



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES
OFFICE OF THE COMMISSIONER

September 19, 2019

Honorable Ned Lamont
Governor
State of Connecticut
State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106

Dear Governor Lamont:

As requested, attached please find a copy of Department of Revenue Services (DRS) **Announcement 2019(10)**, *Information about Sales and Use Tax Rate Increase on Meals and Revocation of Policy Statement 2019(5)*, *Sales and Use Tax on Meals*, which will be posted to the DRS website. Announcements, such as this one, are used by the DRS to alert taxpayers to new developments, including new administrative positions, policies, or practices, as it is within the Commissioner's discretion to review and revise the agency's administrative positions when necessary.

The General Assembly enacted legislation to increase the sales and use tax rate on meals and certain beverages effective October 1, 2019 (the "2019 legislation"). See 2019 Conn. Pub. Acts 117, §§ 323-324. Subsequently, the DRS issued **Policy Statement 2019(5)**, *Sales and Use Taxes on Meals*, to provide guidance to taxpayers as to how sales and use taxes apply to sales of food items, including meals.

Since the release of **Policy Statement 2019(5)**, on September 6, 2019, the DRS team and I have personally spoken with your office, the Office of Policy and Management, Democratic and Republican legislators, nonpartisan legislative staff, and many others about the "meals tax" provision in the budget.

At your request, the DRS has reevaluated its initial interpretation of the 2019 legislation. The DRS has determined that there is an alternative, and defensible, interpretation that more closely aligns with the language of the statute and the clear intent of the Legislature. Accordingly, the DRS hereby rescinds **Policy Statement 2019(5)** and, correspondingly, has issued **Announcement 2019(10)**.

As set forth above, the 2019 legislation increased the sales and use tax rate on meals and beverages effective October 1, 2019. See 2019 Conn. Pub. Acts 117, §§ 323-324. Section 323¹ provides as follows:

With respect to the sale of meals, as defined in subdivision (13) of section 12-412, sold by an eating establishment, caterer or grocery store; and spirituous, malt or vinous liquors, soft drinks, sodas or beverages such as are ordinarily dispensed at bars and soda fountains, or in

¹ Section 323 amends the sales tax. Section 324 amends the use tax. As the language in each section is virtually identical, the analysis of section 323 applies equally to section 324.

connection therewith; in addition to the tax imposed under subparagraph (A) of this subdivision, at the rate of one per cent.

Prior to the enactment of the 2019 legislation, there was a specific set of rules that were used to determine the taxation of food items sold at grocery stores. The last iteration of these longstanding rules was set forth in **Policy Statement 2002(2)**, *Sales and Use Taxes on Meals*, also attached, which, in pertinent part, provided

Supermarkets are not generally sellers of meals. The rules describing the difference between bulk sales of food and sales of meals listed in this Policy Statement do not apply to food items sold in supermarkets. The items listed above as taxable meals are not taxable when sold in supermarkets except as noted below.

The following are sales of meals by a supermarket and are subject to sales and use taxes:

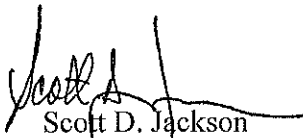
- Catering services performed by a supermarket (see Catering Services, below);
- Sales of sandwiches, grinders, coffee, or tea prepared in a supermarket at a delicatessen counter or elsewhere for takeout. The sales of these items sold anywhere in a supermarket are taxable;
- Sales of meals in areas of a supermarket where food is intended to be consumed in the supermarket, such as at snack bars or food courts. The meals sold in these designated eating areas are taxable even if taken off the premises by the purchaser.

The DRS initially interpreted the 2019 legislation to add certain circumstances where the tax would be applied. However, when the entire statute is read as a whole, it becomes clearer that the General Assembly did not expand the applicability of the tax, but simply increased the existing tax.

I am proud to lead a dedicated team of DRS professionals who, every day, balance their statutory responsibilities with a willingness to consider other perspectives, address concerns on practical application of new tax laws, and reflect on their work. Ultimately, agency guidance is intended to provide clarity and alleviate confusion. I am confident **Announcement 2019(10)** accomplishes this goal.

If additional guidance is needed, the DRS team stands ready to work with the Administration in serving the needs of the public.

