

**Vermont Department of Taxes
TECHNICAL BULLETIN**

TAX:	Meals and Rooms Tax	TB-48
SUBJECT:	Application of Meals and Rooms Tax For Meals and Room Charges at a School or College	ISSUED: 11/02/2009 REVISED: 12/21/2017

STATUTORY REFERENCES: 32 V.S.A. §§ 9241, 9202(3), (6), (10)

Introduction

This bulletin addresses situations in which schools are required to collect the Vermont Meals Tax and Rooms Tax. Vermont imposes a 9 percent tax on “taxable meals” and “occupancies” and a 10 percent tax on alcoholic beverages. Exemptions to meals and rooms tax apply to certain situations.¹

Meals Tax

Meals Exempt from Tax

Food and beverages served or furnished on the premises of a school are excluded from the definition of “taxable meal.” 32 V.S.A. § 9202(10)(D)(ii)(II). A “school” is defined as

- an incorporated nonstock educational institution,
- including an institution empowered to confer educational, literary or academic degrees,
- which has a regular faculty, curriculum and organized body of students in attendance throughout the usual school year,
- which keeps and furnishes to students and others records required and accepted for entrance to a school of secondary, collegiate or graduate rank, no part of the earnings of which inure to the benefit of any individual. 32 V.S.A. § 9202(9).

Under Vermont law, food or beverage is “furnished on the premises of a school” and exempt from tax if it is served within the geographic boundaries of school property; and either:

¹ In addition, the State of Vermont and its instrumentalities are exempt from *paying* the meals and rooms tax. Meals and Rooms Tax Regulations §1.9242-3(C)(6).

(1) is served by the school or an entity under written contract with the school to provide school dining facilities (including cafeteria, food court and vending machines); or

(2) is served at an event for the benefit of the school, sponsored by the school and serving the school's educational purpose, such as a school theatre production, sports events in which the school's students are participating, educational conference, or school charity event.

Food or beverage furnished to a private event on school grounds is taxable if provided by an off-site caterer and exempt if provided by the school or an entity under written contract with the school to provide school dining facilities.

For events for the benefit of the school, sponsored by the school and serving its educational purpose, the exemption applies regardless of whether the food or beverage is provided by school staff, by an entity under written contract to provide dining facilities, or delivered by an off-site caterer.

Taxable Meals

Although this exemption is broader than the nonprofit exemption from the rooms tax (explained below), it is not unlimited. Tax exemptions are strictly construed. When meals are purchased by individuals from an independent vendor and then subsequently delivered to a school, the food or beverage is not considered to be connected with a school-sponsored function and thus, does not qualify for the exemption. The Vermont Meals and Rooms Tax Regulations illustrate this concept, providing that a pizza delivered to a customer on a college campus is not exempt from meals tax. Vermont Meals and Rooms Tax Regulations, Reg. § 1.9202(10)-1.

Similarly, meals served by caterers at a private event at a school are taxable because the transaction is between the private customer and the caterer, and therefore, not connected with the function of a school. Likewise, to the extent that a school leases its grounds (or some portion of its grounds) for some non-school purpose, such as a trade or professional meeting, wedding, or family reunion, at which private arrangements are made for meals, the exemption does not apply.

Given the nature of this exemption, the Department advises caterers and restaurants to maintain clear records of the client with which they contract and the events when selling meals at events located on school campuses. The records should include documentation (such as a contract and payment) to show whether event was a private event or event benefitting and sponsored by the school.

Examples of exempt meals are:

- 1) Meals furnished by a school² to parents and potential students during recruiting or orientation events.
- 2) Meals furnished by a school to participants at an educational conference held on a college campus.
- 3) Meals furnished by a school in connection with a private meeting or event conducted on the campus.
- 4) Meals furnished by a school or school booster club to members of the public at a school sporting event on the school's premises.
- 5) Meals furnished by a school club during a performance at the school.

Examples of taxable meals are:

- 1) Meals catered by a private food service business at a private or political event, trade show, or professional meeting held on the campus.
- 2) Meals delivered to a college by a private food business and the delivery is not connected with the school or a school event.
- 3) Meals sold by a parents' group as a school fundraiser at an event that is held off school property.

