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**GUIDELINES FOR FOOD AND BEVERAGE TAX**

The Code of Virginia §58.1-3840 grants the County the authority to impose excise taxes on prepared food and beverages. The King William County Board of Supervisors adopted a food and beverage tax ordinance on January 26, 2009 at a rate of 4% in accordance with Virginia Code §58.1-5833. (See King William County Code Chapter 70, Article VIII. - Food and Beverage Tax.)

The food and beverage tax is collected from the customer by the food seller. The seller is responsible for reporting and remitting the collected tax to the County. The seller is responsible for retaining records for five years and may be subject to periodic compliance review.

**WHAT IS THE FOOD AND BEVERAGE TAX?**

The food and beverage tax is a four percent (4%) tax levied on food and beverages sold by restaurants as the term, restaurant, is defined in the Code of Virginia §35.1-1.

**Restaurants include but are not limited to:**

Amusement Parks	Buffets	Hot Dog Stands	Nightclubs
Billiard Parlors	Public and Private Clubs		Sporting Venues
Bowling Alleys	Cafeterias	Delicatessens	Dining Rooms
Coffee Shops	Cafés	Push Carts	Health Clubs
Caterers	Taverns	Concession Stands	Mobile Food Services
Movie Theaters	Skating Rinks		

**Food served from delicatessen counters at convenience and grocery stores is subject to the tax.**

Certain vendors are presumed sellers of food for immediate consumption and may not impose the reduced State sales tax rate on the sale of eligible foods. These vendors include caterers, concession stands, entertainment facilities (theme parks, sports arenas, stadiums), fair and carnival vendors, hamburger and hot dog stands, ice cream stands and trucks, mobile food vendors and movie theaters. **These sellers are also required to collect and remit the food and beverage tax.**

**WHO COLLECTS THE FOOD AND BEVERAGE TAX?**

All the businesses listed above that sell prepared food for immediate consumption on or off premises are required to collect the 4% food and beverage tax from the purchaser at the time of sale. The tax is calculated on the gross total of the meal. The food seller is also responsible for collecting the State sales tax. The seller collects the food and beverage tax from the customer. This tax is collected in trust by the seller for the County.

## TAXABLE ITEMS

The following examples of taxable items include but are not limited to:

- Hot or cold meals prepared at restaurants for on or off premise consumption
- Hot food, made-to-order sandwiches, hot pizza, and individual pieces of chicken, and other made-to-order meals served from the delicatessen counters of convenience and grocery stores
- Beverages, desserts, ice cream, and snacks sold with a meal

## NON-TAXABLE ITEMS

The following examples of non-taxable items include but are not limited to:

- Beverages not sold with a meal
- Grocery items, such as salads (macaroni, potato) sold by the pound, whole cakes or pies, coffee beans and other dry goods, and ice cream sold in bulk
- Desserts, ice cream, and snack foods alone
- Food and beverages sold through vending machines
- Any discretionary gratuity

## EXEMPTIONS FROM THE FOOD AND BEVERAGE TAX

- Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption.
- Food and beverages sold by churches that serve meals to their members as a regular part of their religious observances.
- Food and beverages when consumed and paid for by the Commonwealth of Virginia or any political subdivision of the Commonwealth or the United States
- Food and beverages sold by day care centers.
- Anything that falls under the definition of “food” in the Food Stamp Act 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.**
- Food and beverages sold by homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics.
- Food and beverages sold by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to their patients or residents.
- Food and beverages provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations.
- Food and beverages sold through vending machines.
- Food and beverages provided by restaurants to their employees as part of their compensation when no charge is made to the employee.
- Food and beverages sold by volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations, on an occasional basis, not exceeding 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.

## **GRATUITY AND SERVICE CHARGES**

Any discretionary gratuity is non-taxable. Non-discretionary gratuity added to the cost of the meal is taxable if it is more than twenty percent (20%). Only the portion over 20% is taxable.

## **MONTHLY REMITTANCE**

The seller is required to report and remit all collected food and beverage tax to the Commissioner of the Revenue office by the 20<sup>th</sup> of the month following the month of collection. The Commissioner of the Revenue will provide necessary reporting forms. Blank forms are available from the King William County website - **kingwilliamcounty.us**.

## **RECORDS RETENTION**

Each seller is required to keep and preserve for a period of five years records showing gross sales of all food and beverages, the amount charged to the purchaser for each such purchase, the date of the purchase, the taxes collected on the purchase, and the amount of tax to be collected.

## **BUSINESS CLOSURE**

If a business required to collect food and beverage tax should close, the seller must immediately report and remit the collected food and beverage tax and complete a Business Closure form available from the Commissioner of the Revenue office or from the King William County website - **kingwilliamcounty.us**.