

GUIDELINES

FOOD AND BEVERAGE TAX

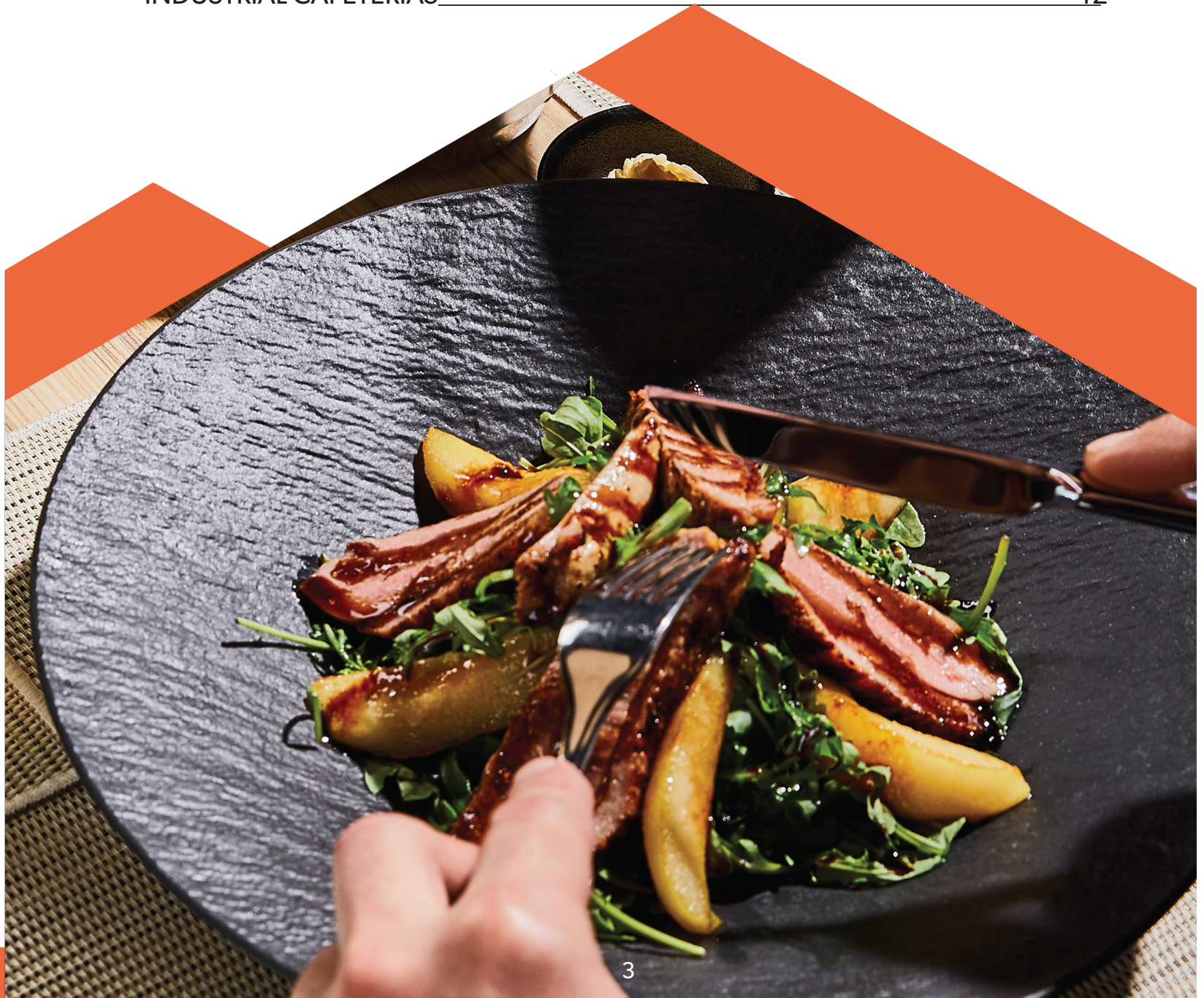


FAIRFAX COUNTY
Department of Tax Administration

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FOOD AND BEVERAGE TAX GUIDELINES

DEFINITIONS

RESTAURANT - Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including any place or operation that prepares or stores food for distribution, including mobile points of service and caterers. Please see Fairfax County Ordinance 4-31 for a more detailed definition.

