

MINNESOTA DEPARTMENT OF REVENUE

Modification of Revenue Notice # 1993-07: Sales and Use Tax – Meals Served Taxable Food Sold to or by Airlines*

*With modifications shown (see “Key” below).

General Rule:— ~~The furnishing, preparing, or serving~~ sale and purchase of prepared food, soft drinks, and candy for a consideration of ~~food, meals, or drinks~~ is a sale or purchase subject to Minnesota sales and use tax under the provisions of Minn. Stat. § 297A.01, subd. 3(e) *Minnesota Statutes*, section 297A.61, subdivision 3 (d). For purposes of brevity and convenience, ~~food, meals, or drinks~~ prepared food, soft drinks and candy will be referred to as ~~“meals.”~~ “taxable food.”

Application of Tax to Meals Taxable Food Served by Airlines. If an airline serves ~~meals~~ taxable food as part of its transportation service and no separate charge is made for ~~these meals~~ the food, there is no sale of ~~meals~~ taxable food by the airline within the meaning of the Sales and Use Tax Law. ~~Therefore, the airline may not purchase these meals exempt for resale and~~ Under these circumstances, the sale of ~~these meals~~ the taxable food in Minnesota to the airline ~~are~~ is a taxable retail sales. ~~(See Minnesota Rule, part 8130.0800).~~ Persons who ~~furnish meals~~ sell taxable food to an airlines for use in its transportation service and not to be resold by the airline must charge sales tax on the sales price of the ~~meals~~ taxable food.

If an airline purchases taxable food for sale to passengers who are separately charged for the food, the sale to the airline is exempt, for the purpose of resale. The airline needs to provide their supplier with a fully completed certificate of exemption in order to claim the exemption. The sale of the taxable food by the airline to its passengers is taxable. ~~Persons who prepare meals for airlines for use in the airline's transportation service must charge sales tax on the sales price of the meal preparation service. This is true even if the airline provides the food or other items used in the meal preparation.~~

Sales Price. All charges associated with the ~~furnishing or preparation of the meal~~ sale and purchase of taxable food are included in the sales price and are subject to tax. No deduction is allowed under ~~Minn. Stat. § 297A.01, subd. 8~~ *Minnesota Statutes*, section 297A.61, subdivision 7, for port fees, the cost of materials used, or for labor and services that are part of the sale of ~~a meal~~ the taxable food. This means that the entire amount charged to an airline for ~~meals or meal preparation~~ taxable food is subject to sales tax. If charges for services that are part of ~~meal preparation~~ the sale of the taxable food are separately stated on the bill to the airline ~~customer~~ passenger, or separately contracted for with the airline ~~customer~~ passenger, they remain taxable and sales tax must be collected by the airline.

Examples. Sterilization or sanitation of food service equipment, dishwashing, storage, handling, delivery of ~~meals~~ taxable food to aircraft, tray set-up, and liquor and beverage set-up are examples of services that are considered part of ~~meal preparation~~ the sale of taxable food. Charges for these and similar services are included in the sales price of ~~meals~~ the taxable food sold to airlines. These charges are taxable regardless of how they are labeled and regardless of how they are contracted for if they are part of the sale of ~~a meal or of meal preparation~~ the taxable food.

Michael E. Beckhaus, Director
Appeals, Legal Services & Criminal Investigation Division
Dated: February 22, 1993

JOHN H. MANSUN, Assistant Commissioner
for Tax Policy and External Relations
Publication Date: March 19, 2007

***Key:** Underlining indicates additions to existing Revenue Notice language. Strikeouts indicate deletions from existing Revenue Notice language.

Please see page 2 for a clean, printable copy of this notice as modified.

MINNESOTA DEPARTMENT OF REVENUE

Modification of Revenue Notice # 93-07: Sales and Use Tax – Taxable Food Sold to or by Airlines**

****As modified**

General Rule

The sale and purchase of prepared food, soft drinks, and candy for consideration is a sale or purchase subject to Minnesota sales and use tax under the provisions of *Minnesota Statutes*, section 297A.61, subdivision 3(d). For purposes of brevity and convenience, prepared food, soft drinks and candy will be referred to as “taxable food.”

Application of Tax to Taxable Food Served by Airlines

If an airline serves taxable food as part of its transportation service and no separate charge is made for the food, there is no sale of taxable food by the airline within the meaning of the Sales and Use Tax Law. Under these circumstances, the sale of the taxable food in Minnesota to the airline is a taxable retail sale. Persons who sell taxable food to an airline for use in its transportation service and not to be resold by the airline must charge sales tax on the sales price of the taxable food.

If an airline purchases taxable food for sale to passengers who are separately charged for the food, the sale to the airline is exempt, for the purpose of resale. The airline needs to provide their supplier with a fully completed certificate of exemption in order to claim the exemption. The sale of the taxable food by the airline to its passengers is taxable.

Sales Price

All charges associated with the sale and purchase of taxable food are included in the sales price and are subject to tax. No deduction is allowed under *Minnesota Statutes*, section 297A.61, subdivision 7, for port fees, the cost of materials used, or for labor and services that are part of the sale of the taxable food. This means that the entire amount charged to an airline for taxable food is subject to sales tax. If charges for services that are part of the sale of the taxable food are separately stated on the bill to the airline passenger, or separately contracted for with the airline passenger, they remain taxable and sales tax must be collected by the airline.

Examples

Sterilization or sanitation of food service equipment, dishwashing, storage, handling, delivery of taxable food to aircraft, tray set-up, and liquor and beverage set-up are examples of services that are considered part of the sale of taxable food. Charges for these and similar services are included in the sales price of the taxable food sold to airlines. These charges are taxable regardless of how they are labeled and regardless of how they are contracted for if they are part of the sale of the taxable food.

JOHN H. MANSUN, Assistant Commissioner
for Tax Policy and External Relations
Publication Date: March 19, 2007