



Guidelines

Food and Beverage Tax



**Department of Finance
County of Henrico**



FOOD AND BEVERAGE TAX GUIDELINES

The guidelines presented here are a summary of the laws and regulations concerning the food and beverage tax in Henrico County. All applicable provisions of the Code of Virginia and Henrico County Code are controlling in all matters concerning the food and beverage tax.

WHAT IS THE FOOD AND BEVERAGE TAX?

The food and beverage tax is a four percent (4%) tax levied on food and beverages sold by restaurants as the term is defined in the Code of Virginia.

Restaurants include but are not limited to:

Amusement parks	Hot dog stands
Billiard parlors	Lunchrooms
Bowling alleys	Mobile food services
Buffets	Nightclubs
Cafes	Office/Government cafeterias
Cafeterias	Public and private clubs
Caterers (Licensed in Henrico)	Push carts
Coffee shops	Short order places
Concession stands	Skating rinks
Delicatessens	Sporting venues
Dining rooms	Taverns
Health clubs	Theaters

Also included on a limited basis are:

Bakeries - only if there is a sit-down area

Colleges and Universities when selling to non-students or non-employees

Hospitals and Nursing Homes when selling to employees and the general public

Industrial Cafeterias when selling to the general public

Food served from delicatessen counters at Convenience and Grocery Stores is also subject to the tax.

WHO COLLECTS THE FOOD AND BEVERAGE TAX?

All entities listed on the previous page, or any others that meet the definition of “restaurant,” are responsible for collecting the tax on food and beverages that they sell unless an exemption applies. The tax is collected from the customer and is remitted to the county. All funds collected are held in trust for the county.

MOST COMMON EXEMPTIONS FROM THE FOOD AND BEVERAGE TAX

- **Alcoholic beverages sold in factory sealed containers** and purchased for off-premises consumption
- Food and beverages sold by **churches** that serve meals for their members as a regular part of their religious observances
- Food and beverages when consumed and paid for by the **Commonwealth of Virginia**, any political subdivision of the Commonwealth, or the United States
- Food and beverages sold by **day care centers**
- Anything that falls under the definition of “food” in the **Food Stamp Act** except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages
- Food and beverages sold by **homes for the aged**, infirm, handicapped, battered women, narcotic addicts, or alcoholics
- Food and beverages sold by **hospitals**, medical clinics, convalescent homes, **nursing homes**, or other extended care facilities **to their patients or residents**

- Food and beverages provided by a public or private **nonprofit charitable organization** or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations
- Food and beverages sold by **public or private colleges and universities to their students or employees**
- Food and beverages provided by **restaurants** to their employees as part of their compensation when no charge is made **to their employee**
- Food and beverages sold through **vending machines**
- Food and beverages sold by **volunteer fire departments** and rescue squads; nonprofit churches or other **religious bodies; educational, charitable, fraternal, or benevolent organizations**, on an occasional basis, not exceeding three times per calendar year as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes

GRATUITY AND SERVICE CHARGES

Any discretionary gratuity is non-taxable.

Non-discretionary gratuity added to the cost of the meal is taxable if it is more than twenty percent (20%)[Only the amount greater than 20% is taxable].

REMITTANCE OF TAX COLLECTED

The seller must file a return and remit to the County any food and beverage taxes collected as follows:

Monthly Filers: Returns and payment are due on or before the 20th day of each month, covering the amount of tax collected during the preceding month.

Quarterly Filers: Returns and payment are due on or before the 20th day of the month immediately following the end of the quarter, covering the amount of tax collected during the preceding quarter. The quarterly returns and payment of tax shall be filed with the director of finance on or before April 20, July 20, October 20, and January 20, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31.

Seasonal Filers: Returns and payment are due on or before the 20th day of the month immediately following the collection of the tax, covering the amount of tax collected during the preceding month.

SELLER'S COMMISSION

Every seller is allowed to keep three percent of the amount of the tax due. This is accounted for in the form of a deduction on their return. The commission is not available if the return or payment is late.

This commission is provided to defray some of the costs incurred by the seller in collecting and remitting the tax.

PENALTIES AND INTEREST

A penalty of ten percent (10%) of the tax assessable shall be assessed for failure of a seller to **file** by the due date. The penalty becomes part of the tax due.

And

A penalty of ten percent (10%) of the tax assessable shall be assessed for failure of a seller to **pay** the tax by the due date. The penalty becomes part of the tax due.

And

Interest shall be assessed at the rate of ten percent (10%) per year on the amount of tax past due. The interest will commence on the day following the day on which the tax was due and continue until paid.

RECORD RETENTION AND AUDIT

Each seller is required to keep and preserve for a period of **five years** records showing gross sales of all food and beverages, the amount charged to the purchaser for each such purchase, the date of the purchase, the taxes collected on the purchase, and the amount of tax required to be collected.

