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Food and Bar Establishments Industry Guide

This information describes the sales and use tax topics related to food and bar establishments, including food trucks. Use the links in the Guide Menu to see information about that topic

Sales - Food

Most food and drink sold by a food or bar establishment is taxable unless a specific exemption applies. This includes bars, restaurants, food trucks, and retailers, or others who sell prepared food or drinks.

Prepared Food Sales

Any food prepared by the seller or sold with eating utensils provided by the seller is taxable. For more information, see [Prepared Food](#).

Catering Sales

Catering services are taxable, including:

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

Personal Chef Services

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

Gift Certificates and Gift Cards

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

Sales - Liquor

Sales of liquor, wine, and beer are taxable. You must have a liquor license to sell these drinks. The type of license and your location determine the tax rate you must charge on your liquor sales.

If you have this type of license	You must charge all of the following
Intoxicating liquor, club, or wine	<ul style="list-style-type: none"> • 6.875% state general rate sales tax • 2.5% liquor gross receipts tax • Any applicable local or special local taxes on all sales of alcoholic beverages including wine coolers and 3.2 beer

If you have this type of license	You must charge all of the following
3.2% Malt liquor	<ul style="list-style-type: none"> 6.875% state general rate sales tax Any applicable local or special local taxes on all taxable sales including 3.2 beer
Set-up	<ul style="list-style-type: none"> 6.875% state general rate sales tax Any applicable local or special local taxes on all taxable sales

Note: No matter what type of liquor license you have, nonalcoholic beer and wine is only subject to the state general sales tax rate and any applicable local taxes.

Liquor for Resale

Food and bar establishments are retailers and cannot sell liquor to any person or business for resale. Only liquor distributors can legally sell for resale.

Liquor Tax Responsibilities

If you sell liquor, beer, or wine and are 10 or more days late in filing or paying your taxes, we will place you on the public Tax Delinquency (Liquor Posting) list. Tax types included are: sales, withholding, S corporation, corporate income, and certain partnership. (See [Minnesota Statutes, Section 270C.725.](#))

We notify you at least 10 days before you are posted.

Once you are on the list, no wholesaler, manufacturer, or brewer can sell or deliver any product to you. You cannot purchase retail liquor, beer, or wine for resale. We may revoke your license or prevent you from transferring, renewing, or obtaining a license.

To avoid being posted to, or to be removed from, the list, you must pay your tax liability in full with secured funds. Secured funds are guaranteed by the financial institution who issued them. Examples include cash, cashier's check, money order, bank wire transfer, or a credit card payment we enter.

Payment Agreements

You cannot have a payment agreement unless you surrender your liquor license. For more information, call us at 651-556-3003 or 1-800-657-3909 (toll-free).

Sales - Tips and Other Charges

Tips, other service charges, or rental charges may be taxable.

Voluntary Tips

Tips that a customer voluntarily leaves or adds to a credit card receipt are not taxable.

Tips Added by Seller

Tips or service charges a seller adds to the bill are taxable, even if the tip amount is given to employees. The table below shows which taxes apply.

Tips or Service Charges for These Items:	Are Subject to These Taxes:
Food only	<ul style="list-style-type: none"> 6.875% state general rate tax Any applicable local and special local taxes

Tips or Service Charges for These Items:	Are Subject to These Taxes:
Liquor only	<ul style="list-style-type: none"> • 6.875% state general rate tax • 2.5% liquor gross receipts tax • Any applicable local or special local taxes
Food and liquor combined (see note below)	<ul style="list-style-type: none"> • 6.875% state general rate tax • 2.5% liquor gross receipts tax • Any applicable local or special local taxes

Note: If you can divide the tip or service charge to show what portion is for food versus liquor, do not collect the 2.5% liquor tax on the food portion. You must keep documentation showing how you determined the tax.

Service and Rental Charges

Service and rental charges or fees may be taxable. The table below lists specific examples.

Taxable Charges	Nontaxable Charges
<ul style="list-style-type: none"> • Cover charges for food, drinks, entertainment, dancing, admission, etc. • Delivery charges • Equipment rentals (decorations, tables, chairs, audiovisual equipment, etc.) • <u>Parking fees for customers or employees</u> 	<ul style="list-style-type: none"> • Coat check fees • Corkage fees • Returnable containers fees (pie tin, or other reusable food or beverage container) • Space rental (meeting room, ballrooms, halls that are not in a recreational area or for lodging)

Sales - Vending Machines and Amusement Devices

Some sales through vending machines are taxable. All sales to use entertainment and amusement devices are taxable.

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 vending machines was taxable.

