

Restaurant Tax

In addition to sales and use tax, county governments may impose a tourism tax of up to 1 percent on food and alcoholic beverage sales by restaurants.

The restaurant tax is reported and paid on form TC-62F, *Restaurant Tax Return*, due when the *Sales and Use Tax Return* is due.

Restaurants and caterers in counties that impose the restaurant tax must charge the additional 1 percent tax on all sales, even if prepared foods are delivered to locations that do not impose the restaurant tax.

Restaurants and caterers in counties that do not impose the tax do not charge the restaurant tax on any sales.

The following are subject to both sales and restaurant tax:

- corkage
- set ups
- required gratuities
- charges for room service meals and beverages

The following are not subject to restaurant tax:

- restaurant sales of items other than food and beverages, such as souvenir T-shirts
- equipment rental
- use of flowers and decorations
- sales of ice carvings for banquets

See Utah Code §§59-12-602 and 59-12-603.

Restaurant Operations

1. A restaurant must pay sales or use tax on purchases of:
 - items for advertising, such as matchbooks and complimentary menus;
 - utensils and supplies (disposable products are exempt); and
 - ingredients for meals furnished free to employees.
2. Vending machine sales are taxable at either the full rate for prepared food and non-food items or the reduced rate for food and food ingredients. Use the following formula to calculate the taxable sales:

Total proceeds / Tax rate = Taxable sales

For example, if the tax rate is 6.125 percent and proceeds are \$550.00, the taxable sales are \$518.26. ($\$550 \div 1.06125 = \518.26)

Optional method: When the vended price of food or drink is \$1 or less, you may choose to pay tax on 150 percent of the purchase price and treat the sale itself as exempt. See Tax Commission Rule R865-19S-74.

3. Restaurant tax applies to prepackaged food sales if a restaurant sells the prepackaged foods as incidental to its prepared food sales.
4. You must also collect sales and use tax on the sales price of any meal tickets or coupons you sell.

Tips and Gratuities

Tips, gratuities and other service charges are subject to tax if they are included as a line item on a customer's bill that the customer must pay. These charges are not taxable ONLY IF the front of the bill includes a statement — in the same size

font as the charge — that the charge is voluntary and may be increased or decreased by the customer.

Any charges subject to sales tax are also subject to restaurant tax.

Grocery Food Sales

Sales of grocery food (unprepared food and food ingredients) are subject to a lower sales tax rate than prepared food.

Restaurants that sell grocery food in addition to prepared food may collect sales tax at the lower rate on their grocery food sales, but ONLY IF those items are listed separately on the receipt or invoice.

The restaurant tax applies to all food sales, both prepared food and grocery food.

Cover Charges

Cover charges to enter a restaurant, tavern, club or similar establishment are subject to sales tax as an admission, but are not subject to restaurant tax.

Admission Charges

Admissions and user fees for any amusement, entertainment, recreational, exhibition, cultural or athletic activity are subject to Utah sales tax.

Taxable activities include, but are not limited to, admissions and user fees for: theaters, movies, operas, museums, planetariums, shows of all types, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing and wrestling matches, closed-circuit television broadcasts, billiard or pool parlors, bowling lanes, golf and miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, jeep tours and horseback rides.

Exceptions

Admission and user fees include season passes, but do not include annual membership dues paid to a private organization whose members — directly or indirectly — establish the level of the membership dues.

Fees other than annual membership dues, such as a country club's fees for golf course or pool use, are considered admission and user fees and are taxable. See Tax Commission Rule R865-19S-33.

Amounts paid for the following activities are not admission or user fees:

- Public or private lessons, including lessons that involve equipment or a facility as part of the lesson.
- Sign-ups for participation in amateur athletics if the activity is sponsored by a state government or a nonprofit organization with the primary purpose of promoting amateur athletics.
- Sign-ups for participation in school activities. This does not include attendance as a spectator at school activities.

Fees for the above activities are subject to tax unless they are listed separately on an invoice. For example, if fees for a golf lesson are included with fees for using the golf course, the entire amount is subject to sales tax.

Alcoholic Beverages

Alcoholic beverage sales are subject to sales tax when sold in restaurants, taverns and clubs. The sales price of an alcoholic beverage is also subject to the 1 percent restaurant tax when sold by restaurants, taverns and clubs located in jurisdictions that impose the restaurant tax.

Private Organizations

A member of a private organization is either an equity or non-equity member.

- A. An equity member directly or indirectly (by voting for the club's board of directors) sets the level of dues. Membership dues paid by equity members are not subject to sales tax.
- B. A non-equity member does not set the level of dues. Membership dues paid by non-equity members are subject to sales tax as admissions or user fees.

Country clubs often set a minimum patronage amount for purchases of food at the club. If a member does not purchase the minimum amount of food in a given time period, the member is charged the difference between the minimum patronage amount and the amount of food actually purchased. **Minimum patronage amounts** charged to:

- **equity members** are part of the dues and **ARE NOT** subject to sales tax.
- **non-equity members** are part of the dues and **ARE** subject to sales tax.

See Also

- Utah Code §§59-12-601 through 59-12-603
- Administrative Rule R865-19S-94

Sales tax publications provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call 801-297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email taxmaster@utah.gov.