (or employee) is present and meal is provided to current or potential business customer, client, consultant, or similar business contact.



## Notice 2018-76
## 2018-42 I.R.B. 599 (10/3/18)
## *Not in Outline*

- Taxpayers may deduct 50 percent of an otherwise allowable business meal expense if:
  1. The expense is an ordinary and necessary expense under § 162(a) paid or incurred during the taxable year in carrying on any trade or business;
  2. The expense is not lavish or extravagant under the circumstances;
  3. The taxpayer, or an employee of the taxpayer, is present at the furnishing of the food or beverages;
  4. The food and beverages are provided to a current or potential business customer, client, consultant, or similar business contact; and
  5. In the case of food and beverages provided during or at an entertainment activity, the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. The entertainment disallowance rule may not be circumvented through inflating the amount charged for food and beverages.

## Notice 2018-76
## 2018-42 I.R.B. 599 (10/3/18)
## *Not in Outline*

- Example 1.
  1. Taxpayer A invites B, a business contact, to a baseball game. A purchases tickets for A and B to attend the game. While at the game, A buys hot dogs and drinks for A and B.
  2. The baseball game is entertainment as defined in § 1.274-2(b)(1)(i) and, thus, the cost of the game tickets is an entertainment expense and is not deductible by A. The cost of the hot dogs and drinks, which are purchased separately from the game tickets, is not an entertainment expense and is not subject to the § 274(a)(1) disallowance. Therefore, A may deduct 50 percent of the expenses associated with the hot dogs and drinks purchased at the game.



## Notice 2018-76
## 2018-42 I.R.B. 599 (10/3/18)
## *Not in Outline*

- Example 2.
  1. Taxpayer C invites D, a business contact, to a basketball game. C purchases tickets for C and D to attend the game in a suite, where they have access to food and beverages. The cost of the basketball game tickets, as stated on the invoice, includes the food and beverages.
  2. The basketball game is entertainment as defined in § 1.274-2(b)(1)(i) and, thus, the cost of the game tickets is an entertainment expense and is not deductible by C. The cost of the food and beverages, which are not purchased separately from the game tickets, is not stated separately on the invoice. Thus, the cost of the food and beverages also is an entertainment expense that is subject to the § 274(a)(1) disallowance. Therefore, C may not deduct any of the expenses associated with the basketball game.

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