Taxable Food in Vending Machines	Nontaxable Food in Vending Machines
<ul style="list-style-type: none"> • Candy bars • Cold sandwiches • Honey roasted nuts • Soda pop • Sports drinks 	<ul style="list-style-type: none"> • Bottled water • Cookies • Licorice • Milk • Muffins

For more information, see:

- [Candy](#)
- [Dietary Supplements](#)
- [Food and Food Ingredients](#)
- [Prepared Food](#)
- [Soft Drinks and Other Beverages](#)

Entertainment and Amusement Devices

The use of all entertainment and amusement devices is taxable. Examples include:

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

For more information, see [Vending Machines and Other Coin-Operated Devices](#).

Determining Sales Price

Different areas of a restaurant or bar may have sales tax included in the price or listed out as a separate item.

Sales Tax Included

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

Sales Tax on Purchases in 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 Bar of Restaurant

When drinks are sold in the bar area of a restaurant, you may 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.

Local Sales Taxes

Some cities and counties have local sales and use taxes. If you are located in or make sales into an area with a local tax, you may owe local sales and use tax. For more information, see [Local Sales and Use Taxes](#).

To determine the sales tax rate, use the location where the product is received by the customer, typically your business or a delivery address. You can use our [Sales Tax Rate Map or Sales Tax Rate Calculator](#) to help you determine the sales tax rate.

Note: The map and rate calculator do not include special local taxes.

For more information, see:

- [Local Sales Tax Information](#)
- [Special Local Taxes](#)
- [Minneapolis Special Local Taxes](#)

Discounts and Coupons

Discounts and coupons allow customers to buy prepared food and drinks at a reduced price.

Examples of discounts and coupons:

- Buy one, get one free meals
- 50% off the purchase of second entrée
- Free drink with a purchase of an entrée
- Free child meal with the purchase of an adult meal

What do I charge sales tax on?

The price you charge tax on depends on if you are reimbursed for the discount or coupon being redeemed.

Are you reimbursed by a third party?	Charge sales tax on:
Yes	Total sales price before you subtract the discount amount
No	Sales price after you subtract the discount amount

Online Discount Vouchers and Coupons

Generally, customers buy discount vouchers and group coupons online and then bring them 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 voucher?	Charge sales tax on:
Yes	Amount paid for the discount voucher
No	Face value of the discount voucher

Note: Your records must support the tax calculation.

For more information, see [Coupons, Discounts, Rewards, Rebates, and Other Forms of Payment](#).

Employee Meals

If employees receive a discount on meals, charge tax on the price an employee pays for a meal. For example: Your employees get a 15 percent meal discount. The menu price (before tax) is \$10.00. The \$8.50 discounted price is taxable.

If employees receive free meals, you owe use tax on the cost of any taxable items used in the meal. For more information, see Free meals and drinks below.

Free Meals and Drinks

Free meals and drinks are given away with no purchase necessary, which does not include two for one meals, free child meals (with adult purchase), or coupon meals.

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

- disposable cups
- napkins
- prepared food
- soft drinks in cans or bottles

- straws

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.

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

Complimentary Hotel Meals Provided by a Restaurant

Meals and drinks are considered complimentary when they are included in the price of a room, and the room charge is the same whether or not the customer consumes the meal or drink.

Examples include:

- appetizers
- beverages (alcoholic and nonalcoholic)
- continental or hot breakfast
- cookies and snacks
- evening dinner

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

Sales to Government and Nonprofits

Most sales of food and beverages to governments are taxable. However, there are some situations where sales tax is not due.

Federal Government

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

Prepared food and drinks may not be taxable when sold to foreign consular officials, depending on the type of exemption card used and what is purchased.

For more information, see [Government – Federal Government](#).

State and Local Governments

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

Tribal Governments

Prepared food and drinks are not taxable when sold to tribal governments, no matter where the food and drink are consumed.

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

For more information, see [Tribal Governments and Members](#).

Nonprofit Organizations

Prepared food and drinks are taxable when sold to nonprofit organizations; the nonprofit exemption does not apply.

The only exception is if a nonprofit organization buys prepared food and drink from a distributor for resale. In that case, the purchase is exempt. The organization must give you a completed [Form ST3, Certificate of Exemption](#).

Note: You cannot sell alcoholic beverages to a nonprofit organization for resale. Only liquor distributors are allowed to sell liquor for resale.

Direct Pay Authorization

Prepared food and drinks are taxable when sold to businesses with Direct Pay authorization; the direct pay exemption does not apply.

Food at Schools

The location of where the food is served determines if the sale is taxable or not.

