

Tax guidance on hospitality and representation expenses

1. General information

In addition to the budgetary provisions, tax and social security regulations must be observed. This information sheet summarises the most important regulations that are relevant for the University of Bayreuth.

Of particular importance here are the wage tax regulations on benefits in kind. Accordingly, the principle applies that all goods and services consisting of money or money's worth, e.g. the provision of goods by the employer to the employee (servant) at a reduced price or free of charge, are benefits of monetary value and, according to section 8, paragraph 1 of the Income Tax Act (EStG), are to be regarded as taxable remuneration in the same way as a cash payment. Monetary benefits (benefits in kind) granted by the employer to the staff member are thus in principle part of the staff member's taxable remuneration. The non-cash benefits are taxed if the sum of all non-cash benefits (e.g. work lunches) exceeds the exemption limit of 50.00 euros per calendar month (section 8, paragraph 2, sentence 11 EStG). Even a slight excess leads to full taxation: if the value of the benefit in kind is e.g. € 50.01, the entire amount is taxable.

2. Hosting event

At this point, only the pecuniary benefits that coincide with hospitality and representation expenses shall be discussed. Whether the entertainment of employees of the University of Bayreuth leads to taxable wages depends decisively on the occasion for such entertainment.

2.1 Business meals (entertaining guests)

Business meals are understood to be the entertainment of external guests (not members of the UBT) on behalf of the employer (the university). A business occasion exists in particular when entertaining persons with whom official relations already exist or are to be initiated.

In these cases, there is no non-cash benefit. The reimbursement of expenses for a business lunch to employees of the University of Bayreuth who also attended the business lunch is possible tax-free within the framework of the hospitality guidelines.

2.2 Work lunches (hospitality for members/employees only)

Work lunches are meals provided to members of the University of Bayreuth or from funds of the University of Bayreuth without the participation of external persons and outside of an external activity (= outside of a business trip). As a rule, such meals are taxable wages. According to the budgetary provisions of the hospitality guidelines (see section 2.6), working lunches are generally not permitted.

2.3 Tokens of appreciation

a) Gestures of courtesy for consumption at the university

A mere courtesy in the tax sense, and thus not remuneration for work, also exists insofar as the University of Bayreuth as employer provides members with cold and hot refreshments (mineral water, coffee) as well as small pastries and fruit free of charge for consumption at the university on the occasion of official occasions with external persons (meetings, conferences, seminars, etc.) as a customary gesture of courtesy.

According to the budgetary guidelines of the hospitality directive, expenses for such items are generally only reimbursable if guests of the university also attend the official event.

b) Working lunch in case of exceptional work input

An exception to the principle that work lunches are taxable wages (see 2.2 above) exists if the University of Bayreuth provides its members with meals free of charge or at a reduced price on the occasion of and during an exceptional work assignment (e.g. during an exceptionally long official meeting), the value of which per member and occasion does not exceed the amount of 60.00 euros per meal. Jurisprudence assumes an extraordinary work assignment if a workload to be completed within a short period of time or unexpected workload is to be managed and the hospitality provided in this context is simple and not elaborate (e.g. a snack). If the provision of a meal on the occasion of and during such an extraordinary work assignment serves the purpose of favourably structuring the work process, e.g. because a necessary time saving can be achieved, the provision within the 60.00 euro limit does not lead to taxable remuneration. In this case, it is a token of appreciation.

According to the budgetary guidelines of the hospitality directive, working lunches are only permissible in exceptional cases in the event of extraordinary work input. It must be an exceptional deviation from the standard customary in the academic field. The budgetary ceilings according to point 4 of the hospitality guidelines must be observed.

2.4 Hospitality during an external activity

Hospitality during an external activity can lead to remuneration in kind for the employee that is subject to wage tax. If applicable, these benefits in kind are to be valued and taxed in accordance with the official benefits in kind. The calculation is made with the travel expense statement by Department III/3 of the Central University Administration, the taxation of the taxable portions is made by the respective remuneration office.

2.5 Hospitality at social events

If employees of the University of Bayreuth are entertained by the University of Bayreuth at general events in which the employee participates within the scope of his office, on official assignment or with regard to his professional position (e.g. occasions of academic community life, inaugurations, ceremonies, official receptions), this shall be deemed to be an entertainment in the very predominant own business interest of the employer, which is not to be regarded as a pecuniary benefit for the employee.

The upper limits according to point 4 of the hospitality guideline must be observed.

The University of Bayreuth is not liable for inaccuracies or mistakes in this English translation.

In case of doubt, the German originals are to be used in a court of law.

3. Processing

For hospitality, it must be marked in the settlement form for hospitality costs under the item "Taxation as a pecuniary benefit" whether it is a business lunch, a work lunch or a work lunch with extraordinary work input.

In order to ensure correct taxation, non-cash benefits exceeding the monthly exemption limit of 50.00 euros must be reported in each individual case via the Human Resources Department to the State Office of Finance for the purpose of wage taxation. In the event of non-compliance with the relevant regulations (in particular §§ 8 para 2, 41 and 41a EStG), the university or the respective employee shall be deemed to have committed criminal offences and criminal tax offences and may be obligated to make additional payments.

4. Final remarks

The present guidelines are based on the law as it stands on 01.01.2023 and will be adapted to changes in tax law as required.

In the event of any uncertainties, please contact the University Administration in advance of your planned event. Tax information can be provided, however, we cannot offer tax advice.