

## WHAT IS TAXABLE?

The sale of food and non-alcoholic beverages by a caterer or eating establishment in Pennsylvania is subject to tax regardless of whether the customer is dining in or taking out. The Pennsylvania sales tax rate is 6 percent. By law, sales from eating establishments located in Allegheny County and Philadelphia County are subject to an additional sales tax rate of 1% and 2%, respectively.

An eating establishment is defined as a business, or an identifiable location within a business, which advertises or holds itself out to the public as being engaged in the sale of prepared or ready-to-eat food or beverages, to customers for their immediate consumption on or off the premises. An eating establishment may be mobile or immobile and may or may not provide seating accommodations for its customers.

An eating establishment includes, but is not limited to the following:

- Arenas
- Amusement parks
- Automats
- Bars (serving food)
- Cafes
- Cafeterias
- Carnivals
- Carry out shops
- Coffee Shops
- Dining Cars
- Employee cafeterias
- Fast food operations
- Fairs
- Food trucks
- Honor boxes
- Hotels
- Juice stands
- Lunch carts
- Lunch counters
- Night clubs
- Pizzerias
- Popcorn stands
- Private/social clubs
- Restaurants
- Stadiums
- Taverns
- Theaters

The following items are outlined in the law as tax exempt and therefore would not be subject to sales tax:

- **Alcoholic Beverages-** with the exception of PLCB licenses that include a Wine Expanded Permit. Wine Expanded Permit holders must charge sales tax on the sale of wine for off-premises consumption such as to-go orders.
- **Bottled Water-** as long as it contains no flavoring
- **Candy & Gum-** including hard candy, caramel, chocolate candy, licorice, fudge, cotton candy, caramel coated popcorn, chocolate coated granola bars and similar items.
- **Gift Cards-** gift cards are not subject to sales tax but tax is due on the ready to eat food or beverages purchased with a gift card.
- **Gratuities (tips)-** not taxable when separately stated on the customer's receipt, guest check, or sales invoice
- **Wearing apparel** such as t-shirts, hats, jackets, etc.

**NOTE:** Food and beverages billed to and paid for by a registered charitable organization which have a valid sales tax exemption number are also exempt from tax. These entities must provide an exemption certificate upon purchase that includes their "75" number. Food and beverages billed to and paid for by individuals on behalf of exempt organization are not entitled to the exemption.

## DISCOUNTED FOOD ITEMS

Any on-spot discount such as store discount, employee discount, or coupon establishes a new purchase price as long as both the item being sold, and coupon are described on the invoice or register tape.

**Example:** A customer purchases two hamburgers with a "buy one, get one free" coupon and a bottle of unflavored water. The price of one hamburger is \$2 and the bottled water is \$1.00. The restaurant should ring up \$5 on the cash register and enter a credit for the amount of \$2 which would result in an adjusted price of \$3. The acceptance of the BOGO Burger coupon by the restaurant along with the description of the item and coupon on the register receipt establishes a new taxable purchase price of \$3 which is subject to 12 cents in tax.

RECEIPT	
Burger – T	\$2.00
Burger – T	\$2.00
Bottled Water - NT	<u>\$1.00</u>
Subtotal	\$5.00
Coupon	<u>-\$2.00</u>
Total	\$3.00
Sales Tax (6%)	<u>\$0.24</u>
Amount Due	\$3.24

RECEIPT	
Burger - T	\$2.00
Burger - T	\$2.00
Bottled Water – NT	<u>\$1.00</u>
Subtotal	\$5.00
BOGO Burger Coupon	<u>-\$2.00</u>
Total	\$3.00
Sales Tax (6%)	<u>\$0.12</u>
Amount Due	\$3.12

**NOTE:** If the restaurant does not describe the coupon on the register tape, but simply reduces the amount due then sales tax is due on the total amount of \$4.

## RECORDKEEPING REQUIREMENTS

One of the most important jobs of an eating establishment is to keep good records. These businesses must maintain records for review by the Department of Revenue in accordance with Regulation [34.2 Keeping of Records](#). This regulation spells out that records must show the amount of tax separate from the total sales and that records must be maintained for each store or other outlet. It is required that these records (hardcopy or electronic format) be kept for the current year and the three previous calendar years.

Keeping detailed records of your business operation will help you prepare accurate and complete sales tax returns. Detailed records will also serve as documentation of the accuracy of your returns if you are audited. Such records should include:

### **TRANSACTIONAL SALES RECEIPTS**

Transactional sales receipts simply record the details of a transaction at the point of sale. This includes items such as cash register tapes, guest checks, invoices, point of sale receipts, sales slips, written receipts, or any other original sales document. These receipts should include at minimum, the following information:

- Date
- Sequential receipt number
- Description of food and beverage sale
- Sales amount of each item sold
- Discounts and/or coupon amounts (if applicable)
- Total sale amount
- Separately stated sales tax
- Method of Payment

### **CREDIT CARD SLIPS**

Credit card slips are generally not as detailed as a formal sales receipt, but they must still be maintained to help validate any credit sales accepted by the business.

### **VOIDED OR CANCELLED SALES**

Any time a sale is voided or cancelled the transaction must be recorded.

### **EXEMPTION CERTIFICATES**

Any time a sale is made to a registered charitable organization who is providing an exemption certificate, the exemption certificate must be kept on file for at least 4 years. This will validate why no tax was collected on a specific transaction.

### **BANK STATEMENTS**

Bank statements should show any deposits from the eating establishment.

### **DAILY SALES REPORTS**

Daily sales reports should summarize the total taxable sales, total nontaxable sales, total gross sales, and total sales tax collected. Total sales should also be divided as to cash sales and credit sales. These reports must reconcile to the transactional sales receipts for the day.

### **MONTHLY SALES REPORTS**

Monthly sales reports should summarize the total taxable sales, total nontaxable sales, total gross sales, and total sales tax collected. Total sales should also be divided as to cash sales and credit sales. These reports must reconcile to the transactional sales receipts for the month.

### **MONTHLY MERCHANT STATEMENTS & 1099-K FORMS**

Monthly merchant statements should show a detailed list of all electronic transactions that occurred during the month along with any processing fees that may be associated as well as the annual 1099-K forms.

### **MONTHLY STATEMENT FROM 3RD PARTY DELIVERY COMPANIES**

If the eating establishment or caterer has a relationship with an online company such as Grub Hub, Door Dash, UberEATS, etc. they must maintain monthly statements from all third parties as well.

### **FEDERAL & STATE INCOME TAX RETURNS**

Income tax returns are used for gross sales comparison and must be made available upon request.