CATERER - A person who furnishes food on the premises of another for compensation.

MEAL - All food and beverages, including alcoholic beverages, offered or held out for sale for the purpose of consumption by a single person or a group, whether or not eaten in the place where it is bought or prepared including prepared food ready for human consumption at delicatessen counters of grocery and convenience stores in the County. "Meal" does not include grocery items, or snack foods alone or beverages alone.

FOOD - Any and all edible refreshments or nourishment, liquid or otherwise, purchased in or from a restaurant or caterer.

BEVERAGE - Any alcoholic beverages defined in [Virginia Code §4.1-100](#) and non-alcoholic beverages served as part of a meal.

SNACK FOOD - Pre-packaged doughnuts, chewing gum, candy, popcorn, peanuts, cookies, unopened cans of soda, bags of chips, or similar items sold separately, and not as part of a meal.

WHAT IS THE FOOD AND BEVERAGE TAX?

The food and beverage tax is a four percent (4%) tax levied on food and beverages sold as a meal by restaurants, caterers, and other food establishments.

Food establishments could include but are not limited to:

Amusement parks	Health clubs
Bakeries	Hot dog stands
Billiard parlors	Lunchrooms
Bowling alleys	Mobile food services
Buffets	Nightclubs
Cafes	Public and private clubs
Cafeterias	Push carts
Caterers (licensed in Fairfax)	Short order places
Coffee shops	Skating rinks
Concession stands	Sporting venues
Delicatessens **	Taverns
Dining rooms	Theaters

****Food served from delicatessen counters at Convenience and Grocery Stores is also subject to the tax.**



WHO COLLECTS THE FOOD AND BEVERAGE TAX?

All entities listed on the previous page, or any others that meet the definition of "restaurant" or "caterer" are responsible for collecting the tax on food and beverages that they sell as a meal unless an exemption applies. The tax is added to the cost of the meal and collected from the customer by the seller who must remit the taxes to the County. All funds collected by the seller are to be held in trust for the County.

Meals delivered by third party services will be taxed based on the location of the restaurant preparing the meal regardless of whether deliveries are made inside or outside the County.

REMITTANCE OF TAX COLLECTED

The seller must file a return and remit to the County any food and beverage taxes collected as follows:

Monthly Filers: Returns and payment are due on or before the 20th day of each month, covering the tax collected during the preceding month. Filings must be submitted monthly even if no taxes are collected.

Seasonal Filers (limited use): Returns and payment are due on or before the 20th day of each month, covering the tax collected during the preceding month. All filings must be submitted based on the reported months of operations even if no taxes are collected.

The monthly returns and payment can be made online at www.fairfaxcounty.gov/taxes/business/foodandbeverage.

SELLER'S DISCOUNT

To defray some of the costs incurred by the seller in collecting and remitting the tax to the County, every seller is allowed to keep **three percent (3%)** of the amount of the tax due for the first two years after implementation of the tax (beginning January 1, 2026) and reduced to **one percent (1%)** of the amount of the tax due beginning January 1, 2028. This is accounted for in the form of a deduction on their return. The discount is not available if the payment is late.

PENALTIES AND INTEREST

A penalty of ten percent (10%) of the tax required to be remitted shall be assessed for failure or refusal of a seller to **remit** the tax by the due date. The penalty becomes part of the tax due. Interest shall be assessed at the rate of five percent (5%) per year on the amount of tax past due. The interest will commence on the day following the day on which the tax was due and continue until paid.

