

**GUIDELINES FOR THE
TAX ON PREPARED
FOOD AND BEVERAGES
February, 2018**

The following information is a guideline only. The Prepared Food and Beverage Tax ("Meals Tax") was established by Ordinance 1245, adopted by Town Council on July 11, 2000. In the case of any conflict between these guidelines and the provisions of the Town Code, or other ordinances, the Code or ordinance will prevail.

What is the Prepared Food and Beverage (Meals) Tax?

Effective July 11, 2000, a tax was levied on the purchaser of all prepared food and beverages served in and from these places of business:

Restaurants	Eating Houses
Dining Rooms	Eateries
Fast Food Chains	Bowling Alleys
Grills	Drug Stores
Coffee Shops	Mobile Food Vendor
Cafeterias	Pushcarts
Cafes	Carry-Out
Snack Bars	Caterers
Lunch Counters	Gas Stations
Delicatessens	Food Concessions
Confectioneries	Concession Stands
Hotels	Motels
Grocery Store Delicatessens	Carnivals
Ice Cream Stores	Dinner Theaters
Movie Theaters	Festivals
Bed & Breakfast Inns	Private Clubs
Convenience Stores	Recreation Clubs
Non-Profit Organizations	Doughnut Shops
Bakeries	

ALL PREPARED FOOD AND BEVERAGES ARE TAXABLE WHETHER INTENDED TO BE CONSUMED ON THE SELLER'S PREMISES OR NOT.

TAX RATE: 6%

For the purpose of this tax, **FOOD** is defined as:

Any and all edible refreshments or nourishment, liquid or otherwise, including alcoholic beverages, purchased in or from a restaurant or from a caterer, except snack food.

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Please refer to the Exemptions section for details on the purchases of foods that are exempt from this tax.

WHO COLLECTS THE PREPARED FOOD AND BEVERAGE (MEALS) TAX?

All of the businesses that come under the definition of restaurant or caterer and that are listed on page one must collect this tax from their customers when the charge for the food and beverages is paid. The tax is to be paid whether the customer pays by cash or by credit card. The seller adds the tax to the gross amount and collects the total from the customers.

SELLERS MUST NOT in any way suggest or indicate that they will relieve the customers of payments of part or all of this tax.

ARE TIPS TAXABLE? No, unless 20% and added to the sales price of the meal

The meals tax imposed shall not be levied on (1) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal or (ii) that portion of the amount paid by purchases as a mandatory gratuity or service charge added by the food establishment in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price.

MONTHLY REMITTANCE:

The seller must complete and sign the monthly reporting **form** indicating the amount of the food and beverage charges collected and the tax required to be reported. **A form still needs to be filed even if there were zero sales for that month. Payment forms can be printed from our website: www.blacksburg.gov. Payment forms will be emailed upon request.** The forms along with the tax remittance must be postmarked or received by the Finance Department by the 20th of the month for taxes collected in the preceding month. The seller may use the mail, but the responsibility for late postmarks rests with the seller. In the event that the 20th of the month falls on a weekend or holiday, the next business day becomes the due date.

RECORDS RETENTION:

The seller must retain five years of auditable records of:

1. Gross Receipts for all food and beverages, records of food and beverage purchases, records of spoilage, waste or any other purchases to support the food and beverage operation.
2. Amount charged the buyer for each purchase.
3. Date of each sale, deposit records, cash register tapes, voids, daily worksheets, etc.
4. The amount of tax collected from each sale.
5. Exempt sales.

CLOSING OF A BUSINESS:

If the business should close or that part of the business that is applicable to this tax, the seller must **IMMEDIATELY** complete a final meals tax remittance form and pay all taxes due. The seller must also list the New Owner's name and address, if known, on the remittance form.

ARE CATERING BUSINESSES LOCATED OUTSIDE THE TOWN OF BLACKSBURG REQUIRED TO COLLECT AND REMIT THE TAX TO THE TOWN?

The situs for meals taxation is the locality in which the sale is made. Catering businesses located inside the Town of Blacksburg must collect the tax and remit it to the Town even if the food is delivered to a destination outside the Town. However, when mobile trucks, booths, or caterers with businesses located outside the Town set up to sell in the Town of Blacksburg, they are liable to the Town for the tax. Catering businesses located outside the Town are not required to collect and remit the tax to the Town unless they establish a point of sale within the Town such as a mobile truck, booth, pushcart, or they prepare and cook food within the Town.

EXEMPTIONS:

Snack Foods are not taxable by this Ordinance. The term "snacks" includes items such as:

Unopened bottled or canned drinks (not served with meals in a restaurant)
Chewing Gum
Candy
Popcorn (packaged for home consumption)
Peanuts and other nuts
Unopened bags of chips, cookies, doughnuts, crackers, nabs, popcorn etc... And other items of a similar nature consumed as a snack.

