



Sales and Use Tax on Restaurants and Catering

This publication provides *general* information about Florida sales tax related to restaurants and similar places of business. The information provided does not cover every situation and is not intended to change the law or its meaning.

Sales by Restaurants and Similar Businesses

Food products served, prepared, or sold in or by restaurants, lunch counters, cafeterias, caterers, hotels, taverns, and other like places of business where food products are ordinarily sold for immediate consumption on the seller's premises are taxable, even if sold on a "to go" or "take out" basis.

Restaurants, lunch counters, cafeterias, caterers, hotels, taverns, and similar places of business that have a separate department from which groceries are sold are not required to collect tax on their tax-exempt sales of food products when separate records are maintained for the separate department. See Rule 12A-1.011, Florida Administrative Code (F.A.C.), available at flrules.org, for more information.

Tax Rate

Sales by restaurants, caterers, and similar businesses are generally subject to Florida's state sales tax rate of 6% plus any applicable discretionary sales surtax. For general information about discretionary sales surtax, see brochure [GT-800019](#). The brochure is available at floridarevenue.com/forms in the Discretionary Sales Surtax and Tourist Development Tax Rates section.

Complimentary and Discounted Sales of Food Products

Businesses, such as restaurants, primarily engaged in serving prepared meals or alcoholic beverages for immediate consumption are required to pay use tax on their cost price of food or drink provided to customers at no charge.

However, complimentary food or drink provided by such businesses in connection with the purchase of a meal is considered part of the taxable meal sold and use tax is not due. Examples include chips and salsa, rolls or bread, appetizers, or desserts. (See "Public lodging establishments" below for more information about complimentary food and drinks.)

Example: A restaurant states on its menu that chips and salsa are provided with the purchase of a meal. The chips and salsa provided are considered part of the meal; therefore, the restaurant does not owe use tax on the chips and salsa.

When a restaurant or similar place of business sells two meals for the price of one meal, sales tax is collected on the sales price. Use tax is not due on the second meal.

Example: A restaurant advertises "free meal when you buy one at regular price." A customer buys a meal for the regular price of \$15.00 and receives a second meal free. Sales tax is due on the meal purchased for \$15.00. The restaurant does not owe use tax on the second meal.

When food products are provided without charge after a customer purchases a designated number (of meals or dollars spent), sales tax is due on the sales price of the food products sold. Use tax is not due on the food products subsequently provided to customers without charge.

Public lodging establishments, such as hotels, that advertise they provide complimentary food and drinks do not have to pay sales or use tax on food or drinks when:

- The food or drinks are furnished as part of a packaged room rate;
- No specific amount or separate charge is stated to the guest for such food or drinks;
- The public lodging establishment has a valid license with the Florida Department of Business and Professional Regulation's Division of Hotels and Restaurants; and
- The public lodging establishment rents or leases transient accommodations subject to sales and use tax.

Food Products Sold or Furnished to Employees

Food products **sold** by restaurants or similar places of business **to employees** are subject to tax.

Food products served to employees are not subject to tax provided no cash changes hands as payment for the food products furnished and the assigned value of the food products is not required to be reported as income to the employee for federal income tax purposes.

Gratuities (Tips) and Service Charges

Gratuities (tips) are not subject to tax when:

- The gratuity or tip is separately itemized on the customer's receipt, guest check, or sales invoice; and
- The restaurant, caterer, or similar dealer receives no monetary benefit from the gratuity.

Monetary benefit, as used above, does not include:

- Money withheld for purposes of payment of the employee's share of social security or federal income tax;
- Any fee imposed by a credit card company on the amount of the gratuity; or
- Money withheld pursuant to judicial or administrative orders.

Service charges, minimum charges, corkage fees, setup fees, or similar charges imposed by a restaurant, tavern, nightclub, or other like place of business are part of the sales prices subject to sales tax.

Items Used to Package, Furnish, or Serve Food Products

Materials, containers, labels, sacks, bags, or similar items that accompany a food product or drink **sold** to a customer and used only once for packaging the food product or drink or for the convenience of the customer are not subject to tax. (See Rule 12A-1.040, F.A.C, available at flrules.org, for additional information and examples.)

Restaurants and similar businesses can use their *Florida Annual Resale Certificate for Sales Tax* (Form DR-13) to purchase such items tax exempt.

Examples include:

- Paper or plastic bags, cups, and bowls
- Toothpicks
- Disposable utensils
- Straws
- Stirrers
- Napkins
- Leftover bags

The purchase or rental of items that are used to conduct business are subject to tax.

Examples include:

- Tableware
- Drinkware
- Cookware
- Silverware
- Tables
- Chairs
- Tablecloths/linens

When a caterer purchases or rents such items **exclusively** for resale or re-rental to a customer, the items may be purchased tax exempt for resale or re-rental when the charges are separately itemized on the customer's receipt, invoice, or other evidence of the sale or rental.

Registration

Prior to engaging in business as a restaurant, caterer, or in other taxable business activity in Florida, registration with the Department of Revenue is required. To register or obtain information about registering, visit floridarevenue.com/taxes/registration.

For general information about Florida sales and use tax, including registration, calculating tax, and filing and paying tax, visit floridarevenue.com/taxes/sut.

Other Helpful Publications and Resources:

The following publications and others are available at floridarevenue.com/forms:

- *Business Owner's Guide* ([GT-300015](#))
- *Discretionary Sales Surtax* ([GT-800019](#))
- *Florida Sales and Use Tax* ([GT-800013](#))
- *Florida Annual Resale Certificate for Sales Tax* ([GT-800060](#))
- *Filing and Paying Taxes Electronically* ([GT-800001](#))
- *Florida eServices Calendar of Electronic Payment Deadlines* ([Form DR-659](#))
- *Sales and Use Tax on Concession Sales* ([GT-800003](#))
- *Sales and Use Tax on Vending Machines* ([GT-800041](#))
- *Sales and Use Tax on Alcoholic Beverages* ([GT-800046](#))

Tax laws are available at leg.state.fl.us; see Chapter 212, Florida Statutes, Tax on Sales, Use, and Other Transactions.

Rules are available at flrules.org.

Information and tutorials are available at floridarevenue.com/taxes/education.

Tax forms are available at floridarevenue.com/forms.

To speak with a Department representative, call Taxpayer Services at 850-488-6800, Monday through Friday, excluding holidays.

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