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## **A Guide to the City Meals Tax**

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### **Welcome and Introduction**

Welcome to the City of Winchester! It is our hope that this guide will give you a clear understanding of the meals tax ordinance as it applies to your business, organization, or establishment.

The first step in the process is to determine if meals tax applies to you.

Do you sell prepared food and/or beverages from a business, organization or establishment which is located in the City?

- If the answer is no, this guide does not apply to you.
- If the answer is yes, please proceed.

### **Definitions**

#### **Local Excise Meals Tax**

The City of Winchester imposes a 6% tax on the purchaser of every meal served, sold, or delivered by a food establishment, vendor or a caterer located in the City whether consumed on the premises or not. (City Code Article VI Meals Tax Section 27-20)

#### **Meal**

Meal shall mean any prepared food and/or drink, including alcoholic beverages, offered or held out for sale by a food establishment for the purpose of being consumed by an individual or group of individuals at one time to satisfy the appetite and which is ready for human consumption.

Consumption can be on or off the seller's premises.

### **Purchaser**

The purchaser shall be any person who purchases a meal.

### **Restaurant/Food Establishment**

Any place, in the City of Winchester, in or from which food or food products are prepared, packaged, sold or distributed. A restaurant is any eating or drinking establishment-whether stationary or mobile, temporary or permanent- that is primarily engaged in the business of selling meals for which a charge is made.

Examples include:

Cafes, Cafeterias, Canteen trucks or wagons, Catering Businesses, 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, Street wagons or Carts.

Taxation shall be the locality in which sales are made (where the place of business is located) without regard to the locality of delivery or possible use by the purchaser.

### **Seller**

Any business, organization, establishment, restaurant, or caterer selling a meal as defined in this guide, or the person operating such business.

## **Common Questions Regarding Meals Taxes**

### **What is the City Excise tax on meals?**

The State Code of Virginia provides for local jurisdictions to impose an excise tax on meals. As such, the City Council of Winchester has levied a 6% tax on the amount paid for meals purchased from any food establishment.

### **Who pays the Tax?**

This tax is collected from the purchaser at the time the meal is purchased. This 6% tax is held in trust by the seller. The 20<sup>th</sup> of each month the seller remits the tax, collected for the previous month, on forms provided by the office of the Commissioner of the Revenue.

### **What are the responsibilities of the seller?**

1. Obtain a valid business license from the Commissioner of the Revenue.
2. Complete an application for a Meals Tax Account with the office of the Commissioner of the Revenue.
3. Collect 6% on all taxable sales of meals.

4. Complete the monthly Meals Tax Return, pay and mail this by the 20<sup>th</sup> of each following month. Remittance must be on forms prescribed by the Commissioner of the Revenue.
5. Keep complete, detailed and accurate records of gross receipts from all sales, whether taxable or not for a period of two years. The record shall include the amount charged the purchaser, the date of each purchase, and the taxes collected.

### **How does a Seller register to collect the tax on meals?**

The first step in this process is to obtain a business license to do business in the City of Winchester. These forms can be obtained either online at [www.winchesterva.gov/Departments/Commissioner of the Revenue/Forms](http://www.winchesterva.gov/Departments/Commissioner%20of%20the%20Revenue/Forms) or by visiting the Commissioner of the Revenue office on the 2<sup>nd</sup> floor of City Hall.

Secondly, complete and submit the application for a new account for meals to the Commissioner of the Revenue. The Commissioner's office will set up a new account for the seller. A set of forms, for twelve months, with instructions will be mailed out to the seller.

### **Meals Taxable Items**

The following examples, while not all-inclusive, may guide you as you determine the food and drink items that are taxable.

- All prepared food or drink.
- Alcoholic Beverages sold with or without food.
- Soft Drinks sold with or without food.
- Individual pastries or snacks.
- Ice cream cones.
- Individual servings from salad bars or a deli counter.
- Prepared pizzas or pizza slices.
- All other prepared food or drink sold that is to be consumed at one time.
- Hot foods, sandwiches, salad bar items from a salad bar, prepackaged single-serving salads and non-factory sealed beverages.

### **Meals Tax Exempt Items**

The following are exempt and therefore not subject to Meals Tax:

- Factory prepackaged food and factory-sealed beverages, alcoholic or non-alcoholic sold for off-premises consumption.
- Food and beverages sold in grocery stores, supermarkets or convenience stores that are not prepared food or beverages for immediate consumption.
- Factory prepackaged foods.
- Total sales of less than fifty cents.
- Food Stamp sales or W.I.C. sales.

- Theatre sales of non-alcoholic beverages, popcorn and candy.
- Factory prepackaged candy, gum, nuts, and other items of this nature.
- Factory prepackaged donuts, ice cream, crackers, nabs, chips, cookies, and items of this nature.
- Food sold in bulk. A bulk sale is any item that would exceed the normal portion sold for premises consumption. An example is a whole cake or a gallon of ice cream. However, a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.
- Sales of Gift Certificates.
- Re-sellers must file a Virginia State ST-10 with our office.

## Filing and Payment Information

Meals taxes collected are to be submitted monthly with a completed meals tax report which will be provided by the Commissioner of the Revenue. The forms must be postmarked on or before the 20<sup>th</sup> of each month. Remittance shall accompany each submission.

Returns that are not filed on or before the due date are subject to a 10% penalty of the tax due for late filing. In addition, interest of 10% per year or .833% per month, begins 21<sup>st</sup> of each month after the due date and is applied to the outstanding tax and penalty.

## Additional Information

- **Tips and Service Charges** –Tips given by purchasers, if they are not required by the seller, are not subject to meals tax. However, if a tip is automatically assessed by the seller, this amount is subject to the 6% meals tax.
- **Meals furnished to employees** as part of their compensation when no charge is made to the employee are not subject to meals tax.
- **Schools, Day Care Centers, College or Universities, Hospitals, Elderly Homes, Non-profit educational Facilities** are exempt from meals taxes.
- **Non-Profit Educational, Religious, Charitable or Benevolent Organizations** selling on an occasional basis as a fundraising activity are exempt from meals taxes.
- **Vending Machine Sales** are exempt from meals taxes.

**Virginia State Sales Tax Questions must be directed to:  
[www.tax.virginia.gov](http://www.tax.virginia.gov)**