

Tax Court Rules for Boston Bruins in Case Involving Deductibility of Meal Costs

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In a case that could have wide-ranging effect across the sports industry and potentially beyond, the U.S. Tax Court ruled on June 26, 2017, that the Boston Bruins were allowed to deduct 100 percent of the costs of meals that they served to their players and other employees at hotels while traveling for road games. The IRS had argued that only 50 percent of those costs were deductible. Covington represented the Bruins and their owners, Jeremy and Margaret Jacobs, both in front of the IRS and in the Tax Court.

Section 274 of the Internal Revenue Code provides that in general, employers may deduct only 50 percent of their costs for meals provided to their employees, even when those meals have a business purpose. There are several exceptions to this rule, however, under which 100 percent of the costs may be deducted. The Tax Court concluded in the Bruins' case that the club was eligible for one of these exceptions, especially in light of the "unique nature" of the club's business—i.e., being a professional sports team.

The Bruins were required to satisfy six separate tests to be entitled to the 100 percent deduction. The court described each of these tests—which apply generally to all employers—and then detailed how the Bruins satisfied each of them, as follows:

- *The facility where the meals are served must be "on or near the business premises" of the employer.* The Bruins proved that the hotels where they stayed for their away games constituted their "business premises." Among other things, the court noted that the club held strategy meetings and conducted film review at the hotel, and that the players received medical treatment and otherwise prepared for the away game at the hotel—and that this work could not all be done either back in Boston or in the opponent's arena in the away city.
- *The meals must be provided "for the convenience of the employer."* The club provided "credible and uncontradicted evidence" that the meals were provided for specific "nutritional and performance reasons," and that the club designed both the content of the meals and the meal times to meet players' needs.
- *The provision of the meals cannot favor highly compensated employees.* The court found that the club made its meals available to all its traveling employees—players, coaches, and other employees alike—on substantially the same terms.

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- *The eating facility must be owned or leased by the employer.* The Bruins' contracts with the hotels, which specified the rooms that would be used for the meals and the specifications for how the rooms would be set up and used, substantively constituted leases of eating facilities.
- *The facility must be operated by the employer, or the employer must contract with another party to operate the facility.* Again, the court relied on the agreements between the club and the hotels, and the process leading up to the execution of those agreements, all of which demonstrated that the club engaged the hotel to set up the meal rooms, serve tailored food in specified amounts, and staff the room with identified personnel.
- *The meals must be provided during, or immediately before or after, the employees' work day.* The government conceded this issue, as it was clear that the Bruins satisfied this condition.

In reaching its conclusion, the court relied heavily on a broad set of stipulations and the trial testimony of three key witnesses for the club: its head coach, its athletic trainer, and its travel logistics manager. Clubs and other parties seeking a similar result will want to consider whether their facts are sufficiently similar to those described above.

The Tax Court's decision remains subject to appeal by the government.

If you would like more information on this case, the deductibility of meal costs, or fringe benefits more generally, please contact one of the following members of our Tax practice:

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