

Restaurants and Bars

137

Sales Tax Fact Sheet 137

Fact Sheet

What's new in 2017

Starting July 1, 2017, the only taxable food sold through vending machines is prepared food, soft drinks, candy, and dietary supplements.

This fact sheet covers:

- Liquor sales
- Prepared food sales
- Determining sales price
- Catering charges
- Tips and service charges
- Other charges
- Discounts and coupons
- Free meals and drinks
- Sales to governments and exempt organizations
- Food at schools
- Purchases
- Use tax
- Miscellaneous
- Reporting taxes

Liquor sales

You must have a license to sell liquor. The type of liquor license determines the sales tax rate you must charge on your liquor sales. If your business is in an area with a local tax, you may also have to charge local and special local sales taxes. For more information, see:

- Fact Sheet 164, *Local Sales and Use Taxes*
- Fact Sheet 164M, *Minneapolis Special Local Taxes*
- Fact Sheet 164S, *Special Local Taxes*

If you have an	You must charge
Intoxicating Liquor License, Club License, or Wine License	<ul style="list-style-type: none"> • State general rate sales tax, • 2.5 percent liquor gross receipts tax, and • Any applicable local or special local taxes on all sales of alcoholic beverages including wine coolers and 3.2 beer.
3.2 percent malt liquor license	<ul style="list-style-type: none"> • State general rate sales tax, and • Any applicable local or special local taxes on all taxable sales including 3.2 beer.
Set-up license	<ul style="list-style-type: none"> • State general rate sales tax, and • Any applicable local or special local taxes on all taxable sales

Nonalcoholic beer

Sales of nonalcoholic beer are subject to the state general sales tax and any applicable local taxes. The type of liquor license does not matter.

Liquor for resale

As a retailer, you cannot sell liquor for resale. Only liquor distributors are allowed to sell liquor for resale.

Prepared food sales

Most food and drink sold in a restaurant or bar is taxable. Food prepared by the seller or sold with eating utensils provided by the seller is taxable.

For more information, see Fact Sheet 102D, *Prepared Food*.

Special local taxes on food

Some cities have special local sales and use taxes on sales of food. For more information, see:

- Fact Sheet 164M, *Minneapolis Special Local Taxes*
- Fact Sheet 164S, *Special Local Taxes*

Determining sales price

Sales tax included in the price

If you include sales tax in the price, you must notify your customers, in writing, that sales tax is charged. You can do this by posting a sign or placing a statement on your menu that “all prices include sales tax”.

Sales tax on drinks purchased in a restaurant

When prepared food and drinks are sold in a restaurant, show the sales tax as a separate item on the total bill.

Sales tax on drinks purchased in the bar area of a restaurant

Include sales tax in the price of the drink. This makes paying for drinks easier. You must notify customers that sales tax is included in the price.

When sales tax is included in the price of drinks in the bar area of a restaurant, you must track bar sales separately (on a separate register) from restaurant sales. Handle sales tax the same for all bar sales. Your records must support your calculations.

Catering services

Catering services are taxable. Catering services include:

- Charges for delivery, preparation, or services
- Drinks
- Food
- Rentals of chairs, tables, tablecloths, and tableware

Catering purchases

See the table below to determine if you owe tax on your purchases of tableware, tablecloths, glassware, etc..

The customer is charged	Is the purchase taxable?
A separate fee to use the items.	No. You may purchase these items exempt for resale. Give your supplier a completed Form ST3, <i>Certificate of Exemption</i> . Specify the Resale exemption.
No fee. The use of these items is included in your catering service.	Yes. You must pay sales or use tax when you buy these items.
A reduced catering price if the customer does not use these items.	No. You may purchase these items exempt for resale. Give your supplier a completed Form ST3, <i>Certificate of Exemption</i> . Specify the Resale exemption.

Personal Chef Services

Charges for a personal chef to prepare food, when the customer provides the food and food ingredients, is not taxable.