The following purchases of food will not be subject to this tax:

1. Foods furnished by restaurants to employees as part of their compensation when no charge is made to the employee.
2. Foods sold by non-profit day care centers, public or private elementary or secondary schools or foods sold by any college or university to its students or employees.
3. Foods for use or consumption by the Commonwealth, any political subdivision of the Commonwealth or the United States.
4. Foods furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or disabled or other extended care facility or residents thereof.
5. Foods furnished by nonprofit charitable organizations to the elderly, infirm, disabled, or needy persons in their homes or at central locations.
6. Foods sold by nonprofit, education, charitable or benevolent organizations on an occasional basis.
7. Any other sale of food ordered exempt by the Virginia Retail Sales and Use Tax Act.
8. Foods sold from a vending machine.
9. Bakery foods as defined in the Food Stamp Act of 1977, 7 U.S.C. 2012. This includes bagels, brownies, cakes, cookies, crackers, croissants, doughnuts, pies, pastries and similar bakery items that are pre-packaged or factory sealed.

PENALTIES:

If the tax remittance and report is not received/postmarked in the Finance Department by the 20th of the month, a 10% penalty will be assessed.

Failure to comply with any provision of the Meals Tax Ordinance constitutes a Class 1 misdemeanor. Conviction of such violation shall not relieve any person from the payment, collection, or remittance of the tax. Agreements to pay delinquent taxes in installments do not relieve the seller of criminal liability until the taxes and penalties are paid, in full.

ADMINISTRATIVE OVERVIEW:

There are possible administrative difficulties with items sold in grocery and convenience stores in determining the applicability of the tax to items sold. Fairness dictates that the Meals Beverage Tax is to be applied to sales in those businesses (other than restaurants) that are substantially similar to and in direct competition with sales of restaurants. It is important to note that the tax is collected from the *purchaser* of all food served, sold or delivered in the Town in or from a restaurant, whether prepared in the restaurant or not, or by a caterer, regardless of the place of delivery or consumption.

The Meals Tax does not apply to groceries, but it does apply to grocery stores and convenience stores that sell prepared food and beverages which directly compete with restaurants. This department will be pleased to work with the owners and operators of grocery and convenience stores to answer any questions and to facilitate the collection of this tax. Please call (540) 961-1105 if you have any questions.

PREPARED FOOD AND BEVERAGE (MEALS) TAX DEFINITIONS

CATER: The furnishing of food, beverages, or both, on the premises of another, for compensation.

DIRECTOR: The director of finance and any duly designated deputies, assistants, inspectors or other employees.

FOOD: All food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or off, and without regard to the manner, time or place of service.

FOOD ESTABLISHMENT: Any place in or from which food or food products are prepared, packaged, sold, or distributed in the town, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, mobile food vendor, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

MEAL: Meal shall mean any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

PURCHASER: Any person who purchases food in or from a restaurant or from a caterer.

SELLER: Any person who sells food in or from a restaurant or as a caterer.

OCCASIONAL SALE: A sale by a person (seller) who is engaged in sales on three or fewer separate occasions within one calendaryear.

PERSON: Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

EXAMPLES OF ITEMS NOT TAXABLE:

- Unopened bottle, can or six-pack of beer or bottled wine purchased for off premises consumption.
- Chewing gum purchased at a restaurant.
- Meal prepared by church on an occasional basis. (If a nonprofit organization or church sold meals on a weekly basis for fund-raising, it would be taxable).
- Cold unopened drink from a case at a convenience store.
- Food provided to a patient in a hospital or nursing home.
- Food purchased as part of a rescue squad or church fund-raising effort on an occasional basis.
- Frozen prepared meal or a grocery item purchased in a grocery store.
- Meal purchased by parent at an elementary school.
- Pre-sealed, prepackage sweet roll purchased from a snack bar or a cafeteria. For example, "Tasty Kake" cinnamon bun, "Little Debbie" brownies.
- Peanuts or other nuts from a peanut or candy shop.
- Candy from a movie theater.
- Vending machine sales.
- Popcorn packaged for home consumption.
- Luncheon meats and cheese sold from a delicatessen. Salads (potato salad, macaroni salad) by the pound from a delicatessen.
- Uncooked pizzas from a delicatessen.
- Whole/half cakes, pies, breads, brownies, loose or prepackaged cookies, doughnuts, pastries and any similar bakery items that is prepackaged.
- Freezer Cakes from a grocery store delicatessen or bakery.
Doughnuts that are in unopened, pre-sealed packages.
- Potato salad or coleslaw from a delicatessen or grocery store delicatessen sold by the pound.

