

Income Tax

IMP. 421.1-1/R1 Meal and Entertainment Expenses
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Reference(s): *Taxation Act* (CQLR, c. I-3), sections 175.6.1, 421.1, 421.1.1, 421.2, 421.3,
421.4 and 421.4.1

This version of interpretation bulletin IMP. 421.1-1 supersedes the version of August 31, 1995. The bulletin was revised in order to update it by taking into account the legislative amendments made and the interpretations given since that date. Some changes in respect of style were also made.

This bulletin deals with the rules laid down in the *Taxation Act* (TA) regarding amounts paid or payable in respect of food, beverages or entertainment consumed or enjoyed by a person that are otherwise deductible in computing income from a business, property or, in certain cases, an office or employment, capitalized (included in the cost of land or depreciable property) or included in inventory costs, scientific research and experimental development expenditures, exploration expenses or other expenses, subject to certain exceptions and particulars.

APPLICATION OF THE ACT

GENERAL RULE

1. Section 421.1 of the TA provides that an amount paid or payable in respect of food, beverages or entertainment consumed or enjoyed by a person is deemed to be equal to 50% of the lesser of the amount paid or payable in respect thereof and an amount in respect thereof that would be reasonable in the circumstances (hereinafter referred to as the "50% limit").

An amount paid or payable includes related expenses, such as taxes, gratuities and cover charges.

2. The 50% limit applies for all purposes of Part I of the TA.¹ The limit applies whether or not the taxpayer who pays an amount is the person who consumes the food or beverages or enjoys the

¹ Except for sections 348 to 350 (moving expenses) and 752.0.11 to 752.0.13.3 (tax credit for medical expenses, tax credit for medical care and tax credit for moving expenses related to medical care) of the TA and divisions II.6 to II.6.0.0.5 (tax credit for Québec film productions, tax credit for film dubbing, tax credit for film production services, tax credit for the production of sound recordings, tax credit for the production of performances, tax credit for the production of multimedia events or environments presented outside Québec, and tax credit for book publishing),

entertainment. Such is the case, for example, with respect to amounts incurred for gift cards provided to the taxpayer's clients for the consumption of food and beverages or for entertainment.

3. The term "entertainment" includes recreation and amusement. Among the amounts that may be considered paid or payable in respect of entertainment and subject to the 50% limit are:

- (a) the cost of tickets for a theatre performance, a concert, a sports event or any other performance;
- (b) the cost of private boxes at sports facilities;
- (c) the cost of renting a room or hospitality suite to provide entertainment;
- (d) the cost of a cruise;
- (e) the cost of admission to a fashion show; and
- (f) the cost of entertaining at night clubs and club membership fees, to the extent such costs are not covered by the restriction in section 134 of the TA. For more information regarding the application of the rules provided for in section 134 of the TA, see the current version of the guide *Business and Professional Income* (IN-155-V).

4. The 50% limit generally applies to lodging and transportation expenses that are part of the cost of entertainment activities.

EXCEPTIONS

5. Section 421.2 of the TA provides for a series of exceptions to the 50% limit. Thus, the limit does not apply to an amount paid or payable by a person in respect of the consumption of food or beverages or in respect of entertainment enjoyed by a person, where the amount:

- (a) is paid or payable for food, beverages or entertainment provided for, or in the expectation of, compensation in the ordinary course of a business carried on by that person of providing the food, beverages or entertainment for compensation;

This exemption only applies to amounts expended for food, beverages and entertainment that are part of the taxpayer's products. This exempts restaurants, hotels and airlines if the expenses are incurred to provide food, beverages or entertainment for compensation.

If a taxpayer sells food, beverages or entertainment, promotional samples are also exempt from the 50% limit.

In addition, if training is provided in the ordinary course of a business carried on by a taxpayer and the cost of meals is part of the cost of the training sessions provided to participants for compensation, the 50% limit may not apply to the cost of the meals.

II.11.1 (tax credit for home-support services for seniors), II.12 (tax credit for adoption expenses), II.12.1 (tax credit for the treatment of infertility) and II.13 (tax credit for childcare expenses) of Chapter III.1 of Title III of Book IX of Part I of the TA.

However, if employees of a distillery or food company take customers out for a business meal, the cost of the food and beverages is subject to the 50% limit.

- (b) relates to a fundraising event the primary purpose of which is to benefit a registered charity;

Thus, expenses related to a special event benefiting a registered charity may not be subject to the 50% limit. However, the limit does apply to expenses related to an event that is part of the regular activities of a registered charity.