Alcoholic Beverages Tax

A 10 percent tax³ is imposed on "alcoholic beverages" which are defined as any malt beverages, vinous beverages, spirits, or fortified wines as defined in 7 V.S.A. § 2 and served for immediate consumption. However, if alcoholic beverages are served or furnished on the premises of a school, no tax is imposed in situations where not meals tax is imposed.

In a situation where tax is not imposed on a meal served or furnished on the premise of a school, then alcoholic beverages served or furnished on the premises of a school are also exempt. 32 V.S.A. §§ 9241, 9202(11).

² The phrase "furnished by a school" refers to meals prepared and served by the school's own food service or by a food service with whom the school contracts to providing dining facilities.

³ Alcoholic beverages are not subject to the 9 percent meals tax imposed on "taxable meals" because even though that term includes non-prepackaged food or beverage furnished by other than a restaurant, the definition of "food or beverage" excludes alcoholic beverages.

Rooms Tax

“Occupancy” is defined as the use or possession, or the right to the use or possession, of any room or rooms in a “hotel” for any purpose. 32 V.S.A. § 9202(6). Although broadly defined, “hotel” excludes “an establishment operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable or educational purposes, one or more, which, in furtherance of any of the purposes for which it was organized, operates a hotel as defined herein.” 32 V.S.A. § 9202(3)(C). Thus, as nonprofit entities organized and operated for educational purposes, schools may offer housing exempt from rooms tax when it is in furtherance of any purpose for which the school was organized. 32 V.S.A. § 9202(3)(C). Moreover, the term “rent”⁴ does not include charges to students for sleeping and living accommodations necessitated by attendance at the school. 32 V.S.A. § 9202(8).

Charges for rooms connected with events that are not sponsored by a school to benefit its students in particular or higher education in general⁵ are not exempt from tax, and the school or event organizer should collect and remit the tax to the State.

Examples of exempt room charges are:

- 1) Charges for on-campus rooms provided for scholarly conferences. These conferences facilitate growth and dissemination of knowledge in various academic fields by offering scholars an opportunity to present their work and interact with their peers. Generally, these conferences are open to undergraduate students studying in the field. They are distinguishable from professional and trade meetings, which may provide similar educational and networking opportunities for a particular profession or trade, but are not related to the college’s mission of conferring degrees via an academic curriculum to students.
- 2) Charges for rooms provided for academic programs for middle and high school students, such as the Governor’s Institutes of Vermont, that have as a purpose encouraging pursuit of higher education in general and programs offered by the college in particular.
- 3) Charges for rooms provided for adult continuing education courses, such as those offered to teachers to maintain their accreditation.

⁴ Rent is defined as the consideration received for occupancy. 32 V.S.A. § 9202(8).

⁵ It is assumed that colleges are organized for the purpose of providing higher education culminating in a degree or certificate and more generally to promote higher education.

Examples of room charges that are not exempt:

- 1) Charges for campus rooms provided for programs, sometimes called “camps”⁶ – whether promoting sports, theater, religion or other subjects – operated by an organization other than the college or, if operated by a school, not in furtherance of any purpose for which the school was organized.
- 2) Charges for campus rooms provided for private citizens enrolled in adult learning programs operated by private businesses.
- 3) Charges for rooms provided for private events such as family reunions, weddings, or club meetings.
- 4) Charges for off-campus rooms even if provided for events organized or sponsored by the college.

The purpose of this bulletin is to provide general information to schools and the public on the collection of Vermont Meals and Rooms Tax by schools and does not replace the need for competent legal advice. This technical bulletin supersedes all prior department pronouncements on this subject.

Approved:


Kaj Samsom, Commissioner of Taxes

Dec. 22nd 2017
Date

⁶ “[O]ccupancy furnished in a summer camp for children” is excluded from the definition of “occupancy” pursuant to 32 V.S.A. § 9202(6), and accordingly, any rent charged is exempt from rooms tax. The camp must be exclusively for children and operate approximately within the time period for a public school’s summer vacation.