



City of Madisonville

Guide to Sales for Restaurant Tax

Introduction

This guide contains general information about the Madisonville, KY restaurant tax on prepared meals. It describes what types of transactions are taxable and what a vendor must do to comply with the ordinance.

Definitions

Meal: A meal is any food and/or non-alcoholic beverage that has been prepared for human consumption and provided by a restaurant as defined in the ordinance. A meal includes food and beverages sold on a "take out" or "to go" basis, whether or not they are packaged or wrapped, and whether or not they are taken from or consumed on the premises of the restaurant.

Restaurant: A restaurant is an establishment that is primarily engaged in the business of selling meals and/or non-alcoholic beverages for which a charge is made. Such establishments include but are not limited to:

- Restaurants
- Cafes
- Cafeterias
- Delicatessens
- Convenience Stores
- Catering businesses
- Cocktail lounges and bars
- Coffee shops
- Diners
- Dining rooms, including hotel and motel dining rooms

- Ice cream or other food product stands
- Lunch counters
- Private or social clubs
- Salad bars
- Snack bars, including theatre snack bars
- Street vendors
- Taverns

Examples of stores that may have a restaurant part include supermarkets, grocery stores, bakeries, delicatessens, convenience stores and markets.

Restaurant meal delivery company: A restaurant meal delivery company is a vendor of meals purchased from restaurants for resale and delivery.

Common Questions Regarding the Restaurant Tax

What is the City of Madisonville restaurant tax?

The City of Madisonville imposed a restaurant tax on meals sold by or purchased from restaurants. Effective January 1, 2016, the tax is 3 percent of the sales price of the meal. See chapter 91 of the City of Madisonville Code of Ordinances. Generally, a food product sold by a grocery store or convenience store is exempt from the restaurant tax, except if sold as a meal item from a restaurant part of a store.

Who is a restaurant tax vendor?

Anyone who sells meals that are subject to restaurant tax in Madisonville is a restaurant tax vendor. If a liquor license holder operates a restaurant where meals are served, the holder of the license is presumed to be the restaurant tax vendor, whether the meals are served by the license holder or a concessionaire.

What are the responsibilities of a restaurant tax vendor?

Madisonville restaurant tax vendors are responsible for:

- Registering with the City of Madisonville to collect the restaurant tax;
- Collecting a 3 percent restaurant tax of gross sales from food and non-alcoholic beverages;
- Paying the full amount of tax due with the appropriate Madisonville restaurant tax return on time (on or before the 20th day of each proceeding month's sales); and

- Keeping complete, detailed and accurate records of gross receipts from all sales for four years, whether taxable or not.
- Vendors will receive a non-refundable credit for the restaurant tax they remitted on their net profit license return

Are the responsibilities of out-of-state/ out-of-city vendors the same as those of in-state/ in-city vendors?

Yes. Out-of-state vendors who sell meals in Madisonville generally have the same responsibilities as Madisonville vendors.

How does a vendor register to collect the restaurant tax?

Vendors must speak to the Director of Finance, Cory Alexander or Laura Faulk in regards to registering the business.

How does a vendor collect and remit the restaurant tax on meals?

Vendors must add a 3 percent restaurant tax to the selling price of every taxable transaction and collect it from the purchaser. The tax must be separately stated and separately charged on all invoices, bills, displays or contracts. You must complete and remit the appropriate restaurant tax return(s) to the Department, with payment in full, on or before the due date.

How do meals tax vendors report taxable transactions of alcoholic and non-alcoholic beverages?

Alcohol sales are not subject to the restaurant tax.

Taxable Items

What restaurant sales are taxable?

Generally, the restaurant tax is imposed on the sale by a restaurant, or any part of a store that is considered to be a restaurant, of any food or non-alcoholic beverage that is prepared for human consumption in such a manner that it does not need any significant additional preparation or cooking to make it edible.

Example: If a restaurant serves a patron a lasagna dinner, then the dinner is taxable.