For example, the expenses paid on behalf of a client on the occasion of the charity's annual fundraising dinner are not subject to the 50% limit, whereas the cost of tickets for plays put on by a registered charity that encourages amateur theatre is subject to the limit.

- (c) is an amount for which the person is compensated and the amount of the compensation is reasonable and specifically identified in writing to the person paying the compensation;

For example, a self-employed person who expends a reasonable amount for meals consumed away from home and subsequently bills his client for that amount is entitled to deduct the full amount of those expenses if the invoice submitted to the client specifies that the amount is for such meals. However, the expenses incurred by the client in that regard are subject to the 50% limit.

It is not enough to show that amounts paid for food, beverages and entertainment were rebilled to clients; the amounts must be clearly identified to them.

The specific identification in writing most often takes the form of an invoice but may be made in another document, such as a contract.

- (d) is an amount that is required to be included in computing any individual's income from an office or employment in respect of food or beverages consumed or entertainment enjoyed by the individual or a person with whom the individual does not deal at arm's length, or would be so required but for section 37.1.5 of the TA (gifts and awards received from an employer) or subparagraph (ii) of paragraph (a) of section 42 of the TA (employment in a remote location);

- (e) is an amount that:

- i. is not paid or payable in respect of a conference, convention, seminar or similar event,
- ii. would, but for subparagraph (i) of paragraph (a) of section 42 of the TA (employment at a special work site), be required to be included in computing any individual's income from an office or employment for a taxation year in respect of food or beverages consumed or entertainment enjoyed by the individual or a person with whom the individual does not deal at arm's length, and
- iii. is paid or payable in respect of the individual's duties performed at a work site in Canada that is outside any population centre (as defined by the last Census Dictionary published

by Statistics Canada before the year) having a population of at least 40,000 individuals, as determined in the last census published by Statistics Canada before the year, and that is located at least 30 kilometres from the nearest point on the boundary of the nearest population centre meeting the aforementioned conditions;

- (f) is an amount that:
- i. is not paid or payable in respect of entertainment or of a conference, convention, seminar or similar event,
 - ii. would, but for subparagraph (i) of paragraph (a) of section 42 of the TA (employment at a special work site), be required to be included in computing any individual's income from an office or employment for a taxation year in respect of food or beverages consumed by the individual or by a person with whom the individual does not deal at arm's length,
 - iii. is paid or payable in respect of the individual's duties performed at a site in Canada at which the person carries on a construction activity or at a construction work camp referred to in subparagraph (iv) below in respect of the site, and
 - iv. is paid or payable for food or beverages provided at a construction work camp, at which the individual is lodged, that was constructed or installed at or near the site to provide board and lodging to employees while they are engaged in construction services at the site;
- (g) is in respect of one of six or fewer special events held in a calendar year at which the food, beverages or entertainment is generally available to all individuals employed by the person at a particular place of business of the person and then consumed or enjoyed by those individuals at that time;

Such special events include, for example, Christmas parties and other seasonal celebrations, picnics for the employees of the business and other social functions, whether the activities are held at a place of business of the taxpayer or elsewhere.

The term "particular place of business" generally refers to the employer's permanent establishment, such as an office, a factory, a warehouse, a branch or a store, and, in the context of this exception, is the place where the taxpayer's employees ordinarily work or to which they are ordinarily attached, and where they receive their instructions and get paid. The place may consist of a cluster of buildings, one building or a portion of a building, depending on the circumstances. For example, an employer who occupies one floor of a building in the western part of the city and an entire building in the eastern part of the city is considered to occupy two separate particular places of business. On the other hand, an employer who has two or more adjacent buildings is considered to occupy one particular place of business in respect of all those buildings.

The maximum of six special events is calculated for each place of business of a taxpayer. Thus, the taxpayer may benefit from the exception in respect of expenses of the taxpayer that would otherwise be subject to the 50% limit where the expenses are incurred in

respect of the organization of a maximum of six special events per calendar year for each of the taxpayer's separate places of business, provided all the employees of each particular place of business are invited to the events.

Furthermore, a "place of business" generally refers to a place and not an organizational or hierarchical part of a corporate structure, although these two concepts may sometimes be co-extensive. National meetings that are organized for all the employees of a division of a business who work at several of its places of business do not qualify for the exception because the meetings are not organized for all the employees of a particular place of business.

