

## Vermont Meals Tax for Businesses

Businesses need to know the circumstances in which the 9% Vermont Meals Tax applies to them. This fact sheet is a continuation of the “Vermont Meals and Rooms Tax for Businesses,” providing further details for businesses serving meals and collecting tax. For more detailed information, you should refer to Vermont tax law and the Vermont Department of Taxes website at [tax.vermont.gov](http://tax.vermont.gov) for regulations, technical bulletins, and fact sheets on the topics presented here.

### Businesses subject to the meals tax

Following is a list (noninclusive) of types of businesses which must charge tax:

- Restaurants, including cafes, cafeterias, dining rooms, diners, lunch counters, salad bars, private or social clubs, bar or tavern, theater concessions, street vendors, street cart, food truck, and catering businesses
- Grocery and convenience stores if they offer prepared foods (Note: food sold at a snack bar with no seating is not subject to tax)
- Vending machines
- Transient vendors

### What is a restaurant?

The type of sales and amount of sales determine if a business is a restaurant. A restaurant is defined as:

- An establishment that charges for food or beverage intended for immediate consumption; **or**
- An establishment that has made total sales of food or beverage in the previous taxable year of at least 80% taxable food and beverage; **or**
- A new establishment that projects its total sales for the first year to be at least 80% taxable food and beverage

**Note:** Some items are taxable even when sold by a business not defined as a restaurant, such as sandwiches (except frozen), heated food or beverages, items from a salad bar, and party platters and prepared food.

### What is subject to meals tax?

Generally, taxable meals are food and beverage offered for a charge, to be consumed on or off premises, available for immediate consumption. All food is taxable when sold by a restaurant, except grocery-type items sold for consumption off-premises.

If an admission or minimum charge is included in the charge for the meal (not stated as separate charge), then

it is considered to be part of the meal and is therefore also subject to meals tax.

### Alcoholic beverages

Meals and non-alcoholic beverages are taxed at a different rate than alcoholic beverages. The separate 10% tax on alcoholic beverages applies to sales by holders of first and third class liquor licenses. This includes alcohol that is sold for consumption on the premises of a restaurant.

#### *Please note:*

If tax is included in the purchase price of the item, you must state on the menu, price list, bill, receipt, or vending machine that the sales price includes the amount of tax charged.

### What is not a taxable meal?

These are not considered taxable meals, even when sold by a restaurant:

- Self-serve, bulk, non-prepackaged grocery items such as fruit, vegetables, candy, flour, nuts, coffee beans
- Grocery-type items furnished for take-out such as the following:
  - ♦ Whole pies or cakes and loaves of bread
  - ♦ Whole uncooked pizzas
  - ♦ Delicatessen and nonprepackaged candy sales by weight or measure (except party platters)
  - ♦ Pint or larger closed containers of ice cream or frozen confection
  - ♦ Eight-ounce or larger containers of salad dressing or sauces
  - ♦ Maple syrup
  - ♦ Quart or larger containers of cider or milk
  - ♦ Single bakery items sold in quantities of three or more (Often called the “three donut rule,” the rule applies to all similar baked goods.)

Disclaimer: The information provided here is intended to be an overview only. Vermont tax statutes, regulations, Vermont Department of Taxes rulings, or court decisions supersede information presented here.

Rev. 02/2020 • Pub. FS-1020

### **Caterers are restaurants**

Caterers are considered restaurants for the purpose of the meals tax and must follow all applicable laws and regulation. More information for caterers, including guidelines on bundling and package pricing, is in the fact sheet “What Caterers Should Know about Vermont Business Taxes.”

### **Sale of meals for resale exemption**

Beginning July 1, 2019, an exemption under Act 51 applies to purchases of meals for the purpose of resale. A buyer intending to resell meals may purchase meals without paying meals tax to the seller.

Once the buyer resells the meals, it must collect and remit meals tax to the Department of Taxes.

The buyer must present to the seller an accurate and properly executed exemption certificate for the exempted sale, Form M-3, Vermont Meals Tax Exemption Certificate for Purchase of Meals for Resale, available at [tax.vermont.gov](http://tax.vermont.gov). The responsibility is on the seller to verify that the buyer will resell the meals. If the seller accepts an exemption certificate with no reasonable expectation that the meals will be resold, the seller will be responsible for the meals tax not collected from the buyer.

The exemption certificate must be received at the time of sale and must be signed, dated, and complete. Sellers must retain exemption certificates for at least three years from the date of the last sale covered by the certificate to document why tax was not collected from the buyer.

### **Know tax law and regulations**

Business owners are expected to be familiar with state tax laws and regulations applicable to their businesses. For more information, please see the following:

#### **32 V.S.A. Chapter 233**

[legislature.vermont.gov/statutes/chapter/32/233](http://legislature.vermont.gov/statutes/chapter/32/233)

#### **Meals and Rooms Tax Regulations**

[tax.vermont.gov/regulations](http://tax.vermont.gov/regulations)

#### **Technical Bulletins on Sales and Use Tax**

[tax.vermont.gov/bulletins](http://tax.vermont.gov/bulletins)

#### **Fact Sheets**

See related fact sheets “Vermont Meals and Rooms Tax,” “What Caterers Should Know about Vermont Business Taxes,” and “Vermont Meals Tax on Vending Machines” at [tax.vermont.gov/fact-sheets](http://tax.vermont.gov/fact-sheets).

To learn more about Vermont business taxes, visit [tax.vermont.gov](http://tax.vermont.gov) or contact the Department’s Business Tax Section at [tax.business@vermont.gov](mailto:tax.business@vermont.gov) or (802) 828-2551.