However, if the restaurant also sells frozen lasagna dinners that patrons heat in their own homes, these dinners are not considered meals and therefore are not taxable because they require additional preparation.

Example: If a patron purchases a pizza and fountain soda from a restaurant, then both the pizza and sodas are taxable.

However, if the patron purchases a pizza and a two-liter bottle of soda to go, then the pizza is taxable, but the bottle of soda is tax-exempt since it was sold in an unopened original container.

Example: If a restaurant offers a patron, upon presentation of a coupon, two meals for the usual price of one, the price of the free meal is excluded from the meals tax. The tax is due only on the actual amount the restaurant charges the patron.

What other kinds of establishments must charge a restaurant tax?

Any store not ordinarily considered a restaurant also must charge a restaurant tax on certain food items if those items are sold in such a manner as to constitute a meal. A meal includes food or beverages that do not require further significant preparation, whether or not they are packaged or wrapped and whether or not they are taken from the premises where purchased.

Bakeries: When a bakery sells food items that are prepared and served as ready to eat items in portions to be consumed on the premises or elsewhere, these sales are taxable.

Delicatessens: A delicatessen generally is considered a store with a restaurant part. Prepared foods including meat, poultry or fish items - for example, fried chicken or barbecued spare ribs - are taxable if sold heated. Prepared sandwiches are taxable. Sandwich meats or cheeses (sliced or whole) and whole cooked meat, poultry or fish sold unheated are not taxable.

Grocery stores, markets, supermarkets: Sales from a bakery, delicatessen or restaurant part of a grocery store, market or supermarket are taxed as previously described; sales of food products (groceries) are not taxable. However, a supermarket salad bar where shoppers purchase salads and pay by weight is a restaurant for purposes of the meals tax. Therefore, the salad is subject to tax.

Generally, the sale of prepared meat, poultry or fish items - including meat, poultry or fish parts or pieces, such as fried chicken wings or barbecued spare ribs - heated or in a combination plate is taxable.

Convenience stores: A convenience store's sales of the following items are taxable: poured or fountain-type beverages; combination plates sold as a unit reasonably and commonly considered a meal, whether or not heated; single-portion entrees such as lasagna, eggplant parmesan or quiche, heated, or refrigerated if the store provides a heating unit, and whether or not prepackaged; heated prepared foods; quick meals, such as hot dogs, hamburgers, sausage biscuits, pizza or soup, heated, or refrigerated if the store provides a heating unit, and whether or not prepackaged; sandwiches, whether or not prepackaged or heated; and unpackaged snacks such as fresh-popped popcorn.

Video stores: A video store's sales for off-premises consumption of poured or fountain-type beverages or of unpackaged snacks, such as fresh-popped popcorn, are taxable. Prepackaged snacks sold at a video store are not taxable.

Restaurant meal delivery companies: A restaurant meal delivery company is a vendor of meals purchased from restaurants for resale and delivery. The restaurant meal delivery company is required to register with the City of Madisonville, collect the 3 percent sales tax on the sales

price paid by the retail customer for the meals (excluding separately stated delivery charges and tips) and remit the tax to the City of Madisonville.

What store sales are subject to the sales tax on meals?

Sales of food and beverages by the stores previously listed are subject to the restaurant tax if the items are sold in a manner that constitutes a meal. The following items sold in stores are taxable:

Beverages: Poured beverages, such as a cup of coffee or a fountain soda.

Hot foods: Any heated prepared food item.

Entrees: Single-portion-size entrees - such as lasagna, eggplant parmesan or quiche - prepared for immediate consumption, if heated. Refrigerated items are also taxable if the store provides heating units (typically microwave ovens) in which customers may heat the entrees. Such entrees are taxable, whether they are prepackaged or not. Entrees sold frozen are not taxable.

Combination plates: Prepared foods sold as a unit in a manner reasonably and commonly considered a meal, heated or not.