Tips and service charges

Tips left or added to a credit card receipt voluntarily by a customer are not taxable.

Tips and service charges added by seller

When the seller adds a tip or service charge to the bill, the charges are taxable. This is true even if the amount is given to employees.

Tips or service charges added by the seller for	The added tip or service charge is subject to
Food only	<ul style="list-style-type: none">• State general rate tax• Any applicable local and special local taxes
Liquor only	<ul style="list-style-type: none">• State general rate tax• 2.5 percent liquor gross receipts tax• Any applicable local or special local taxes
Food and liquor combined*	<ul style="list-style-type: none">• State general rate tax• 2.5 percent liquor gross receipts tax• Any applicable local or special local taxes

*If you can allocate the tip or service charge added by the seller between what portion is for food versus liquor, the 2.5 percent gross receipts liquor tax only applies the liquor portion. You must keep documentation showing how you determined the tax.

Other charges

Coat check

Coat check charges are not taxable.

Coin-operated entertainment and amusement devices

Income from all coin-operated entertainment and amusement devices is taxable. Examples include:

- Batting cages
- Jukeboxes
- Cranes
- Photo or video booths
- Foosball and pool tables
- Rides
- Fortune telling machines
- Video and pinball games

For more information, see Fact Sheet 158, *Vending Machines and Other Coin-Operated Devices*.

Corkage fee

A fee charged to a customer for bringing in their own bottle of wine is not taxable.

Cover charges

Charges that allow customers to receive food, drinks, entertainment, dancing, admission, etc., are taxable. These charges are taxable if they are separately stated on the bill or collected as an admission fee.

Delivery charges

Charges to deliver taxable items are taxable, even if separately stated.

Gift certificates

Gift certificates are not taxable when sold. When a gift certificate is redeemed, charge sales tax on any taxable portion of the purchase and apply the amount of the gift certificate as a cash payment.

Parking

Parking charges to customers or employees are taxable. For more information, see Fact Sheet 166, *Parking Services*.

Rental charges

Rental charges for lodging accommodations or equipment are taxable. Examples include:

- Audiovisual equipment
- Decorations
- Tables and chairs

Rental charges for meeting rooms, ballrooms, halls, etc. (that are not for lodging) are not taxable.

Returnable containers

When you charge a customer a deposit for a returnable beer keg, pie tin, or other reusable food or beverage container, the deposit is not taxable.

Vending machines

Starting July 1, 2017, the only taxable food sold through vending machines or honor boxes is prepared food, soft drinks, candy, and dietary supplements. Previously, all food sold through a vending machine or honor box was taxable.

Discounts and coupons

Discounts and coupons

Discounts and coupons allow the customer to purchase goods or services at a reduced price. The price you must charge tax on depends on if you are reimbursed for the discount or coupon the customer redeemed.

Are you reimbursed by a third party?	What amount do I charge tax on?
Yes	Charge tax on the total sales price before subtracting the discount amount.
No	Subtract the discount amount from the total sales price. Charge tax on the remaining amount.

For more information, see Fact Sheet 167, *Coupons, Discounts, Rewards, Rebates and Other Forms of Payment*.

Daily deal website vouchers and coupons

Generally, discount vouchers and group coupons are purchased online and then brought to the retailer for the discount. The purchase of a discount voucher is not taxable. If the item (or service) is taxable, charge sales tax when the voucher or coupon is redeemed.

Do you know how much the customer paid for the group discount voucher?	Charge sales tax on
Yes	The amount the customer paid for the discount voucher.
No	The face value of the discount voucher.

Note: Your records must support the tax calculation.

Employee meals

Charge tax on what the employee pays for the meal. For example, employees get a 15 percent meal discount. The menu price of the meal before tax is \$10.00. After the 15 percent discount, the cost of the meal is \$8.50. The \$8.50 is taxable.

If employees receive free meals, you must pay use tax on the cost of all taxable items used in the meal. For more information see the “Free meals and drinks” section below.