RECORD RETENTION AND AUDIT

Each seller is required to keep and preserve for a period of four years (current year plus three prior years), all records necessary to enable the Director to determine the amount of taxes such seller was responsible for collecting and remitting to the County. The Director of the Department of Tax Administration (DTA) shall have all rights to summon, inspect, and copy such records as permitted by [Title 58.1 of the Code of Virginia](#).

GOING OUT OF BUSINESS

Whenever a business ceases operations or otherwise disposes of a business that was required to collect or pay the food and beverage tax, any tax collected but not yet remitted shall become immediately due and payable, and such person shall immediately make a report and pay the tax due.

EXEMPTIONS FROM THE FOOD AND BEVERAGE TAX

- Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption
- Food and beverages sold through vending machines

The tax is also NOT levied on food and beverages SOLD BY:

- Day care centers.
- Cafeterias operated by industrial plants for employees only.
- Restaurants to their employees as part of their compensation when no charge is made to the employee.
- Volunteer fire departments and volunteer emergency medical services agencies, nonprofit churches, or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes.
- Churches (and similar religious organizations) that serve meals for their members as a regular part of their religious observances.

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- Public or private elementary or secondary schools or institutions of higher education to their students or employees.
- Hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof.
- Boardinghouses that do not accommodate transients.
- Homes for the aged or infirm individuals, individuals with disabilities, battered women, narcotic addicts, or alcoholics.
- Age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served, and fees are charged for such food and beverages, which are included in rental fees.
- Sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed \$2,500 (the sellers' yearly income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in Fairfax County).

Also, the tax is NOT levied on food and beverages:

- When used or consumed and paid for by the Commonwealth of Virginia, any political subdivision of the Commonwealth, or the United States.
- Provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, or needy individuals or individuals with blindness or other disabilities in their homes, or at central locations.
- Provided by private establishments that contract with the appropriate agency of the Commonwealth of Virginia to offer food, food products, or beverages for immediate consumption at concession prices to elderly, or needy individuals, or individuals with blindness or other disabilities in their homes or at central locations.

The tax is also NOT levied on the following:

- Anything that falls under the definition of "food" in the Food Stamp Act of 1977, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages.

GRATUITY AND SERVICE CHARGES

- Any **discretionary** gratuity is **non-taxable**.
- **Mandatory** gratuity added to the cost of the meal is **taxable** if it is **more than** twenty percent (20%) [Only the amount greater than 20% is taxable].

EXAMPLES OF TAXABLE AND NON-TAXABLE ITEMS TREATMENT OF ITEMS GENERALLY

TAXABLE

- hot or cold meals served at restaurants
- prepared foods served from delicatessen counters of convenience and grocery stores
- desserts, milkshakes, and smoothies
- alcoholic & non-alcoholic beverages sold as part of a meal at restaurants
- salad bar and pre-packaged single serving salads

NON-TAXABLE

- factory & non-factory sealed beverages sold alone
- alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption
- grocery items (see **Grocery Items section**)
- pre-packaged desserts and snack foods sold alone
- any combination consisting entirely of beverages, grocery items, and/or snack foods sold separately
- food and beverages sold through vending machines
- salads, such as potato, macaroni, chicken salad or coleslaw, sold by the pound and not for immediate consumption on premises
- frozen seafood sold by the pound in grocery stores that provide employee operated steam cooking at no additional charge and when the item is not to be consumed on premise

GROCERY ITEMS:

- any food and foodstuffs, green groceries, including whole fruits and vegetables, beverages and household goods usually pre-packaged or measured into quantities for household use from containers made for retail grocery or baking sales and usually not suitable for immediate consumption by the purchaser.
- grocery items, sometimes called staples, include, by way of illustration and not limitation, sugar, flour, spices, dry pasta, loaves of bread, whole chickens, ground coffee, coffee beans and loose or bagged tea, cooking oils, tv dinners, containers of milk, and canned, bottled and jarred goods.
- garden type salads in factory sealed packages that are considered to be for additional home preparation. These salads are usually sold in the produce section of grocery stores in factory sealed, stay-crisp style bags, and usually require additional preparation before consumption.