Where, because of the large number of employees who work at one of a taxpayer's particular places of business, it is not really practical or possible to gather them all at the same time for a special event, separate events may be organized for all the employees of each division, section or department of the business working at the same particular place of business of the taxpayer. In such a case, Revenu Québec agrees to consider that a single special event was held for that place of business.

Moreover, the exception is only available where the employer either provides the food, beverages or entertainment or makes the arrangements for them to be provided.

Revenu Québec considers that the exception is also available where the food or beverages are consumed or the entertainment is enjoyed by the employees' spouses and children, provided the food, beverages or entertainment is offered to the spouses and children of all the employees of a particular place of business.

However, where clients are present at a special event such as described above, the taxpayer must be able to separate the expenses paid for the taxpayer's employees and their spouses and children from those paid for the taxpayer's clients, using a reasonable method. The expenses related to the food and beverages consumed or the entertainment enjoyed by the clients may be subject to the 50% limit.

- (h) is an amount that is the cost of a subscription to cultural events that are:
- i. concerts of a symphony orchestra or a classical music or jazz ensemble,
 - ii. operas,
 - iii. vocal performances, other than such performances held in venues normally used for sports events,
 - iv. performing arts variety shows,
 - v. museum exhibits,
 - vi. dance performances, or
 - vii. theatre performances;

The term "subscription" means an agreement between a cultural events presenter and a client under which the client acquires a package put together by the cultural events presenter and consisting of a determined number of tickets for a minimum of three different presentations of events listed above that are held in Québec.

A different presentation of an event does not include a presentation of the same performance on another night.

The term "cultural events presenter" means a person or an organization whose mission is to present the arts, history or science and that is responsible for programming professional performances or museum exhibits generating box office or subscription income; a person or an organization acting on behalf of such a person or organization previously described; or a manager or lessee of a venue for cultural events.

- (i) is an amount that is the cost of all or substantially all the tickets for a performance in an event referred to in subparagraph (h) above.

For the purposes of subparagraphs (h) and (i) above, the cost of a subscription or ticket, as the case may be, does not include an amount paid or payable in respect of meals or beverages consumed by a person.

6. For the purpose of determining whether the conditions pertaining to the exceptions set out in subparagraphs (d) to (f) of the first paragraph of point 5 of this bulletin are met in respect of an amount referred to in section 42 of the TA, paragraph (g) of section 39 of the TA must not be taken into account. Under paragraph (g) of section 39 of the TA, prescribed travel, personal, living or representation expense allowances and any other amount prescribed in respect of such expenses, such as certain allowances fixed by a collective agreement in the construction industry, do not have to be included in computing an individual's income from an office or employment.

7. That rule exists so that the exceptions set out in subparagraphs (d) to (f) of the first paragraph of point 5 of this bulletin are not rendered inapplicable by reason of paragraph (g) of section 39 of the TA.

PARTICULARS

Airplane, train or bus travel

8. No amount paid or payable for travel on an airplane, a train or a bus is to be considered an amount paid or payable in respect of food, beverages or entertainment consumed or enjoyed by a person while travelling thereon. Accordingly, the expenses incurred for the meals and beverages served and the entertainment provided while travelling on these vehicles are not subject to the 50% limit if they are included in the travel fee.

Allowance paid to an artist

9. If a person who is a producer, within the meaning of the *Act respecting the professional status and conditions of engagement of performing, recording and film artists* (CQLR, c. S-32.1) (APSA),

pays or is required to pay in a taxation year an allowance for meal expenses to a person who is an artist, within the meaning of the APSA, in relation to services rendered in the course of a business carried on by the artist, the latter is deemed to be an employee for the purpose of determining the amount that the producer may deduct, in respect of the allowance, in computing the producer's income for the year from a business carried on by the producer, if:

- (a) the allowance for meal expenses is paid or payable under a collective or individual agreement that is binding on the artist and the producer; and
- (b) the agreement is entered into in accordance with the APSA.

Conferences, conventions and seminars

10. For the purposes of sections 421.1 and 421.2 of the TA, where a fee paid or payable for a conference, convention, seminar or similar event entitles the participant to food, beverages or entertainment, other than incidental beverages and refreshments (such as juice, coffee, muffins or brioches) made available during the course of meetings or receptions at the event, and a reasonable part of the fee, determined on the basis of the cost of providing the food, beverages or entertainment, is not identified in the account for the fee as compensation for the food, beverages or entertainment, an amount of \$50 or such other amount as may be prescribed is deemed to be the amount paid or payable in respect of food, beverages or entertainment (and is accordingly subject to the 50% limit) for each day of the event on which food, beverages or entertainment is provided.

