

# TECHNICAL UPDATE

## MEALS AND ENTERTAINMENT EXPENSES

ICNZB were recently asked by its members to clarify the treatment of travel expenses, more specifically the fact that meals are non-deductible unless you are an employee.

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### Clarification on treatment of meals and entertainment expenses

The scenario presented to us was a sole trader who travels for business for a number of reasons (ie. client meetings), and also travels to attend industry conferences.

This question arose following an Interpretation Statement published by the Tax Counsel Office, and issued by Inland Revenue on 7 July 2021 (ref IS 21/06). In this Interpretation Statement it is confirmed that expenses in the scenario presented are not deductible for self-employed taxpayers in all but very limited circumstances.

The Interpretation Statement can be [found here](#) and relevant extract below:

*“Income tax and GST – Treatment of meal expenses” (July 2021). It finds that meal expenses incurred by a self-employed person will in most instances be non-deductible, being expenditure of a private or domestic nature. In limited cases, meal expenses incurred over and above what is normal may be permitted as a deduction.”*

ICNZB sought clarification from Inland Revenue at our members request.

### Response by Inland Revenue Technical Team:

The Courts, both in NZ and elsewhere, have consistently found over the years that expenditure incurred on meals away from home by taxpayers is private expenditure and therefore not deductible.



To generalise this, taxpayers incur private expenditure as a result of simply being human and not as a result (usually) of earning income.

## Relevant case law

To be defined as a deductible expenditure, the expense must not only meet the statutory requirement of being incurred to produce assessable income ([s DA 1 of the Income Tax Act 2007](#) (the ITA)), but must also not be denied by one of the general limitations on deductibility set out in [s DA 2](#). In this case the pertinent limitation is that governing private expenditure; the “private limitation” in s DA 2(2) of the ITA.

An example of this is Case H31 (1986) 8 NZTC 289 where the Taxation Review Authority held that, in general, meal expenditure is necessary for human sustenance rather than to earn income. It is of a private or domestic nature.

The position is best summarised on pages 2 and 3 of the Interpretation Statement in the Summary.

**It needs to be emphasised that Interpretation Statement 21/06 does not indicate either a change in policy or the interpretation of the law by the Commissioner of Inland Revenue, but rather summarises the legal position that has existed for many years.**

## Additional information

During discussion by our members, the following explanatory table was sourced which illustrates the differences in treatment for deductibility through common examples:

Scenario	Are the costs tax deductible?
Self-employed individual incurs costs for own meals	No
Self-employed individual incurs costs for meals for self and an employee	Likely outcome is that only the costs relating to the employee are deductible; entertainment or FBT rules may also apply. However, if the purpose for the cost is primarily business (such as a team celebration), the private element may be considered incidental.
Self-employed individual incurs costs for meals for self and a client	Private element may be incidental and all costs deductible but subject to the entertainment rules.
Self-employed individual pays for meals of employee while employee is working out of town	Yes
Self-employed individual pays for meals for self while working out of town	No, except in very limited circumstances such as where there are no practical or realistic alternatives for meals (e.g., where a supermarket is not nearby and it is unrealistic for the individual to prepare their own meals). The costs on top of what the individual would typically spend may be deductible.
Company incurs costs for meals for employees (including shareholder employees) and/or clients	Yes, entertainment or FBT rules may also apply.

Explanatory table sourced from: Deloitte New Zealand, [tax@hand](#), published 10 August 2021