COUPONS:

- Coupons that offer a percentage, or a certain dollar amount off a meal, are taxed based on the amount actually paid by the customer.



FOOD AND BEVERAGE TAX GUIDELINES

EXAMPLES SPECIFIC TO CERTAIN BUSINESSES

RESTAURANTS AND SHORT-ORDER PLACES (Including: sit-down and take-out restaurants, skating rinks, health clubs, snack bars, concession stands, taverns/nightclubs, etc.)

TAXABLE

- entrees, side dishes, and desserts
- sandwiches, burgers, and hot dogs
- pizza
- soup, salads, and buffets
- beverages and snack foods sold with a meal

NON-TAXABLE

- beverages not sold with a meal
- snack foods not sold with a meal
- grocery items, such as salads (potato, macaroni, etc.) sold by the pound, whole cakes or pies, coffee beans and other dry goods, and ice cream sold in bulk

GROCERY AND CONVENIENCE STORE DELICATESSEN COUNTERS

TAXABLE

- hot foods served from the deli counter
- made-to-order sandwiches from the deli counter
- hot pizza from the deli counter
- individual pieces of chicken served from the deli counter

NON-TAXABLE

- cold or frozen foods that are normally served hot
- pre-packaged foods
- beverages not sold with a meal
- foods sold by the pound
- bakery items
- whole, pre-packaged cooked chickens
- grocery items, such as salads (potato, macaroni, etc.) sold by the pound, whole cakes or pies, coffee beans and other dry goods, and ice cream sold in bulk

AMUSEMENT PARKS, BILLIARD HALLS, BOWLING ALLEYS, MOVIE THEATERS, AND SPORTING VENUES

TAXABLE

- hot foods sold as a meal
- all sandwiches and desserts, hot or cold

FOOD AND BEVERAGE TAX GUIDELINES

NON-TAXABLE

- beverages not sold with a meal
- snack foods not sold with a meal

MOBILE FOOD SERVICES (including, but not limited to—hot dog stands, peddlers, and push carts)

TAXABLE

- all hamburgers, hot dogs, and other hot foods
- all sandwiches, hot or cold
- pizza
- salads and soups
- desserts

NON-TAXABLE

- beverages not sold with a meal
- snack foods not sold with a meal
- grocery items, such as salads (potato, macaroni, etc.) sold by the pound, whole cakes or pies, coffee beans and other dry goods, and ice cream sold in bulk

CATERERS AND BANQUET FACILITIES (INCLUDING HOTELS)

TAXABLE

- separately stated charges for food and beverages (following the same rules as restaurants, etc.)

NON-TAXABLE

- separately stated charges for services and rentals (audio visual equipment, dishes, room rental, etc.)
- complementary meals offered by hotels and bed-and-breakfasts as part of the individual guest's room charge

BAKERIES

TAXABLE

- hot foods sold as a meal
- all sandwiches, hot or cold
- salads
- single serving bagels, donuts, breads, cake, and pie slices

NON-TAXABLE

- bread loaves
- beverages not sold with a meal

FOOD AND BEVERAGE TAX GUIDELINES

HOSPITALS AND NURSING HOMES

TAXABLE

- taxable items as above for restaurants when sold to employees and the general public

NON-TAXABLE

- all food and beverages provided to residents or patients

COLLEGES AND UNIVERSITIES

TAXABLE

- taxable items as above for restaurants when sold to non-students or non-employees

