

Understanding Taxation of Chips and Soft Drinks in Vermont

Taxes are complicated. The taxes that apply to foods and drinks can be confusing because there are many rules and exceptions. The Vermont Sales and Use Tax and Meals and Rooms Tax are based on statutory definitions and the circumstances of the sale. This infographic takes the common example of chips and soft drinks to show how different sellers in different locations may have to collect different taxes.

Depending on the business type and circumstances of the sale, chips and soft drinks may be subject to Vermont Sales and Use Tax, Meals and Rooms Tax, or be exempt from tax. First, determine what type of business you are operating.



What is a soft drink? Soft drinks are nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks are not 1) beverages that contain milk or milk products, soy, rice, or similar milk substitutes or 2) beverages that contain greater than 50% of vegetable or fruit juice by volume. Bottled water is not a soft drink. However, if sweetener is added to water, then it is considered a soft drink. See the fact sheet “Vermont Sales and Use Tax on Soft Drinks.”

Is your business a restaurant?



Examples include a café, cafeteria, dining room, diner, lunch counter, snack bar, salad bar, private or social club, bar or tavern, theater concessions, street vendor, street cart, food truck, caterer.

What is a restaurant? A restaurant is an establishment from which food or beverage for immediate consumption is sold or for which a charge is made. A restaurant includes stationary, mobile, temporary, or permanent eating establishments. An establishment earning 80% or more of its gross receipts from selling food, beverages, and alcoholic beverages subject to meals tax is considered a restaurant.

Chips and soft drinks—whether bottled, canned, or served from a fountain—sold in restaurants are part of a meal and subject to the 9% meals tax.

EXCEPTION
A snack bar with no seating that is located in a grocery or convenience store is not considered a restaurant. No meals tax is due on chips, but sales tax is due on bottled or canned soft drinks, and meals tax is due on fountain drinks.

Is your business a grocery or convenience store?



Chips sold in grocery or convenience stores are not subject to sales tax because they are exempt as food or food products. Chips sold in grocery or convenience stores are also not subject to meals tax because they are considered grocery items.

Bottled and canned soft drinks sold in grocery or convenience stores are subject to the 6% sales tax. Fountain drinks are subject to the 9% meals tax.

EXCEPTION
Bottled and canned soft drinks sold in grocery or convenience stores to customers paying with EBT cards (3SquaresVT, SNAP) are exempt from sales tax. See the fact sheet “Vermont Tax on Purchases Made through 3SquaresVT.”



Does your business combine a restaurant with a grocery or convenience store?



See “Is your business a restaurant?” above to determine whether your establishment is a restaurant under the 80% rule. If you are 80% or more restaurant, you must charge the 9% meals tax on chips and all soft drinks.

If you are not at least 80% restaurant, then you must charge 6% sales tax on bottled or canned soft drinks or 9% meals tax on fountain drinks.

EXCEPTION
Bottled and canned soft drinks sold in grocery or convenience stores to customers paying with EBT (3SquaresVT, SNAP) are exempt from sales tax. See the fact sheet “Vermont Tax on Purchases Made through 3SquaresVT.”



What if you own a vending machine?



Chips and soft drinks sold through vending machines are subject to meals tax. There are some exceptions. See the fact sheet “Vermont Meals Tax on Vending Machines.”

Exemptions

You should know about any tax exemptions for chips and soft drinks. Most exemptions are based on where the sale is taking place, such as in a school, government property, correctional facility, hospital, train, bus, airplane, children’s summer camp, continuing care facility for the retired, or nursing home. Other exemptions are based on who is making the sale, such as a qualified nonprofit. Yet another category of exemption is based on who is making the purchase, such as a government employee, hotel employees, or the elderly. Each exemption has very specific requirements.

Local Option Tax

In a jurisdiction (city or town) that charges a 1% local option tax on sales of taxable meals, vendors must also collect local option tax on every transaction to which the state taxes apply (sales tax or meals tax). 24 V.S.A. § 138.

Burlington and Rutland Local Taxes

The City of Burlington or the City of Rutland impose their own meals, entertainment, and lodging taxes under their city charters. These two cities administer and collect their taxes. Vendors who do business in Burlington or Rutland should contact the city for information about these taxes.

For more information, check out these resources!

- Department of Taxes website at www.tax.vermont.gov
- Vermont law on Sales and Use Tax—32 V.S.A. Chapter 233
- Vermont law on Meals and Rooms Tax—32 V.S.A. Chapter 225
- Vermont Sales and Use Tax Regulation—§1.9701
- Vermont Meals and Rooms Tax Regulation—§1.9202
- Technical Bulletins
- Local Option Tax
- Fact Sheet: Vermont Sales and use Tax on Soft Drinks
- Fact Sheet: Vermont Meals Tax on Vending Machines
- Fact Sheet: Vermont Tax on Purchases Made through 3SquaresVT
- Fact Sheet: Local Option Tax: What Is It and When Does It Apply?
- More Fact Sheets