Free meals and drinks

Free meals and drinks

Free meals and drinks are given away with no purchase necessary (appetizers, a birthday drink, dessert). Free meals and drinks do not include two for one deals, free child meal with the purchase of adult meal, or coupon meals.

You must pay use tax on other taxable items provided or included with the free drink or meal. For example:

- Disposable cups
- Napkins
- Prepared food purchased for resale
- Soft drinks in cans or bottles
- Straws

Note: Use tax is not due on the cost of nontaxable food.

If you serve free drinks, you must pay use tax on the cost of liquor used in the free drinks. Use tax includes the state general use tax rate, the liquor gross receipts use tax, and any applicable local taxes.

Complimentary hotel meals provided by a restaurant

When meals or drinks are included in the price of a room, and the room charge does not change whether or not the customer consumes the meal or drink, it is considered complimentary.

Examples of complimentary meals or drinks include:

- Appetizers
- Beverages (alcoholic and nonalcoholic)
- Cookies and snacks
- Continental or hot breakfast

- Evening dinner

Note: Tax is due on any taxable items used to provide the complimentary meals or drinks.

Sales to government and exempt organizations

Federal government

Prepared food and drinks billed to and paid for by the federal government and its agencies are not taxable.

Prepared food and drinks billed to a federal employee are taxable even if reimbursed by the federal government.

Some federal employees use **federal credit cards** to purchase prepared food and drinks. The type of credit card used, determines if the prepared food and drinks are subject to tax.

For more information, see Fact Sheet 142, *Sales to Governments*.

State and local governments

Prepared food and drinks sold to state and local government agencies are taxable. Local governments do not pay *local* sales taxes but must pay special local taxes (lodging, restaurant, entertainment, liquor).

Tribal governments

Tribal governments have an agreement with the Minnesota Department of Revenue to purchase prepared food and drink exempt from tax, regardless of where the food and drink is consumed.

Note: This exemption does not apply to the Prairie Island Mdewakanton Community.

For more information, see Fact Sheet 160, *Tribal Governments and Members*.

Foreign officials

The U.S. Department of State's Office of Foreign Missions and the American Institute of Taiwan issue tax exemption cards to eligible foreign missions, their accredited members, and dependents.

There are restrictions on the use of these cards. Ask to see the consular official's ID card. Make sure the purchase qualifies for the exemption by checking the information on the card. For example, some cards will state that the official must pay sales tax on purchases under a certain dollar amount.

If the official qualifies for the exemption, write the individual tax exemption number found on the card on the billing or sales invoice. Keep this in your records as proof of exemption.

Nonprofit organizations

Nonprofit organizations cannot buy prepared food and drinks exempt from tax.

If the nonprofit organization is buying prepared food and drink for resale, they may buy them exempt from tax. The nonprofit organization must give you a completed Form ST3, *Certificate of Exemption*.

Direct Pay holders

Businesses with Direct Pay authorization cannot buy prepared food or drinks exempt from sales tax

Food at schools

Pre-Kindergarten through 12th grade schools

All food and drinks served at pre-kindergarten through 12th grade schools are exempt from sales tax. This exemption applies non-school events (wedding or party).

Concession stands

Concession stand sales that take place on school premises are not taxable.

Administrative offices

Administrative offices located off the school premises are not part of the school. Prepared food and drinks sold at those offices is taxable.

Colleges, universities, and private career schools

Meals served to students at colleges, universities, and private career schools are taxable. For more information, see Fact Sheet 111, *Schools - Sales and Purchases*.

Vending machines

Starting July 1, 2017, the only taxable food sold through vending machines is prepared food, soft drinks, candy,

and dietary supplements. Previously, all food sold through a vending machine at a school was taxable.

For more information, see Fact Sheet 158, *Vending Machines and Other Coin-Operated Devices*.