NON-TAXABLE

- all food and beverages sold to students and employees

INDUSTRIAL CAFETERIAS

TAXABLE

- taxable items as above for restaurants when sold to the general public

NON-TAXABLE

- all food and beverages sold to employees



FOOD AND BEVERAGE TAX GUIDELINES

FAIRFAX COUNTY FOOD & BEVERAGE TAX GUIDELINES	
<i>Foods and Food Products Defined With Examples</i>	<i>Taxable (Yes/No)</i>
Bakery foods	
Factory or Store Packaged for off-premise consumption:	
Cakes — whole/half	No
Pies — whole/half	No
Bagels, Breads	No
Cookies and crackers	No
Doughnuts	No
Pastries	No
Single Serve or Individual items:	
Slice of cake or pie	Yes
Doughnut / Bagel / Croissant	Yes
Beverages (sold alone WITHOUT a meal)	
Factory sealed containers or bottles:	
Beer and wines sold for off-premise consumption	No
Beer and wines sold in bars and restaurants for on-premise consumption	No
Bottled waters	No
Sodas, teas, coffee drinks	No
Non-factory sealed containers:	
Fountain drinks	No
Coffee, Hot, in a cup	No
Slurpee's, Icee's	No
Hot chocolate in a cup	No
Beverages (sold WITH a meal)	
Factory sealed containers or bottles:	
Beer and wines sold in bars and restaurants for on-premise consumption	Yes
Bottled waters	Yes
Sodas, teas, coffee drinks	Yes
Non-factory sealed containers:	
Fountain drinks	Yes
Coffee, Hot, in a cup	Yes
Slurpee's, Icee's	Yes
Hot chocolate in a cup	Yes

FOOD AND BEVERAGE TAX GUIDELINES

Foods and Beverages sold as a meal at the following establishments: (excludes snack food and beverages sold alone and NOT as a meal)

Delicatessens and deli counters with seating facilities	Yes
Fast Food Establishments with seating facilities	Yes
Festivals	Yes
Movie Theaters	Yes
Sporting Arenas	Yes
Restaurants	Yes
Grocery Items (See grocery items on page 9.)	No
Fruits singular, in bulk, or sliced in a container for off-premise consumption	No
Hot or cooked food types:	
Combined with other food products and sold warm or hot as a meal replacement	Yes
Chilled after cooking and packaged for home consumption	No
Ice Cream and Frozen Yogurt:	
Ice cream and frozen yogurt (made to order)	Yes
Ice cream and frozen yogurt (pre-packaged, bulk)	No
Miscellaneous:	
Cold deli trays and party platters including food items sold by the pound	No
Food, fruit, and gift baskets	No
Ice	No
On-Premise Foods — All types hot or cold	Yes
Salad bar items:	
Salad bar items sold from a salad bar	Yes
Pre-packaged single serving salads	Yes
Salad kit - family style (e.g. Caesar with croutons and dressing)	No
Salads sold by the pound (Potato, macaroni, cold slaw, chicken salad)	No
Sandwiches (hot or cold) — All types	Yes
Seafood sold by the pound cooked by an employee-operated steam cooker at no additional charge	No
Snack foods (sold alone and not part of a meal):	
Beef jerky	No
Breath mints	No
Candy including all candy and chocolate coated products and other confectionery	No
Chewing gum	No

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Extruded snacks such as cheese balls, curls, filled snacks, puffs, and twists	No
Fruit flavored snacks (fruit roll-ups)	No
Fabricated snacks such as food bars or squares, grain cakes and shoestring potato sticks	No
Granola bars	No
Popcorn	No
Potato chips	No
Smoothies or milkshakes	Yes
Vending Machines: All food and beverages	No
Third party food delivery services (taxable based on physical location within Fairfax County preparing the food and beverages)	Yes
Catering services furnished on-premises of another within Fairfax County (excludes non-food items)	Yes

CONTACT INFORMATION

Fairfax County Department of Taxation
12000 Government Center Parkway
Fairfax, VA 22035
703-222-8234 option 4 TTY 711
www.fairfaxcounty.gov/taxes/business/foodandbeverage

To report businesses that may not be in compliance with the Food and Beverage Tax, please email DTABusinessCompliance@fairfaxcounty.gov.



To request this information in an alternate format, contact the Department of Tax Administration at 703-222-8243 option 4 TTY 711

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