Pre-Kindergarten – 12th Grade Schools

All food and drinks served at pre-kindergarten through 12th grade schools are not taxable. This exemption also applies to non-school events (such as a wedding or party).

Concession Stands

Sales by a concession stand on school premises are not taxable.

Administrative Offices

Prepared food and drink sales in administrative offices located off the school premises are taxable. (The offices are not part of the school.)

Colleges, Universities, and Private Career Schools

Meals served to students at colleges, universities, and private career schools are taxable. For more information, see [Schools – Sales and Purchases](#).

Vending Machines

Starting July 1, 2017, the only taxable food sold through vending machines at a school is prepared food, soft drinks, candy, and dietary supplements. Previously, all food sold through a vending machine was taxable. For more information, see [Sales – Vending Machines and Amusement Devices](#).

Taxable Purchases and Use Tax

Items you use to operate your business are taxable unless a specific exemption applies. Several services are also taxable. If you do not pay sales tax on a taxable purchase, then you owe use tax. See the following table for examples.

Taxable Purchases	Examples
General items	<ul style="list-style-type: none"> • Cash register tapes • Cleaning supplies • Computer hardware and software • Free candy and matches • Furniture and fixtures • Menus • Office equipment and supplies • Paper towels • Toilet tissue

Taxable Purchases	Examples
Cooking and serving equipment	<ul style="list-style-type: none"> • Appliances • Cookware • Dishes and glassware • Linens • Silverware • Tablecloths
Utilities	<ul style="list-style-type: none"> • Electricity • Gas for cooking and heating • Water
Taxable services	<ul style="list-style-type: none"> • Building cleaning and maintenance • Detective and security • Lawn and garden care <p>For more information, see a complete list of taxable services.</p>

Note: Food and bar establishments generally do not qualify for the industrial production and capital equipment exemptions.

Vehicles and Trailers

Licensed vehicles and trailers are subject to the 6.5% Motor Vehicle Sales Tax (not the state general sales tax).

Installing equipment and utilities to convert a vehicle or trailer to serve food is taxable.

For more information, see [Motor Vehicle](#).

Use Tax

If you buy equipment, supplies, or other taxable items for your business and the seller does not charge Minnesota sales tax, you owe use tax on the cost of the items. If your business is located in an area with a local tax, you may also owe local use tax.

Some common situations where you may owe use tax include:

- You buy taxable items or services online without paying sales tax
- You withdraw an item from inventory to use (instead of selling it), donate, or give away
- You buy taxable items outside of Minnesota
- You buy taxable items in another Minnesota city or county with a lower (or no) local sales tax

For more information, see [Use Tax for Businesses](#) and [Local Sales and Use Taxes](#).

Nontaxable Purchases

You may buy items exempt from sales tax if they will be sold as part of prepared food and drinks.

Give your supplier a completed [Form ST3, Certificate of Exemption](#). Specify the Resale exemption.

The following table lists some specific examples.

Nontaxable Purchases	Examples
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Nontaxable Purchases	Examples
Items that are part of prepared food	<ul style="list-style-type: none"> • Deli paper, foil, and wraps used to package take-out food • Doggie bags and boxes • Pie tins (when sold with a pie) • Take-out food containers
Disposable serving pieces	<ul style="list-style-type: none"> • Chopsticks • Cups and lids • Napkins • Placemats • Plates and utensils • Tablecloths
Other supplies	<ul style="list-style-type: none"> • Straws • Swizzle sticks • Toothpicks
Clothing for general use	<ul style="list-style-type: none"> • Aprons • Gloves • Uniforms <p>For more information, see Clothing.</p>

Lawful Gambling

Registered nonprofit organizations may conduct lawful (charitable) gambling such as bingo, pull-tabs, tip boards, and paddle tickets. Some food or bar establishments lease or grant space to these organizations.

These activities are subject to the state's Lawful Gambling Tax (but not sales tax).

For more information:

- See [Gambling Taxes](#)
- Visit the [Gambling Control Board website](#)
- Call the Gambling Control Board at 651-539-1900

Gambling Device and Equipment Sales

A retail sale is:

- The sale, lease, or rental of tangible personal property
- The sale of tangible personal property used in conducting lawful gambling under chapter 349 or State Lottery under chapter 349A and is not considered a sale of property for resale

The table below explains when sales tax applies to the sale of gambling devices and equipment.