Sincerely,



Scott D. Jackson
Commissioner
Department of Revenue Services





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STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

AN 2019(10)

ANNOUNCEMENT

Information about Sales and Use Tax Rate Increase on Meals and Revocation of Policy Statement 2019(5), *Sales and Use Tax on Meals*

Revocation of Policy Statement 2019(5): This Announcement revokes **Policy Statement 2019(5)**, *Sales and Use Tax on Meals*, which may no longer be relied upon as of the effective date of its revocation.

Sales and Use Tax Rate Increase: As of October 1, 2019, sales of meals and certain drinks that are currently subject to tax at a rate of 6.35% will become subject to an additional 1% rate of tax for a total effective tax rate of 7.35%. For additional information about taxable meals, please refer to **Policy Statement 2002(2)**, *Sales and Use Tax on Meals*.

Effective Date: Effective upon issuance.

Statutory Authority: 2019 Conn. Pub. Acts 117, § 323

Effect on Other Documents: **Policy Statement 2019(5)**, *Sales and Use Tax on Meals*, is revoked and may not be relied upon on or after the date of issuance of this Announcement.

Effect of This Document: Announcements alert taxpayers to new developments (other than newly enacted or amended Connecticut or federal laws or newly released judicial decisions), including new administrative positions, policies, or practices.

For Further Information: Call DRS during business hours, Monday through Friday:

- **800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Visit the DRS website at portal.ct.gov/DRS to download and print Connecticut tax forms and publications.

Paperless Filing/Payment Methods (fast, easy, free, and confidential): Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at portal.ct.gov/TSC to file a variety of tax returns, update account information, and make payments online.

File Electronically: You can choose first-time filer information and filing assistance or log directly into the **TSC** to file returns and pay taxes.

Pay Electronically: You can pay taxes for tax returns that cannot be filed through the **TSC**. Log in and select the *Make Payment Only* option. Choose a payment date up to the due date of the tax and mail a paper return to complete the filing process.



Sales and Use Taxes on Meals

Purpose: This Policy Statement describes the Department of Revenue Services' (DRS) current policy on the taxability of meals and food products for human consumption, contains a definition and description of bulk sales of food, and describes which:

- Food sales and products constitute taxable meals;
- Retail establishments qualify as establishments at which meals are sold; and
- Retail establishments qualify as supermarkets. (Special rules are provided for sales by supermarkets.)

The Policy Statement also provides information about food products sold through coin-operated vending machines, gives examples of taxable meals sold in supermarkets, discusses resale issues for sellers of meals, and discusses the taxability of charges for room rentals, such as meeting rooms or banquet rooms, where meals, light snacks, and beverages are furnished.

Statutory and Regulatory Authority: Conn. Gen. Stat. §12-407(2)(e); Conn. Gen. Stat. §12-412(5), (9), (13), (14), (26), (27), (35), (46), (57), and (94); Conn. Gen. Stat. §12-412e; Conn. Agencies Regs. §12-426-29.

Effective Date: Effective when issued except where otherwise noted.

Background: Conn. Gen. Stat. §12-407(2)(a) includes in the definition of *sale* and *selling* subject to sales and use taxes, “[a]ny transfer of title ... of tangible personal property for a consideration,” including food items. Conn. Gen. Stat. §12-407(2)(e) also includes in the definition of *sale* and *selling* “the furnishing, preparing, or serving for a consideration of food, meals or drinks.” Conn. Gen. Stat. §12-412(13) exempts from sales and use taxes the sale of food products for human consumption. That subsection defines *food products* and also specifies that the exemption does not apply to “meals sold by an eating

establishment or caterer.” The subsection further defines *meal* and *eating establishment*.

Taxability of Meals: The sale of all meals, regardless of cost, is subject to sales and use taxes. Meals include:

- All food and beverages sold for human consumption at the seller’s location; and
- Food products ordinarily sold in such form and portions that are ready for immediate consumption at or near the location of the seller. This includes prepared foods, prepackaged foods, hot foods, and foods heated on the premises for the purchaser.

A meal may be a full dinner or it may be a single item. Meals are subject to sales and use taxes whether they are served at the location of the seller, delivered to the purchaser’s location, or sold on a “take out” basis.