11. Thus, the fee for the event is deemed to be equal to the expenses incurred minus the amount deemed to be the amount paid or payable for the food, beverages or entertainment.

12. For example, the registration fee for a four-day convention in 2019 is \$1,200 but no amount is specifically identified for the meals and entertainment provided to participants on that occasion. Thus, an amount of \$200 (\$50 per day × 4 days) is deemed to be the amount paid or payable for the food, beverages and entertainment provided during the convention. The person may therefore deduct \$1,000 (\$1,200 - \$200) plus 50% of the amount of \$200, provided all the conditions in respect of the deductibility of this expense are met.

Package price

13. If a package price includes both an amount for food, beverages or entertainment and other amounts not subject to the 50% limit, the taxpayer has to determine the value or make a reasonable estimate of the amount subject to the 50% limit. Such a determination or estimation is not required if the rules set out in subparagraph (c) of the first paragraph of point 5 and in point 8 of this bulletin apply and is not permitted if the rules set out in points 10 to 12 of this bulletin apply.

MEAL EXPENSES OF A LONG-HAUL TRUCK DRIVER

14. An amount paid or payable in respect of the consumption of food or beverages by a long-haul truck driver during an eligible travel period of the driver is deemed to be equal to the amount obtained by multiplying the specified percentage, which is 80% if the amount is paid or

becomes payable after December 31, 2010, by the lesser of the amount so paid or payable and a reasonable amount in the circumstances.

15. The terms "eligible travel period," "long-haul truck" and "long-haul truck driver" have the meaning assigned by section 421.1.1 of the TA.

CEILING FOR AMOUNTS SUBJECT TO THE 50% LIMIT

16. The aggregate of all amounts subject to the 50% limit (including the cost of meals consumed during a convention, seminar, meeting or similar event) that a taxpayer may deduct in computing income from a business or property for a taxation year cannot exceed the amount calculated in accordance with the rules provided for in section 175.6.1 of the TA (hereinafter referred to as the "ceiling").

17. If a taxpayer carries on more than one business, the ceiling is determined for each source. The same is true with respect to property income. Whether or not the simultaneous carrying on of two or more commercial operations by a taxpayer constitutes a single business depends on the degree of correlation, interlacing and interdependence of the operations.

18. However, where an amount subject to the 50% limit is an amount in respect of food or beverages consumed by a person in a place that is at least 40 kilometres from the taxpayer's place of business where that person ordinarily works or to which that person is ordinarily attached and to the extent that the amount is paid or payable in connection with activities related to the taxpayer's business that are ordinarily carried on by a person in a place so remotely located from that place of business, the deduction of the amount is not subject to the ceiling. The 40-kilometre distance is measured using the shortest route available on public roads.

19. The expression "ordinarily carried on" requires an examination of the inherent profile of the business's activities. The activities concerned are those that are carried on by the business on a regular basis in places remotely located from its place of business and that give rise to higher costs for the business in respect of food or beverages, such as the operations of certain businesses in the transportation industry.

20. Dispensing with the ceiling cannot be authorized, for example, where the activities involve trips to attend hockey games to improve client relations or recurrent two day trips made by a taxpayer to meet with clients three or four times a year in a place remotely located from the place of business.

21. Furthermore, where a taxpayer earns income through a partnership, the ceiling applies to the partnership and must be computed based on the partnership's income. Accordingly, a taxpayer who is a member of a partnership at the end of a fiscal period of the partnership cannot, in respect of a business carried on, or property owned, by the partnership, deduct any amount incurred by the taxpayer and subject to the 50% limit in computing the taxpayer's income from the business or property for the taxpayer's taxation year in which the fiscal period ends.

22. Similarly, where a taxpayer who is a member of a partnership incurs costs related to the consumption of food and beverages that are covered by the exception for food or beverages consumed in a place at least 40 kilometres from the partnership's place of business (see point 18

of this bulletin), the taxpayer cannot deduct the costs in computing the taxpayer's income even if the partnership does not take the costs into account in computing the ceiling.

23. For more details concerning the calculations relating to the ceiling, see the current version of the guide *Business and Professional Income* (IN-155-V).