WHAT TYPE OF ESTABLISHMENTS ARE NOT REQUIRED TO COLLECT MEALS TAX?

The following establishments are generally not required to collect meals tax when meals are sold at or included in the cost of accommodations: no transient boardinghouses, childcare facilities, nursing homes and public or nonprofit institutes of learning.

Meals sold to the public by nonprofit organizations including churches, fraternal, civic, and social organizations, may be exempt from meal taxes if the following stipulations apply:

- Meals sold at occasional dinners or special events, of up to three (3) days duration per event, if the nonprofit organization has three (3) or fewer such events a year and the food or meals sold by the nonprofit organization to the public is prepared by the members of the nonprofit organization.
- Food sold through vending machines is exempt as well.

Refer to Town of Abingdon Code §66-114 for additional information.

ARE THERE RECORD-KEEPING REQUIREMENTS PERTAINING TO MEAL TAXES?

Per Town of Abingdon Code §66-116, business owners are required to keep and preserve complete records of taxable sales and claimed exempt sales paid for the current calendar year and three previous years.

MY ESTABLISHMENT PLANS TO SELL ALCOHOL, WHAT DO I NEED TO DO?

The Virginia Department of Alcohol Beverage Control (ABC) Board issues licenses for the manufacture of liquor, the wholesale of beer and wine, the retail of beer and wine, and the retail of spirits by drinks. Remember to also register for the appropriate business license with our office that corresponds to your ABC privileges. Please refer to the Department of Alcoholic Beverage Control for additional information at www.abc.virginia.gov

WHAT ARE THE REQUIREMENTS TO REPORT SALES TO THE STATE?

You must file a Virginia Sales and Use Tax Return, form ST-9, monthly with the Virginia Department of Taxation to report gross sales. Refer to the Virginia Department of Taxation website for guidelines and information at https://www.tax.virginia.gov/businesses.

Please note that severe penalties, including criminal penalties, apply to sellers who fail to register, collect, or remit the tax in a timely manner. Town of Abingdon Code §§66-113 through 66-125

Contact Information

For Additional Information:

Office of the Treasurer - Town of Abingdon
Phone: (276) 525-1464
Website: https://abingdon-va.gov/

Town of Abingdon Code of Ordinances regarding Meals Tax:
https://ecode360.com/37178210#37178210

Town of Abingdon Code of Ordinances regarding Businesses:
https://ecode360.com/37178210#37178210

The Code of Virginia sets the legal framework that applies statewide and followed by the Town of Abingdon. The Town of Abingdon Code of Ordinances is enforced by local authorities to ensure compliance with local laws and regulations.

Meals, Food & Beverage Tax
Questions & Answers

Meals, Food & Beverage Tax

Questions & Answers:

A Guide to Town of Abingdon Meals Tax Requirements

TAMMY BALDWIN
TREASURER - TOWN OF ABINGDON
133 West Main Street
Abingdon, Virginia 24210

Meals, Food & Beverage Tax Guidelines

WHAT ARE THE MEALS, FOOD & BEVERAGE TAX?

The Meals, Food & Beverage Tax, commonly referred to as meals tax, is a 7% tax on the sale of prepared meals and beverages collected from consumers. by businesses and held in trust until remitted to the Town. Meal taxes is charged in addition to the Retail Sales Tax levied by the state.

WHAT IS SUBJECT TO TOWN MEALS TAX?

All "meals" sold by a restaurant or caterer, whether prepared in such restaurant or not and whether consumed on the premises or not. This includes prepared sandwiches and single-meal platters sold at the delicatessen counters of grocery and convenience stores. Town of Abingdon Code §66-111

- "Meals" refers to all food or beverages or both including alcoholic beverages and snack foods sold for consumption on the business's premises or elsewhere, regardless of manner, time, or place of service.
- "Meals" does not include grocery items nor alcoholic beverages sold in factory-sealed containers for off-premises consumption. "Meals" does not include single serving beverages sold without food.

For additional details, refer to Town of Abingdon Code §66-114 or contact our office.

WHO IS REQUIRED TO FILE MEALS TAX?

Businesses required to file meals tax include, but are not limited to restaurants, caterers, lunchrooms, cafeterias, coffee shops, taverns, delicatessens, grocery stores, convenience stores, public or private clubs, snack shops, ice cream shops, movie theaters, food vendors and food trucks.

HOW DO I REGISTER FOR MEALS TAX?

Complete a meals tax registration form that can be obtained from our office. Town of Abingdon Code §66-116

WHEN DO I BEGIN COLLECTING MEALS TAX?

The tax should be collected immediately upon opening the business. Town of Abingdon Code §66-116

WHEN IS THE MEALS TAX DUE?

File and pay monthly by the 20th to report gross receipts for the preceding month. §66-118

HOW CAN I FILE?

Submit the monthly meals tax form to our office, 133 West Main Street, or mail to PO Box 789, Abingdon, VA 24212.

HOW DO I RECEIVE MY DISCOUNT?

Business is allowed five percent (5% or .05) of the amount of tax due and accounted for in the form of a deduction on monthly return when paid by the 20th of the following month. Businesses must be current on meals tax to receive a discount. Town of Abingdon Code §66-119

WHAT IS THE PENALTY FOR FAILURE TO FILE BY THE 20TH OF EACH MONTH?