Sellers of Meals: Retail establishments that sell taxable meals include, but are not limited to:

Banquet halls	Hotels or boarding houses
Cafeterias	Ice cream trucks
Caterers	Mobile canteens
Cocktail lounges	Pizzerias
Coffee or donut shops	Private or social clubs
Convenience stores	Refreshment stands
Delicatessens	Restaurants
Diners	Sandwich shops
Drive-ins	Snack bars
Fast food outlets	Street vendors
Grinder shops	Taverns
Hot dog carts	

Bulk Sales of Food: The sale of food items in bulk is **not** generally considered the sale of meals. Exempt bulk food items are those items sold in quantities, forms, or portions larger than those ordinarily considered to be for immediate consumption or larger

than those ordinarily sold by eating establishments for immediate consumption. For example, whole loaves of bread and whole cakes and pies are considered bulk food items and, therefore, are not subject to sales and use taxes. However, whole cooked chickens, whole racks of ribs, or trays of pasta, when sold by eating establishments or caterers, are considered food items for immediate consumption and are subject to sales and use taxes.

Taxable Meals: Food for immediate consumption constituting taxable meals includes, but is not limited to:

- Coffee or tea (ready to consume, hot or iced);
- Sandwiches and grinders;
- Popsicles, ice cream cones, cups, sundaes, and other individual servings of frozen desserts unless sold in factory prepackaged multi-unit packs;
- Ice cream, frozen yogurt, and other frozen desserts sold in containers of less than one pint;
- Yogurt sold in containers of eight ounces or less unless sold in factory prepackaged multi-unit packs;
- Fountain drinks, shakes, and syrup-flavored crushed ice drinks;
- Bottled or canned fruit juices and drinks, containers of milk, and non-carbonated mineral or spring water sold in containers of 16 fluid ounces or less unless sold in prepackaged multi-unit packs;
- Salads sold at salad bars;
- Salads sold in containers of less than eight ounces;
- Donuts, muffins, rolls, bagels, and pastries (five or fewer);
- Cookies sold loose that retailers place in containers for customers (five or fewer when cookies are sold by quantity **or** less than eight ounces when cookies are sold by weight);
- Pies or cakes by the slice;
- Prepackaged or factory-sealed bags or packages of five ounces or less of chips, popcorn, nuts, trail mix, crackers, cookies, snack cakes, or other snack foods;
- Single pieces of fruit;
- Pizza, whole or by the slice;
- Cooked chicken sold by the piece, including “buckets” of chicken, and whole cooked chickens;
- Ribs sold by the piece or portion and whole racks of ribs; and
- Items such as salads, side dishes, and rolls, when sold as part of “family pack” meals including, typically, whole chickens or buckets of chicken, even when the items exceed the weight or quantity limits specified above.

Items sold in quantities or portions larger than those specifically noted above are considered bulk sales of food. Therefore, they are not generally taxable meals.

The distinctions between meals and bulk food apply to sales by eating establishments and caterers, but **do not apply** to sales by supermarkets or sales of food products in coin-operated vending machines. See **Policy Statement 2001(5)**, *Sales and Use Tax Exemption for Food Sold Through Coin-Operated Vending Machines*, for information about food products sold through coin-operated vending machines. See below for special rules for sales by supermarkets.

Special Rules for Supermarkets: A *supermarket* means any store commonly known as a supermarket or grocery store, *excluding any store commonly known as a convenience store*. A supermarket is primarily engaged in the retail sale of a wide variety of food products and contains, at a minimum, the following sections or departments: dairy; delicatessen; condiments; bread and baked goods; canned and dry goods; frozen foods; fresh, smoked, and prepared meats; poultry; fresh fruits and vegetables; household supplies; and paper goods. A specialty store that is primarily engaged in the retail sale of one variety of food product such as seafood, produce, candy, dairy, bakery products, meats, or delicatessen items is **not** included in the definition of *supermarket*.

Supermarkets are **not generally** sellers of meals. The rules describing the difference between bulk sales of food and sales of meals listed in this Policy Statement **do not apply** to food items sold in supermarkets. The items listed above as taxable meals are not taxable when sold in supermarkets except as noted below.