The director of finance has the power to examine a seller's records at reasonable times and without unreasonable interference with the business of the seller and to make copies of all or any parts of the records.

GOING OUT OF BUSINESS

Whenever a business ceases operations or otherwise disposes of a business that was required to collect or pay the food and beverage tax, any tax collected but not yet remitted shall become immediately due and payable, and such person shall immediately make a report and pay the tax due.

EXAMPLES OF TAXABLE AND NON-TAXABLE ITEMS

TREATMENT OF ITEMS GENERALLY

TAXABLE:

- hot or cold meals served at restaurants and made to order meals served from delicatessen counters of convenience and grocery stores
- beverages, desserts, ice cream and snacks sold with a meal

NON-TAXABLE:

- beverages alone
- grocery items
- desserts, ice cream, and snack foods alone
- any combination consisting entirely of beverages, grocery items, or snack foods.

EXAMPLES SPECIFIC TO CERTAIN BUSINESSES

RESTAURANTS AND SHORT-ORDER PLACES (Including: sit-down and take-out restaurants, skating rinks, health clubs, snack bars, concession stands, taverns/nightclubs, etc.)

TAXABLE

- entrees and side dishes
- sandwiches, burgers, and hotdogs
- pizza
- soup, salads, and buffets
- beverages, desserts and snacks sold with a meal

NON-TAXABLE

- beverages not sold with a meal
- cookies, desserts, donuts, ice cream, popcorn and other snacks not sold with a meal
- grocery items, such as salads (potato, macaroni, etc.) sold by the pound, whole cakes or pies, coffee beans and other dry goods, and ice cream sold in bulk

GROCERY AND CONVENIENCE STORE DELICATESSEN COUNTERS

TAXABLE:

- hot foods served from the deli counter
- made-to-order sandwiches from the deli counter
- hot pizza from the deli counter
- individual pieces of chicken served from the deli counter

NON-TAXABLE:

- cold or frozen foods that are normally served hot
- prepackaged foods
- beverages
- foods sold by the pound
- bakery items
- whole, prepackaged cooked chickens
- grocery items, such as salads (potato, macaroni, etc.) sold by the pound, whole cakes or pies, coffee beans and other dry goods, and ice cream sold in bulk

**AMUSEMENT PARKS, BILLIARD HALLS, BOWLING ALLEYS, MOVIE THEATERS,
AND SPORTING VENUES**

TAXABLE

- hot foods sold as a meal
- all sandwiches, hot or cold
- pizza
- salads

NON-TAXABLE

- beverages not sold with a meal
- cookies, desserts, donuts, ice cream, popcorn and other snacks not sold with a meal

MOBILE FOOD SERVICES (including, but not limited to—hot dog stands, peddlers, and push carts)

TAXABLE

- all hamburgers, hot dogs, and other hot foods
- all sandwiches, hot or cold
- pizza
- salads
- soups

NON-TAXABLE

- beverages not sold with a meal
- cookies, desserts, donuts, ice cream, popcorn and other snacks not sold with a meal
- grocery items, such as salads (potato, macaroni, etc.) sold by the pound, whole cakes or pies, coffee beans and other dry goods, and ice cream sold in bulk

CATERERS AND BANQUET FACILITIES (INCLUDING HOTELS)

TAXABLE

- separately stated charges for food and beverages (following the same rules as restaurants, etc). This applies to caterers located in Henrico, regardless of where the meals are delivered or consumed.

NON-TAXABLE

- separately stated charges for services and rentals (audio visual equipment, dishes, room rental, etc.)
- complementary meals offered by hotels and bed-and-breakfasts as part of the individual guest's room charge

BAKERIES(ONLY TAXABLE WHEN THERE IS A SIT-DOWN AREA)

TAXABLE

- hot foods sold as a meal
- all sandwiches, hot or cold
- salads
- single serving bagels, donuts, breads, cake and pie slices sold with a meal

NON-TAXABLE

- bread loaves
- beverages not sold with a meal
- cookies, donuts, and other snacks not sold with a meal
- items purchased in bulk for off premises consumption
- whole cakes and pies

HOSPITALS AND NURSING HOMES

TAXABLE

- taxable items as above for restaurants when sold to employees and the general public

NON-TAXABLE

- all food and beverages provided to residents or patients

COLLEGES AND UNIVERSITIES

TAXABLE

- taxable items as above for restaurants when sold to non-students or non-employees

NON-TAXABLE

- all food and beverages sold to students and employees

INDUSTRIAL CAFETERIAS

TAXABLE

- taxable items as above for restaurants when sold to the general public

NON-TAXABLE

- all food and beverages sold to employees