

Ruling 2000-03

Vermont Department of Taxes

Date: February 10, 2000

Written By: George Phillips, Tax Policy Analyst

Approved By: Sean P. Campbell, Commissioner of Taxes

You have asked for a ruling on the applicability of Vermont meals and rooms tax to certain transactions where [Business] provides meals either at no charge or at a discounted price. This ruling relies on facts provided in your letter of January 21, 2000.

The [Business] operates several restaurants in Vermont, from which it makes sales subject to the meals and rooms tax imposed by 32 V.S.A. §9241. As part of its operations, it occasionally provides meals under one of the following circumstances:

- (1) Discounted Meals. Discounted meals are offered using a coupon system. The coupons are provided without charge through various means. A patron producing a coupon is charged the difference between the menu price and the face value of the coupon. That is, the meal is discounted by the amount of the coupon.
- (2) Complimentary Meals. Complimentary meals are occasionally provided to a guest who has not been satisfied with the service or the food. In such cases no money is collected for the meal.
- (3) Business Meals. Certain employees are authorized to take meals without charge to fulfill a business purpose of the [Business]. These are meals taken for the purpose of entertaining a business client or to facilitate the employee's monitoring of the quality of food or service at one of the [Business's] restaurants. The employee is not charged for the meal and an internal accounting entry is made to charge the employee's department for the cost of the meal.
- (4) Employee Benefit Meals. Annually, the [Business] provides its employees with a coupon redeemable for a meal for the employee and one or more family members or friends accompanying the employee. No charge is made to the employee.

Relevant statutory references include:

32 V.S.A. 9202(10)(A), defining "taxable meal" to include food sold in restaurants "for which a charge is made, including admission and minimum charges . . ." [Emphasis added]

32 V.S.A. 9241(b), requiring the collection of tax on "the sale of each taxable meal at the rate of nine percent of each full dollar of the total charge. . ." [Emphasis added]

32 V.S.A. 9242(c), imposing a tax on the operator of "nine percent of the gross receipts from meals. . ." [Emphasis added]

Also relevant is Regulation 1.9202(10)-4, Meals Furnished to Employees, which provides:

The term "Taxable Meal" does not include meals furnished without charge to an employee of the Operator. Meals furnished at a charge are Taxable Meals to the extent of the charge.

Collectively these references establish that the tax applies only to the net charge, after any price reduction. Therefore, tax should be collected only on the net charge of Discount Meals and no tax is required on Complimentary Meals. Furthermore, as a sale requires two parties and an internal accounting charge is not a receipt, no tax is required on Business Meals. Finally, as the regulation clarifies that the services of an employee are not treated as consideration¹ for the purpose of determining a "charge" or a "receipt", no tax is required on the Employee Benefit Meals.

This ruling is issued solely to you and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.

¹ A receipt does not have to be in cash. A meal bartered for a service is taxable, for example.