The following are sales of meals by a supermarket and **are subject** to sales and use taxes:

- Catering services performed by a supermarket (see *Catering Services*, below);
- Sales of sandwiches, grinders, coffee, or tea prepared in a supermarket at a delicatessen counter or elsewhere for takeout. The sales of these items sold anywhere in a supermarket are taxable;
- Sales of meals in areas of a supermarket where food is intended to be consumed **in** the supermarket, such as at snack bars or food courts. The meals sold in these designated eating areas are taxable even if taken off the premises by the purchaser.

Example 1: A customer purchases a meal in the snack bar area of a supermarket and pays for it at the snack bar area. This transaction is taxable because the sale occurred in the area designated for eating.

Example 2: A customer purchases and pays for a meal at the snack bar of a supermarket and does not eat it at the designated eating area, but takes it home. This transaction is taxable because the sale occurred in the area designated for eating.

Example 3: A customer sits in an area designated for eating and while at the table, gives a supermarket employee money for a pizza, whole cooked chicken, or salad. This transaction is taxable because the meal was purchased in the area designated for eating.

Example 4: A customer purchases a meal in the checkout line of a supermarket then consumes the meal in a designated eating area. This transaction is nontaxable (except if it is the sale of a sandwich, grinder, coffee, or tea) because the meal was not purchased in the area designated for eating.

Catering Services: Meals provided by catering services are taxable. *Catering* means preparing meals and either serving the meals on premises designated by the customer, or delivering, but not serving, the meals to premises designated by the customer. Such persons are caterers even if they only serve the meals and do not provide the food products that constitute the meals. Conn. Agencies Regs. §12-426-29(c)(3).

Taxable catering services also include the preparation of trays, pans, or platters of food even if they are not delivered or not served by the caterer.

Supermarkets, as well as eating establishments, may perform taxable catering services. However, if a supermarket prepares platters of food (other than sandwiches, grinders, coffee, or tea) at a delicatessen counter or elsewhere for takeout, **but does not deliver the items**, it is not providing catering services, and the items are not taxable.

Meals or Snacks Furnished in a Meeting Room, Banquet Room, or Social Club Room:

Where an eating establishment does not rent a room for events such as meetings, conventions, parties, banquets, and other social functions unless it also furnishes meals, the total charges, whether or not the charges for the room(s) and meals are separately stated, are treated as charges for the meals, and are subject to sales and use taxes. An eating establishment means a place where meals are sold and includes, but is not limited to, banquet halls, restaurants, social clubs, and hotels,

Where an eating establishment rents a room for events such as meetings, conventions, banquets, parties, and other functions without furnishing meals, and:

- Meals (whether banquet or buffet-style) are served or consumed in the room, the eating establishment's total charges, whether or not the charges for the room and meals are separately stated, are treated as charges for the meals and are subject to sales and use taxes.
- More than one room has been rented for use at the same function with one room being used for the serving of meals and another room being used for the function such as a meeting. The eating establishment's separately stated and reasonable charge (based on prevailing rates in the area) for the room not used for the serving of meals is not treated as a charge for the meals and is not subject to sales and use taxes. If the charge for the room being used for the function is neither separately stated nor reasonable, the eating establishment's total charges are treated as charges for the meals and are subject to sales and use taxes.
- The customers rent the room for the function or event. The eating establishment's charges to the customers for the room are not subject to sales and use taxes. If the customer hires and pays for a third-party caterer, the caterer's total charges to the customers for the meals are subject to sales and use taxes.
- A third party caterer rents the room. The eating establishment's charges to the caterer for the room are not subject to sales and use taxes. However, the caterer's total charges, including any separately stated charge for the room, to its customers are treated as charges for meals and are subject to sales and use taxes.

An eating establishment is not furnishing meals if it merely provides a self-service table of **nonalcoholic beverages** and snack items for those attending a function or event. In this situation, the eating establishment's charges for the nonalcoholic beverages and snack items are subject to sales and use taxes, but its separately stated room charges are not taxable.

Resale Issues for Sellers of Meals: According to Conn. Agencies Regs. §12-426-29(f), "an eating establishment or caterer which furnishes, with meals, paper napkins, paper plates, plastic tableware, straws, and similar non-reusable items may purchase such items without payment of sales tax" by issuing a resale certificate to the supplier. Other non-reusable items that sellers of meals may purchase for resale include paper, plastic or styrofoam cups, plates and bowls, plastic cup lids, toothpicks, and stirrers.