Purchases

Exempt purchases

When items are sold as part of the prepared food and drinks, you may buy them exempt from tax. Give your supplier a completed Form ST3, *Certificate of Exemption*. Examples include:

- Deli paper, foil, and wraps used to package take-out food
- Disposable chopsticks, cups, lids, napkins, placemats, plates, silverware, tablecloths
- Doggie bags and boxes
- Moist towelettes (given to customers)
- Pie tins (when sold with a pie)
- Straws and swizzle sticks
- Take-out food containers
- Toothpicks

Taxable purchases

The following purchases are taxable for restaurants, bars, and eating establishments.

- Appliances
- Cash register tapes
- Cleaning products
- Cookware
- Dishes and glassware
- Equipment and fixtures
- Free candy and matches
- Linens and table cloths
- Menus
- Paper towels
- Reusable pie tins
- Silverware
- Toilet tissue
- Utilities

Industrial production and capital equipment exemptions

Generally, restaurants, bars, and eating establishments do not qualify for the industrial production and capital equipment exemptions.

Use tax

You owe use tax on taxable items taken from inventory or when the seller does not charge Minnesota sales tax. If you are located in an area with a local tax, you may also owe local sales or use tax.

For more information see:

- Fact Sheet 146, *Use Tax for Businesses*
- Fact Sheet 164, *Local Sales and Use Taxes*

Miscellaneous

Equipment sales

If you sell equipment or other items used in your business, the sale may be taxable. For more information, see Fact Sheet 132, *Isolated and Occasional Sales*.

Lawful gambling

If you have questions or need more information on lawful gambling (bingo, pulltabs, tipboards, and paddle-wheels):

- Visit our website at www.revenue.state.mn.us and type **lawful gambling tax** into the Search box.
- Call the Gambling Control Board at 651-539-1900 or visit their website: www.mn.gov/gcb

For a license or permit for lawful gambling, call 651-639-4000.

Reporting taxes

You can report state, liquor, local, and use taxes electronically at www.revenue.state.mn.us. If you do not have Internet access, you can file by phone at 1-800-570-3329.

Past due taxes

If you owe the Department of Revenue past due taxes, or have unfiled tax returns, we may stop the issuance or renewal of your business licenses.

If you sell any kind of liquor and owe past due taxes, we will submit your name to the Commissioner of Public

Safety (Liquor Control Board) to publish on the Liquor Posting list.

Wholesalers, manufacturers, and breweries cannot sell or deliver any product to a business on the Liquor Posting list.

You must pay past due taxes in full before your name is removed from the list. Payment agreements are prohibited by law in these cases. For more information, call 651-201-7500.

Legal References

Minnesota Statutes 120A.05, subd. 10(a), Kindergarten definition
Minnesota Statutes 157, Food, Beverage and Lodging Establishments
Minnesota Statutes 297A.61:
 subd. 3(d), Definitions
 subd. 34, Taxable food sold through vending machines
Minnesota Statutes 297A.67:
 subd. 2, Food and food ingredients
 subd. 4, Exempt meals at residential facilities
Minnesota Statutes 340A.101, Liquor definitions

Revenue Notices

02-11, School Meals - Board Contracts at Colleges, Universities, or Private Career Schools

Other fact sheets

102A, *Food and Food Ingredients*
102B, *Candy*
102C, *Soft Drinks and Other Beverages*
102D, *Prepared Food*
102E, *Dietary Supplements*
103, *Capital Equipment*
111, *Schools – Sales and Purchases*
118, *Hospital and Nursing Home Meals*
123, *Admissions and Amusement Devices*
132, *Isolated and Occasional Sales*
141, *Hotels and Lodging Facilities*
142, *Sales to Governments*
145, *Industrial Production*
146, *Use Tax for Businesses*
158, *Vending Machines and Other Coin-Operated Devices*
160, *Tribal Governments and Members*
164, *Local Sales and Use Taxes*
164M, *Minneapolis Special Local Taxes*
164S, *Special Local Taxes*
166, *Parking Services*
167, *Coupons, Discounts and Other Forms of Payment*
176, *Local Government*