

Client Alert

IRS COMMENTS INDICATE FORTHCOMING GUIDANCE WILL CURTAIL EMPLOYER-PROVIDED MEALS EXCLUSION

March 18, 2015 — Since the Internal Revenue Service released its 2014-2015 Priority Guidance Plan on August 26, 2014, employers and their employees have been awaiting guidance on employer-provided meals. This guidance would further interpret Internal Revenue Code (“Code”) sections 119 and 132, which work in tandem to exclude from an employee’s gross income meals that are furnished by an employer for its convenience. Because of the taxpayer-friendly nature of these rules, tax practitioners have long speculated that the IRS would curtail the exclusion.

It appears that the tax practitioners were correct. The IRS addressed the issue at the Federal Bar Association Section on Taxation’s annual conference on March 6. According to Janine Cook, IRS deputy division counsel and deputy associate chief counsel (tax-exempt and government entities), the IRS has begun to target employer-provided meals during examinations. Cook said that employers have become too aggressive in furnishing meals and cafeterias at virtually no cost to their employees. Such employers and employees take the position that these benefits are “de minimis fringes,” which the Code defines as expenses too small to require employers and employees to keep track of. Until published guidance is issued, Cook has advised employers to “look at the combo of frequency and value” when providing meals and cafeterias to employees. In light of Cook’s comments and the upcoming guidance, employers should re-evaluate their existing policies and procedures associated with these meals.

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