EXAMPLES OF TAXABLE ITEMS

- Baked, fried, or barbecued turkey, chicken, seafood or beef from a restaurant, delicatessen or grocery store delicatessen packaged for immediate individual consumption.
- Beer, wine or mixed drinks at any bar, tavern or restaurant.
- Beer, wine or mixed drinks delivered to hotel or motel rooms or any "room service" food.
- A meal provided by a caterer.
- Cup of coffee.
- Food and beverages at a country club or private club.
- Food and beverage at a company or hospital cafeteria.
- Fountain drink from a fast food chain or movie theater.
- Hot dog from a convenience store or pushcart.
- Ice cream cone, ice cream cakes, ice cream sundaes or cotton candy. An individual salad from a delicatessen or grocery store delicatessen packaged for immediate consumption.
- Sandwich from a case at a service station, truck, pushcart, delicatessen, grocery store delicatessen, or convenience store.
- Nachos with cheese served from a service station, truck, pushcart, delicatessen, grocery store delicatessen, or convenience store.
- Slice of cake or pie.
- Doughnuts served and eaten on premise (non packaged).

For Specific
Businesses

NOTE: The burden shall be upon the seller of the food and beverage to maintain records detailing taxable receipts and nontaxable receipts.

Grocery Stores/Supermarket/Convenience Stores

The majority of items sold by a grocery or convenience store are not taxed. The tax applies to the sale of prepared food and beverage items from a delicatessen section operated within the grocery and convenience stores.

Taxable Items:

All sandwiches (hot or cold), all hot foods, hot dogs, salad bar items sold from a salad bar.

Single serving salads.

Non-factory sealed beverages, fountain beverages.

A cup of coffee or hot chocolate.

Frozen or chilled factory packaged, single serving sandwiches, burritos, and the like, sold in an establishment that provides a heating device to render the item.

Non-packaged doughnuts or cookies eaten on premise.

Nontaxable Items:

Includes, but is not limited to, factory sealed beverages such as beer and wine (for off-premise consumption), factory sealed soft drinks and bottled water.

Meats and seafood, sold by the pound, including cooked whole chickens, not ready for immediate consumption.

Single and bulk servings of fruit.

Cakes, doughnuts, brownies, rolls, muffins, loose or prepackaged cookies, pastries, chips and the like that are factory sealed or prepackaged.

Foods that are cooked and then chilled in accordance with health and food handling regulations but packaged for home consumption.

Bakery

Taxable Items:

Non-factory sealed beverages.

All sandwiches (hot or cold).

Slice of cake or pie.

Loose doughnuts and cookies.

Nontaxable Items:

Factory sealed soft drinks and bottled water.

Prepackaged Cakes, doughnuts, brownies, rolls, muffins, pastries, loose or prepackaged cookies, chips and the like.

Whole or half pies and cakes and non-food items.

Whole loaves of bread

Caterers

Taxable Items: All food and beverage catering services are taxable.

Nontaxable Items: Linen rental, setup, floral arrangements, and tables.

Delicatessen

Taxable Items:

All sandwiches (hot or cold).

Salad bar items sold from a salad bar and soups.

Baked, fried, or barbecued chicken, turkey, ham, seafood or ribs packaged for immediate individual consumption.

Nontaxable Items:

Sliced meats/cheese by the pound.

Salads, (potato salad, macaroni salad) by the pound.

Party/gift baskets that include meats/cheese by the pound.

Party trays

Crackers, prepackaged chips, cookies and the like.

Fast Food Chains/Restaurants

Taxable Items:

All food and beverage items for on premise consumption.

Hot food items, sandwiches, pizzas and salads, packaged for off premise consumption.

Ice cream or frozen yogurt in a cone or container enabling immediate or off premise consumption.

Nontaxable Items:

Non-food items.

Candy, gum.

Whole or half pies and cakes.

Prepackaged chips or cookies.

Take Out/Delivery Restaurants

Taxable Items:

All hot food, sandwiches, salads packaged for off premise consumption and non- factory sealed beverage items.

Cooked food types that are combined with other food products and sold as a warm or hot meal.

Nontaxable Items:

Foods that are cooked and then chilled in accordance with health and food handling regulations, but packaged for home consumption.

Ice Cream/Frozen Yogurt Shops

Taxable Items:

Ice cream or frozen yogurt in a cone, dish or single serving sized open container.

Milkshakes, floats, sandwiches, non-factory sealed beverages.

Nontaxable Items:

Ice creams or similar frozen products packaged or bulk packed containers.

Whole/half cakes, pies.

Prepackaged cookies, rolls.

Factory sealed beverages.

Nuts syrup.

Regular loaves of bread.

Movie Theaters/Theme Parks[Sporting Arenas, Civic Centers

Taxable Items:

All sandwiches, pizza, nachos.

Popcorn.

Beverages, cup of coffee, hot chocolate.

Ice creams.

Nontaxable Items:

Non-food items.

Snack items, gum and candy.

Contact Information:

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