Question	Is the Item Taxable?	References
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Question	Is the Item Taxable?	References
Is the rental of electronic gaming devices taxable?	Yes. The lessee is responsible for the sales tax on the rental or lease of the equipment. It does not matter if there is a revenue sharing agreement.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.61, subds. 4(k), 4(l), and 7
Are monthly equipment charges taxable?	Yes. The lessee is responsible for the sales tax on the rental or lease of the equipment.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.61, subds. 4(k), 4(l), and 7
Are revenue sharing agreements taxable?	Yes. The lessee is responsible for the sales tax on the total sales price of the rental or lease of an electronic gaming device – even when the sales price is separated into various components.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.61, subds. 4(k), 4(l), and 7
Are bingo cards and pull-tabs taxable?	Yes. The retailer is responsible for the sales tax unless an exemption applies – including purchases of digital products.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.61, subds. 3(i) and 7 • Digital Products
Are electronic pull-tabs taxable?	Yes. The retailer is responsible for the sales tax unless an exemption applies – including purchases of digital products.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.61, subds. 3(i) and 7 • Digital Products
Are apps for electronic gaming devices taxable?	Yes, they are taxable when sold to the distributor.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.61, subds. 3(i) and 7 • Digital Products
Is the sale of the software taxable?	Yes, they are taxable when sold to the distributor.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.61, subd. 17 • Computer Software

Question	Is the Item Taxable?	References
Does local sales and use tax apply when the city also has a local gambling tax?	No. However, Minnesota sales tax (6.875%) still applies.	<ul style="list-style-type: none"> • Minnesota Statutes 349.213, subd. 3 • Revenue Notice 99-11
Are purchases of gambling equipment by a 501(c)3 organization with a gambling license taxable?	Yes. These organizations must pay sales tax when they purchase, lease, or rent gambling devices and equipment.	<ul style="list-style-type: none"> • Minnesota Statutes 297A.70, subd. 4 • Minnesota Rule 8130.6200, subp. 8

If you have any questions, email us at salesuse.tech@state.mn.us.

Past Due Taxes

If you owe the Department of Revenue past due taxes or have unfiled tax returns, we may stop your business licenses from being issued or renewed until your taxes are up-to-date.

Liquor Posting List

If you have a license to sell liquor and owe past due taxes, your business will be placed on the department's Tax Delinquency (Liquor Posting) list.

Once you are on the list, no wholesaler, manufacturer, or brewer can sell or deliver any product to you.

You must pay the past due taxes in full before we can remove your name from the Liquor Posting list. You cannot have a payment agreement unless you surrender your liquor license. For more information, see [Liquor Posting](#) or call 651-556-3003.

Filing Returns and Record-Keeping

When filing your return, you must report all sales tax collected and use tax you owe.

Filing Returns

When filing your return, you must report all sales tax collected and use tax you owe.

If you are not registered for sales and use tax, you must contact the Minnesota Department of Revenue and register to collect and report taxes. Call Business Registration at 651-282-5225 or 1-800-657-3605 (toll-free).

For more information, see [Sales Tax Return Due Dates](#).

How to Report Sales and Use Tax

You must file a Sales and Use Tax return online through our e-Services system. For more information, see [Filing Information](#).

Record-Keeping

It is important to keep good records to determine the correct amount of state and local tax you owe.

Your records should include:

- bills, receipts, invoices, cash-register tapes, and any other documents that support the entries in your books
- exemption certificates
- shipping documents
- worksheets used to prepare your tax returns

For more information, see the [Sales and Use Tax Business Guide](#).

Legal References and Resources

The legal references and resources related to the food and bar establishments industry are listed.

Minnesota Statutes

- [157, Food, Beverage, and Lodging Establishments](#)
- [297A.61 Definitions](#)
 - [Subd. 3 Sales and purchases](#)
- [297A.67 General Exemptions](#)
 - [Subd. 2 Food and food ingredients](#)
 - [Subd. 4 Exemption meals at residential facilities](#)
- [340A. 101 Liquor Definitions](#)

Revenue Notices

- [02-11, School Meals – Board Contracts at Colleges, Universities, or Private Career Schools](#)

Fact Sheets

- [Candy](#)
- [Capital Equipment](#)
- [Clothing](#)
- [Coupons, Discounts and Other Forms of Payment](#)
- [Detective and Security Services](#)
- [Dietary Supplements](#)
- [Food and Food Ingredients](#)
- [Hospital and Nursing Home Meals](#)
- [Industrial Production](#)
- [Isolated and Occasional Sales](#)
- [Lawn and Garden Maintenance, Tree and Shrub Services](#)
- [Local Sales and Use Taxes](#)
- [Minneapolis Special Local Taxes](#)
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- [Sales to Governments](#)
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Industry Guides

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