The late filing penalty is 10% and interest at the rate of 10% per annum, of the tax determined to be due. Town of Abingdon Code §66-120

You must include documentation with your return for exemptions to be considered. You will be notified by e-mail if any documentation is missing and be given five days to provide it. Failure to provide the requested documentation will result in the tax being calculated on the total gross receipts without deducting any exemptions for the month. (See attached examples) Town of Abingdon Code §66-114(d)

MEALS, FOOD & BEVERAGE TAX EXEMPTIONS

Government purchases may be exempt from meals tax if the meals are billed directly to the governmental organization and paid directly from the organization's funds. Purchases with a "government" card billed to the holder, who is reimbursed by the governmental agency are not exempt. In the case of the federal government, exempt cards are generally called "smart pay" cards. Please refer to the US General Services Administration website detailing GSA Smart-Pay Purchase Card transactions: https://smartpay.gsa.gov/.

Before exempting a sale from meals tax, follow these guidelines:

- Verify the government's tax exemption status and for of payment at point of sale.
- Keep a record of all meals tax exempt transactions, including invoices and receipts showing the date of sale sale amount, and proof of direct payment with government funds so records will be accurate for filing.
- Verify qualifying Government Services Administration (GSA) SmartPay Purchase Charge Car and retain payment information, specifically the prefix (first four digits) verifying that a government entity is directly liable for the payment.

WHO IS RESPONSIBLE FOR THE MEAL TAXES WITH THIRD-PARTY DELIVERY SERVICES (I.E. GRUBHUB, UBEREATS, ETC.)?

The restaurant or establishment that prepares the food is responsible for collecting and remitting the meals tax based on the total sales price charged to the customer, not a discounted amount (if any) actually paid by the delivery service to the restaurant.

Meal taxes should not be applied to any service charges, delivery charges (must be separately stated on invoice or receipt) or mandatory gratuity if they do not exceed 20% of the total sales price.

Meal taxes should be collected on all meals sold from a Town restaurant, even if the delivery address is not in the Town.

DOES THE "SALES AND USE TAX CERTIFICATE OF EXEMPTION" (ST-10) ISSUED BY THE VIRGINIA DEPARTMENT OF TAXATION EXEMPT CUSTOMERS FROM MEALS TAX?

This certificate is solely for the exemption of retail sales tax and not meals taxes. Meals sold to nonprofit organizations and colleges are generally *not* exempt from Meal Taxes. *(See examples of documentation to claim exemptions on next page.)*

Examples of documentation to claim exemptions:

Virginia Retail Sales Tax Exempt Certificate - Customers requesting to make tax exempt purchases must provide you with one of the following...

- ST 10 (Virginia dealer - Items purchased for resale)
- ST 12 (Governmental Entity - Commonwealth of Virginia, a political subdivision of the Commonwealth, or the United States Federal Government)
- VA law provides retail sales and use tax exemption to organizations exempted under IRS Code 501(c)(3), (c)(4), or (c)(19)

In addition to the certificate(s), transaction totals must be included as well.

**When a governmental agency or non-profit organization claims an exemption, the bill must be paid with a check, credit card or purchase order in the name of the agency/organization for the exemption to be approved. If an individual claims an exemption in the name of the agency/organization but pays with cash, a personal check, or their own credit card, the exemption is not valid and will be disallowed.

Retail sales of items like gift cards, hats, T-shirts, bottles of wine, factory sealed beer or distilled spirits should be included in your total gross receipts on the return, but then deducted out. Include a line-item accounting of these types of sales and a monthly source recap. For example: *HATS - $25.00, GIFT CARDS - $30.00, BOTTLED WINE: $65.00*

Examples for exemptions of Meals Tax:

The following are the most common types of **purchases** that are exempt from the Meals Tax:

- Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee. For employee meals, attach a monthly recap of totals. This can be from your point-of-sale system.
- **Meals when used or consumed and paid for directly out of public funds by the Commonwealth of Virginia, any political subdivision of the Commonwealth, or the United States.
- Any sale of a meal which is exempt from taxation under the Virginia Retail Sales and Use Tax Act

In addition to the most common ones listed above, the following **purchases** of food and beverages are exempt from the Meals Tax:

- Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students served on site and paid for as a part of a tuition, meal, or similar plan.
- Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons.
- Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.
- Food and beverages sold on an occasional basis, not exceeding six times per calendar year, by a nonprofit educational, charitable, or benevolent organization; church; or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes.
- Food and beverages sold through vending machines.

The following ***items***, when served exclusively for off-premises consumption, are exempt from the Meals Tax

(1) Factory-prepackaged candy, gum, nuts, and other items of essentially the same nature.

(2) Pastry, dairy and snack food items, such as doughnuts, ice cream sold in greater than single servin quantities, crackers, nabs, chips, cookies, and the like and items of essentially the same nature.

(3) Food sold in bulk.

(4) Alcoholic and nonalcoholic beverages sold in factor sealed containers.

(5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the state special supplemental food program for women, infants, and children.

(6) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act 1977, 7 USC 2012, as amended, except hot food or hot food products ready for immediate consumption. The following items, whether purchased for immediate consumption, are excluded from the definition of food the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-servin salads consisting primarily of an assortment of vegetables, and non-factory-sealed beverages. Items (3), (4) & (5) are not affected by this item.

The following ***businesses*** are not subject to the Meals Tax, except for any portion or section of the business that contains prepared food and beverage operations:

- grocery stores
- supermarkets
- convenience stores