Eating establishments or caterers may also purchase paper, plastic or styrofoam boxes, paper bags, and other nonreturnable containers used to hold meals tax exempt under Conn. Gen. Stat. §12-412(14) by issuing a resale certificate.

Sellers of meals may only purchase flowers for resale if they are chosen by the customer and are kept by the customer at the end of the meal.

Caterers or eating establishments are the final consumer of most other items that they purchase or lease for use in furnishing meals and must pay sales and use taxes on these purchases or leases. Examples of items that sellers of meals use or consume in providing meals include linens, tablecloths, chairs, tables, china, silverware, food warmers, chafing dishes, tents, and cooking equipment.

Exempt Sales of Meals and Food Items:

Circumstances under which sales of meals and food items **are exempt** from sales and use taxes include sales of:

- Tangible personal property (including meals and food items) to or by nonprofit charitable hospitals, nonprofit nursing homes, nonprofit rest homes, and nonprofit residential care homes in this state for the exclusive purposes of the institutions.
Conn. Gen. Stat. §12-412(5)
- Meals and food items served or sold **on the premises** to patients in hospitals, or residents or care recipients of residential care homes, convalescent homes, nursing homes, and rest homes. Effective October 1, 2000, assisted living facilities, senior centers, and day care centers were added to the list of health care facilities qualifying for exemption. Also, candy, confectionery, and all beverages are now included in the exemption for sales of meals in these facilities.
Conn. Gen. Stat. §12-412(9)
- Meals and food items in a student cafeteria, dining hall, dormitory, fraternity, or sorority maintained in a private, public or parochial school, college or university, when sold to students and staff of the institutions. Sales made using prepaid meal plan cards or arrangements are exempt, as are sales of candy, confectionery, and non-alcoholic beverages.
Conn. Gen. Stat. §12-412(9)
- Items (including meals and food items such as cookies and snack foods as well as non-food items such as candy bars) for not more than \$20 each by Connecticut eleemosynary organizations for the purposes of youth activities and by accredited

elementary and secondary schools for school purposes.

Conn. Gen. Stat. §12-412(26)

- Tangible personal property (including meals and food items) to any center of service for elderly persons as described in Conn. Gen. Stat. §17b-425.
Conn. Gen. Stat. §12-412(35)
- Meals made by a nonprofit organization to an elderly, disabled, or other homebound person if the meal is delivered to the home of the person.
Conn. Gen. Stat. §12-412(46) and Conn. Agencies Regs. §12-426-29(d)(4)
- Items purchased with federal food stamps.
Conn. Gen. Stat. §§12-412(57) and 12-412e
- Food products through coin-operated vending machines. Sales of candy, confectionery, gum, soda and all other carbonated beverages, and alcoholic beverages sold through coin-operated vending machines remain taxable. However, effective July 1, 2000, the exemption is expanded to include the sales from vending machines of any items costing 50 cents or less. See **Policy Statement 2001(5)** for more details.
Conn. Gen. Stat. §12-412(27)(B)
- Tangible personal property (including meals and food items) at up to five one-day events during a calendar year, such as bazaars, fairs, picnics, or tag sales, by a nonprofit organization. See **Special Notice 98(11)**, *Exemption from Sales and Use Taxes of Sales by Nonprofit Organizations at Fundraising or Social Events*, for more details.
Conn. Gen. Stat. §12-412(94)

Non-Food Items: The following items **are not food items** and **are subject** to sales and use taxes (unless purchased as eligible items with federal food stamps): alcoholic beverages; all carbonated beverages, including water, soda, nonalcoholic beer, and carbonated nonalcoholic wine; candy and gum.

Effect on Other Documents: This Policy Statement modifies and supersedes **Policy Statement 99(1)**, *Sales and Use Taxes on Meals*.

Effect of This Document: A Policy Statement is a document that explains in depth a current DRS position, policy, or practice affecting the tax liability of taxpayers.

For Further Information: Please call DRS during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

Forms and Publications: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: www.drs.state.ct.us
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone.

PS 2002(2)
Sales and use taxes
Meals
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