Quick meals: Quick meals prepared for immediate consumption such as hot dogs, hamburgers, pizza slices or soup, if heated. These items are also taxable when refrigerated if the store provides heating units (typically microwave ovens) in which customers may heat the quick meal. Quick meals sold frozen are not taxable. The sale of sandwiches is taxable whether prepackaged or heated.

Catered Meals: Catered meals prepared or consumed in the City of Madisonville are subject to the restaurant tax.

What other types of items are included in the taxable sales price of a meal?

Generally, the restaurant tax imposed on a meal is based on the sales price of that meal.

Discounted meals: If a vendor offers customers, upon presentation of a coupon, a discount from the usual price of a meal, the sales price subject to tax is the actual amount the vendor charges the customer net of any coupon or discount.

Tax-Exempt Items

Are certain restaurant sales tax-exempt?

Yes. Certain food and beverages are not considered meals when sold by a restaurant for off-premises consumption, and their sales are not subject to the restaurant tax. These include:

- Beverages sold in unopened original containers unless served as an direct part of meal
- A loaf of bread;

- A quart of milk; and
- A prepackaged pint, quart, half gallon, etc. of ice cream, provided that such foods are commonly sold in the same manner in a retail food store that is not a restaurant. (Hand packed ice cream, regardless of size, is taxable.)

What store sales are tax-exempt?

The following items sold in stores are not taxable:

Beverages: Beverages sold in unopened original containers for off-premises consumption, whether purchased separately or in combination with other foods.

Prepackaged snacks and prepackaged baked goods: Items such as popcorn, chips, candy, ice cream, prepackaged pastries, novelties, etc. for off-premises consumption. Prepackaged means packaged in a sealed, unopened original container intended and marked by the manufacturer for individual sale.

Are sales of meals to certain purchasers/organizations tax-exempt?

Yes. Sales of meals to the following purchasers are not taxable:

Meals sold to 501(c)(3) organizations: Sales of meals to a religious, educational, charitable or scientific organization that is tax-exempt for federal purposes (exempt under Section 501(c)(3) of the Internal Revenue Code), or to persons, organizations or groups purchasing meals as agents on behalf of 501(c)(3) organizations, generally are exempt if the organization uses the meals in the conduct of its exempt enterprise. The vendor must ensure that these forms are complete and retain them to prove the sale was exempt. Otherwise, the sales tax on the meal can be assessed against the vendor.

Example: A university holds meetings to plan alumni fund events. At these meetings the university provides meals, free of charge, to alumni who have agreed to solicit contributions to the fund for no compensation. As long as the vendors keep the required records (mentioned above), then the meals are exempt from the sales tax on meals.

Meals furnished and/or operated in the school System: The Hopkins County School system cafeterias are exempt from the restaurant tax unless the meals are provided by an independent corporation.

Meals furnished by temporary food stands: Temporary food stands and street concessions, operated by non-profit organizations are exempt from this tax. Temporary food stands operated by an entity other than a non-profit organization are exempt from this tax if such temporary food stand is operated in conjunction with any organized festival or other public event which is sponsored by the City of Madisonville or any department thereof but only if such temporary food stand is operated under a license from the City of Madisonville.

Are sales of meals by certain organizations tax-exempt?

Yes. Sales of meals by the following organizations are not taxable:

Sales of meals by health and day care facilities: Sales of meals prepared by employees and served in a hospital, nursing home or licensed or certified residential or day care facility.

Hot lunch program for elderly persons: Sales of government-funded meals served through qualifying school lunch programs to the elderly.

Sales of meals by churches and synagogues: Sales of meals prepared and served on the premises by members of a church or synagogue to its members and guests.

Sales of meals by educational institutions or summer camps: Sales of meals to students by educational institutions or their agents and/or sales of meals by summer camps for children or developmentally disabled individuals.

Sales of meals by certain care facilities: Sales of meals to residents of healthcare facilities are tax-exempt.